


10. PROPOSED AMENDMENTS TO ALCOHOL RESTRICTIONS IN PUBLIC PLACES BYLAW



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PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to adopt for public consultation the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2011. This will amend the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 (the 2009 Bylaw). This report contains an analysis under section 155 of the Local Government Act 2002 (the LGA 02) and an options analysis. It also contains a Statement of Proposal (including the proposed Bylaw) and Summary of Information (as required by sections 83 and 86 of the LGA 02).

EXECUTIVE SUMMARY

2. At its 28 April 2011 meeting the Council resolved to initiate consultation on a permanent amendment to the 2009 Bylaw for the Riccarton/Ilam area that, if adopted, would come into effect when the temporary ban lapses on 30 November 2011. The Council also noted that proposals to introduce a temporary or permanent alcohol ban in Merivale and amend the alcohol bans in Papanui and Akaroa would be investigated and reported to the Council.
3. The Council considered preliminary advice on these areas on 26 May 2011. The Council resolved to approve staff undertaking section 155 of the LGA 02 analyses of possible amendments to the 2009 Bylaw for Papanui, Merivale, Akaroa and Okains Bay, in addition to Riccarton/Ilam.
4. The Police had proposed the changes in Papanui and Merivale as a preventative measure. This is because there is an increased patronage of licensed premises in these areas, and with more people present, the potential for increased crime and disorder associated with alcohol consumption may increase. The Police considered it would be desirable to have more wide-ranging alcohol ban areas in place to enable them to have the powers to deal with any potential alcohol related issues that may arise in the future.
5. Staff have undertaken a section 155 analysis and have consulted with chairs of the relevant Community Boards and the New Zealand Police. In determining the matters under section 155 of the LGA 02, analysis has been undertaken on each new area in which the bylaw might apply and the two areas where changes were suggested in previous reports to the Council. The details of the section 155 analysis are **attached** to this report. Section 155 of the Act requires local authorities to determine that the proposed Bylaw:
 - (a) is the most appropriate way of addressing the perceived problems;
 - (b) is in an appropriate form;
 - (c) is not inconsistent with the New Zealand Bill of Rights Act 1990.
6. The analysis indicates that there is some evidence to support permanent alcohol bans in one new area, Riccarton/Ilam. Alcohol-related issues in the Riccarton/Ilam area have been under consideration since the 2009 bylaw was developed. A working party formed in mid-2009 consisting of Councillors Yani Johanson (Chair), Helen Broughton and Bob Shearing, and Beth Dunn as the nominated member of the Riccarton Wigram Community Board found that there were problems in the area associated with alcohol including damage and disorderly behaviour, broken glass and other litter in public places, and noise, with local residents feeling scared and intimidated as a result. The Working Party concluded that there was insufficient evidence to support an alcohol ban. However when the Working Party's findings were considered by the Regulatory and Planning Committee and subsequently full Council it was decided to initiate the process to incorporate a permanent alcohol ban in the Ilam and Riccarton areas.

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7. Since the February earthquake, Riccarton/Ilam has been one of the entertainment areas in the city. While the central city remains closed, it appears that Riccarton/Ilam will continue to be very popular. With a larger entertainment area and more people present, the potential for increased crime and disorder associated with alcohol consumption also increases. There is clear evidence that there has been a marked increase in alcohol related offences in the period 22 February 2011 to 22 May 2011 when compared with the same period in 2009 and 2010.
8. There is not strong evidence to support a change in the current Northlands Mall Surrounds Permanent Alcohol Ban Area or the Akaroa Permanent Alcohol Ban Area. There is also not strong evidence to support new permanent alcohol bans in Merivale or Okains Bay. From a legal perspective, a preventative approach is not readily defensible. Any bylaw which the Council makes must be reasonable. In looking at the reasonableness of a bylaw, the Courts will look to the surrounding facts, including the nature and condition of the locality in which it is to take effect, the problem it seeks to solve or proposes to remedy and whether public or private rights are unnecessarily or unjustly invaded. The fact that there must be a "problem" is emphasised by the requirement in section 155 of the LGA 02 to determine the perceived problem and determine that a bylaw is the most appropriate way of addressing the perceived problem. The Council needs to apply a certain degree of rigour to this analysis. If the Council makes a bylaw that is designed to deal with a potential problem rather than an actual problem then the bylaw could be unreasonable.
9. However, staff acknowledge that problems may emerge in the Papanui and Merivale areas due to increased alcohol consumption. Staff propose to monitor the situation over the next six months, with Police, and report back to the Council if necessary.
10. This report presents three options for Council consideration:
 - Option one: status quo - retain the current bylaw with its existing Permanent Alcohol Ban Areas;
 - Option two: an Amendment to the Bylaw for a new Permanent Alcohol Ban area in Riccarton/Ilam;
 - Option three: an Amendment to the Bylaw for a new Permanent Alcohol Ban area in Riccarton/Ilam plus one or more additional bans in Papanui, Merivale, Akaroa and/or Okains Bay.
11. Staff recommend option 2 and propose that a permanent alcohol ban apply in Riccarton/Ilam at all times to the same area covered by the existing Temporary Alcohol Ban area. In accordance with section 156 of the LGA 02, a Special Consultative Procedure will be required to amend the 2009 Bylaw. If the proposed amendment is adopted, the permanent alcohol ban will take effect before the temporary alcohol ban lapses on 30 November 2011.

FINANCIAL IMPLICATIONS

12. The cost of public notices and other publicity for a Special Consultative Procedure is estimated to be in the order of \$5000. The costs of the publicity and general communications related to the proposed amendment to the 2009 Bylaw can be funded through the existing City and Community Long-term Planning and Policy Activity budget for 2011/12.
13. The costs of signs that would be needed will depend on the coverage chosen. The costs of signage are a capital item. The Strategy and Planning Group has a very limited capital budget for specific items (unrelated to alcohol ban signage) and none in the relevant Activity. For that reason a capital budget would be required for alcohol ban signage. The initial cost of permanent alcohol ban signs is estimated to be \$94 per sign installed. The total cost would relate to the requirements for each particular area. In the case of Riccarton/Ilam the number of signs required by the Police for the temporary alcohol ban was 130. Without taking into account replacements the cost would be just over \$11,000. This would not cover the costs of signage in any of the areas not recommended for inclusion in the 2009 Bylaw.

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

14. See above.

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LEGAL CONSIDERATIONS

15. Under section 145 of the LGA 02, the Council may make bylaws for one or more of the following purposes:
 - (a) protecting the public from nuisance.
 - (b) protecting, promoting and maintaining public health and safety.
 - (c) minimising the potential for offensive behaviour in public places.
16. In addition, section 147 of the LGA 02 provides that the Council may make a bylaw for liquor control purposes. Section 147 essentially allows a council to make a bylaw prohibiting or otherwise regulating or controlling the consumption, possession and carriage of alcohol in public places, including in vehicles in public places. "Public places" in section 147 is confined to land that is under the control of the Council and open to the public, and includes any road, even if it is not under the control of the Council. It should be noted that the term "road" is capable of a reasonably wide interpretation.
17. The bylaw-making power in section 147 also explicitly exempts the transport of unopened bottles or containers of alcohol to or from licensed premises or private residences in an area covered by a bylaw made for liquor control purposes.
18. The Police are empowered by the Act to enforce the provisions of a bylaw made for liquor control purposes. This is different from all other bylaws, where enforcement is undertaken by warranted Council officers. Section 169 of the Act gives the Police powers of arrest, search and seizure in relation to enforcing liquor ban bylaws. Section 170 sets out the conditions applicable to the power of search in section 169.
19. The process for making, amending or revoking bylaws under the LGA 02 is outlined in sections 83, 86, 155 and 156 of the Act. Section 155 requires local authorities to determine that any proposed Bylaw:
 - (a) is the most appropriate way of addressing the perceived problems;
 - (b) is in an appropriate form;
 - (c) is not inconsistent with the New Zealand Bill of Rights Act 1990.
20. Section 156 of the LGA 02 requires the Council to use the special consultative procedure when amending a bylaw.
21. In addition to the statutory requirements, the law generally requires that any bylaw must be intra vires (in other words within the statutory powers that authorise the bylaw), certain, not repugnant to the general laws of New Zealand, and reasonable. There is a considerable body of case law on what constitutes reasonableness in the bylaw context. The Courts have noted that in ascertaining the reasonableness or unreasonableness of a bylaw, they will look to the surrounding facts, including the nature and condition of the locality in which it is to take effect, the problem it seeks to solve or proposes to remedy and whether public or private rights are unnecessarily or unjustly invaded.
22. For current purposes, in order to add new Permanent Alcohol Ban Areas the Council must amend the 2009 Bylaw. This is because the 2009 Bylaw sets out the Permanent Alcohol Ban Areas in the Schedule of the Bylaw. Similarly, in order to change any aspects of the current Permanent Alcohol Ban Areas, the Council must use the special consultative procedure as these form part of the 2009 Bylaw.
23. The purpose of the 2009 Bylaw is to control anticipated or potential negative alcohol-related behaviour in any defined areas. Under clause 6 of the 2009 Bylaw, in Permanent or Temporary Alcohol Ban Areas, 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.

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24. The 2009 Bylaw currently provides that certain areas of the city are "Permanent Alcohol Ban Areas", which are:
- Central City
 - Hagley Park and Environs
 - South Colombo
 - New Brighton Mall, Marine Parade and Environs
 - Northlands Mall Surrounds
 - Sumner Esplanade
 - Jellie Park
 - Akaroa
 - Spencer Park
25. The location and the times that the Permanent Alcohol Ban areas apply are set out in the Schedule to the 2009 Bylaw. Therefore, the Council would need to use the special consultative procedure in making any changes to these areas or times, in accordance with section 156 of the LGA 02.
26. This report also covers matters relating to section 77 of the Local Government Act 2002, which relates to decision-making and requires local authorities to identify all practical options and to assess the options in relation to their costs and benefits, community outcomes, and the impact on the council's capacity.

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

27. Yes – as above. The section 155 analysis is provided in a separate document to this report. Analysis has been undertaken on each individual new area in which the bylaw might apply. Analysis has also been undertaken in respect of the two areas where changes are proposed.
28. It is to be noted that in 2008, the Council undertook a detailed section 155 analysis of the high level issues relating to whether or not the Council should make the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009. It is not appropriate to re-litigate those high level issues again, given that the Council subsequently undertook the special consultative procedure and made the 2009 Bylaw.
29. The section 155 analysis for the proposed Amendment Bylaw is carried out by answering the following questions for each of the current or proposed Permanent Alcohol Ban Areas:
1. What is the perceived problem in the "Area"?
 - (a) Define the problem
 - (b) Define the Area
 - (c) What are the related crime statistics for the Area?
 - (d) Is there any Council 'Request for Service' (RFS) data?
 - (e) Summary of problem
 2. Is adding this Area to the Schedule of Permanent Alcohol Areas the most appropriate way of addressing the problem?
 3. Is the description of the Area and the times, days, or dates, during which the alcohol restrictions apply the most appropriate form?
 4. Are there any New Zealand Bill of Rights Act 1990 implications?
30. The draft Amendment Bylaw has been reviewed for vires, certainty, repugnancy, and reasonableness.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

31. An Amendment to the Bylaw could be considered to broadly align to the following Level of Service in the Strengthening Communities Activity Management Plan, 2.2.3.1. *Maintain Safe City Accreditation every 15 years.*

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

32. Yes – as above.

ALIGNMENT WITH STRATEGIES

33. 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?

34. Yes – as above.

CONSULTATION FULFILMENT

35. Due to time constraints, only limited consultation with the New Zealand Police and the affected Community Boards has been undertaken prior to the preparation of this report.
36. If the Council decides to seek amendments to the Bylaw, a Special Consultative Procedure will be undertaken in accordance with the Local Government Act 2002. Any member of the public can make a submission and would have the opportunity to be heard before a hearing panel. Stakeholders such as residents' associations, the Police, and affected Community Boards will be notified of the proposed Amendment Bylaw.

STAFF RECOMMENDATION

It is recommended that the Council, in relation to the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2011:

- (a) Determine that there is sufficient evidence to support proposing a permanent alcohol ban in the Riccarton/Ilam area and commencing a special consultative procedure (as outlined below);
- (b) Determine that there is not sufficient evidence to support proposing permanent alcohol bans in Papanui, Merivale, Akaroa and Okains Bay;
- (c) Note that staff will monitor the situation in Papanui and Merivale over the next six months, in consultation with the Police, and if necessary report back to the Council;
- (d) Resolve that the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment Bylaw 2011 meets the requirements of section 155 of the Local Government Act 2002, in that:
 - (i) the Council determines an amendment bylaw is the most appropriate way of addressing the perceived problem; and
 - (ii) the Council determines the proposed amendment bylaw is the most appropriate form of bylaw; and
 - (iii) the Council determines the proposed amendment bylaw gives rise to some implications under the New Zealand Bill of Rights Act 1990 but that the proposed amendment bylaw is not inconsistent with that Act;
- (e) Resolve that the **attached** Statement of Proposal (which includes the proposed Bylaw) and Summary of Information be adopted for consultation;
- (f) Resolve that public notice of the consultation be given in *The Press* and *Christchurch Star* newspapers and on the Council's website at the start of the consultation period, and that public notice of the proposal be given in community newspapers distributed in the Christchurch district area, as close as possible to the start of the consultation period;

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- (g) Resolve that the consultation documents be made available for public inspection at Council Service Centres, Council Libraries and on the Council's website during the consultation period.
- (h) Resolve that the consultation period be between 8 July and 10 August 2011; and
- (i) Resolve that a hearings panel be appointed to hear submissions in 31 August through 2 September 2011, deliberate on those submissions and to report back to the Council on the final form of the Bylaw in October 2011.

BACKGROUND (THE ISSUES)

37. On 28 April 2011, the Council considered a report on a temporary alcohol ban in the Riccarton/Ilam area. The report also discussed possible bans in Papanui and Merivale that had been requested by the Police. It was resolved 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/Ilam, (being the area shown on the attached map to the agenda), applying 24 hours per day and seven days per week, commencing on 19 May 2011 and ending on the 30 November 2011.*
 - (b) *Initiate consultation on a permanent amendment to the Alcohol Restrictions in Public Places Bylaw 2009 for the Riccarton/Ilam area which (if adopted) would come into effect when the temporary ban lapses.*
 - (c) *Note that proposals to introduce a temporary or permanent alcohol ban in Merivale and Akaroa and an amendment to the alcohol ban in Papanui will be investigated and reported to the Council.*
38. Staff undertook a preliminary investigation into the need for alcohol bans in Akaroa, Okains Bay, Merivale, and Papanui, which was discussed at the 26 May 2011 Council meeting. The Council resolved to:
 - (a) *Note that, on 28 April 2011, the Council resolved to undertake consultation on a permanent alcohol ban in the Riccarton/Ilam area;*
 - (b) *Note that preliminary discussions with the Police suggest that there are alcohol-related problems in Akaroa, Merivale, Papanui and Okains Bay, which may warrant an amendment to the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009;*
 - (c) *Approve staff undertaking a section 155 Local Government Act 2002 analysis of possible amendments to the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 for Merivale, Papanui, Akaroa and Okains Bay, in addition to Riccarton/Ilam;*
 - (d) *Agree that suitable provision for capital funding for the cost of signs to implement amendments to the Bylaw be made in the draft Annual Plan.*
39. The Police advise that experience has shown that alcohol bans are one of the most successful tools in reducing violence and disorder. They note that the alcohol ban in the CBD had resulted in reductions of 6 per cent for serious violence and 6 per cent for minor assaults each year for the last 3 years. However it is not clear that there is a direct causal link with the ban of drinking in public places or whether increased Police presence and the introduction of Safe City Officers have added to the reductions noted.
40. A section 155 analysis has now been undertaken with respect to each of the areas identified above. Each area is discussed in turn.

Riccarton/Ilam

41. Alcohol-related issues in the Riccarton/Ilam area have been under consideration since the 2009 bylaw was developed. On 23 June 2009, the Liquor Control Bylaw and Alcohol Policy Subcommittee resolved to form a working party to investigate the possibility of applying the 2009 Bylaw to an area around the University of Canterbury. The working party consisted of Councillors Yani Johanson (Chair), Helen Broughton and Bob Shearing, and Beth Dunn as the nominated member of the Riccarton Wigram Community Board.

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42. The Working Party consulted a range of groups to ascertain the nature and extent of alcohol-related problems or nuisances in the Ilam area. While stakeholders differed in their view of the scale and extent of problems, there appeared to be a general consensus that there were problems associated with intoxicated people on the streets. It appeared that problems predominantly occurred late at night, although at times they occurred during the day. Problems identified included:
- a wide range of damage and disorderly behaviour;
 - broken glass and other litter on the streets and footpaths, and in parks;
 - noise both from parties and people walking by late at night;
 - local residents, particularly elderly residents, feeling scared and intimidated as a result.
43. The report of the Working Party explored the above issues in some detail. The 2009 Bylaw makes provision for the Council to declare a temporary alcohol ban by resolution. Accordingly, the Working Party considered both permanent and temporary bans.
44. The Working Party concluded that, on balance, there was insufficient evidence to justify permanently applying the 2009 Bylaw to the Ilam area at that stage. The Working Party noted that that may be a consequence of the limited systems for capturing the evidence – particularly whether alcohol-related issues in the area were caused by people drinking in public places. Moreover Police support is critical to ensure that a bylaw can be enforced and, at that stage, the Police did not support applying the 2009 Bylaw to the Ilam area. However the Working Party noted that continued monitoring of the situation was required to enable the Council to act should the need arise.
45. The Working Party was of the view that temporarily applying the Bylaw may be a useful tool around particular events that exacerbate the behavioural issues. The Working Party also considered there would be value in the Council coordinating an inter-agency group comprising key stakeholders such as the Community Board, the Police, Community and Public Health, the University of Canterbury, the University of Canterbury Students Association (UCSA), residents and licensees. The role of the group would be to develop a shared view of the problem, determine what actions are required to address it, jointly develop a package of non-regulatory options and review progress over time. The Working Party was of the view that this inter-agency stakeholder group would be best positioned to approach the Community Board about temporarily applying the 2009 Bylaw if and when it believed such a temporary measure was warranted. The Working Party also considered other non-regulatory options.
46. The Alcohol Policy and Liquor Control Bylaw Subcommittee considered the Working Party's report on 3 June 2010 and agreed that consideration should not be given to applying the Alcohol Restrictions in Public Places Bylaw 2009 (either permanent or temporary) in the Ilam and Riccarton area at that time. However, at its meeting of 5 August 2010, the Regulatory and Planning Committee disagreed and decided to recommend, among other actions, 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. The Council agreed with these recommendations on 26 August 2010.
47. The 4 September 2010 earthquake meant that normal Council work was severely disrupted and work on a Bylaw amendment did not proceed at this time. However, 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."* 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.
48. On 17 January 2011, the Council's Recess Committee resolved
- (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. "*

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49. Following the 22 February 2011 earthquake, many parts of the city were seriously damaged and the majority of the central city was cordoned off. In regards to alcohol, central city bars and other drinking establishments were inaccessible. Police have identified a very clear trend where patronage of bars has moved to a number of surrounding suburbs, including Riccarton/Ilam. As a consequence, Police requested Council impose a temporary alcohol ban in these areas.
50. At its 28 April 2011 meeting, the Council declared a Temporary Alcohol Ban Area in Riccarton/Ilam that would apply 24 hours per day and seven days per week, commencing on 19 May 2011 and ending on 30 November 2011. The area to which the ban applies is set out in the **attached** map. Preliminary feedback from the Police and the chair of the Riccarton Wigram Community Board is that the temporary ban has had a positive effect. However, there still remain noise and other disorder issues associated with parties on private property over which the 2009 Bylaw has no control.
51. The Police data provided at the 26 May 2011 meeting of the Council (see **attached** maps) show the incidence of disorder, assaults and wilful damage in the area over the following periods:
 - 01 January – 30 June 2008
 - 01 July – 31 December 2008
 - 01 January – 30 June 2009
 - 01 July – 31 December 2009
 - 01 January – 30 June 2010
 - 01 July – 31 December 2010
 - 01 January - 22 May 2011
52. Provisional Police data for Riccarton and Upper Riccarton for the period from 22 February to 22 May for each of 2009, 2010 and 2011 indicates that there has been a significant increase in reports of disorder, wilful damage and assault in 2011 compared to previous years. Council received 345 requests for service in the year to 31 May 2011, of which 59 related to broken glass, bottles and cans littering the streets and footpaths.
53. It is considered that adding the Riccarton/Ilam Area to the Schedule of Permanent Alcohol Ban Areas is the most appropriate way of addressing the problem with alcohol related issues in public places. It will provide the Police with an effective early intervention tool to manage the potential downstream effects of alcohol consumption in public places in Riccarton/Ilam. It is proposed that the ban apply to the same area as the temporary alcohol ban and, like that ban, apply 24 hours a day, seven days a week.

Papanui

54. There is currently an alcohol ban around the Northlands Mall and surrounds, which covers the area bounded by Main North Road, Sawyers Arms Road, Sisson Drive, Restell Street and Harewood Road, and also includes St James Park (see **attached** map). The restrictions apply Thursday, Friday and Saturday nights, from 9.00 pm to 6.00 am.
55. Police have noted that since the earthquake, patronage of bars has shifted from the central city to other areas including Papanui and that there has been an increase in disorder in these areas.
56. Provisional Police data for Papanui and Merivale for the period from 22 February to 22 May in each of 2009, 2010 and 2011 suggests that there has been some increased in alcohol-related offending in 2011. However, the data provided to staff have consolidated the two areas together, so it is unclear whether the increase has been uniform across the two areas. The data also does not indicate the locations in Papanui and Merivale in which the offences are occurring.

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57. The Police are advocating for a much larger area in Papanui to be incorporated into a Permanent Alcohol Ban area, due to additional licensed premises in the area as well as general movement from the central city to the Papanui commercial district. The Police note that due to an influx of people into Papanui after the February earthquake, there are greater numbers of people not able to get into some bars, particularly on Friday and Saturday nights, which has led to increased drinking in areas surrounding these bars with an associated increase in broken bottles, urination and other problem behaviour.
58. The proposed area is bounded by the railway line from Vagues Road to Harewood, St James Avenue, Blighs Road, Grants Road, Grassmere Street, Main North Road and Vagues Road (see **attached** map). This incorporates the smaller existing Permanent Alcohol Ban area of Northlands Mall Surrounds. The Police consider that extending the ban area (from the current ban around Northlands Mall) would enable greater control over entry of persons and vehicles into the area where consumption of alcohol in a public place may occur. The Police see this as a preventative measure aimed at dealing with anticipated problems that may be alcohol-related.
59. On 4 May 2011 Police surveyed survey of 42 businesses located along Papanui/Main North Road, between Grants Road and Mary Street. The survey asked whether business owners and/or their staff had problems that may be associated with people drinking in nearby bars both before and after the February 2011 earthquake. Two-thirds of respondents said that there were problems before and after the earthquake, while 40 per cent said that problems had significantly worsened after the earthquake. Problems identified in the survey included broken beer bottles, rubbish, vomiting and urinating in doorways.
60. The Council's Customer Service Request (CSR) database was queried for the period between 1 June 2010 and 1 June 2011. There were no complaints of drinking in public places in the database for the period queried. Of the 33 incidents logged in the CSR database for Papanui during this period, only four might have been alcohol-related, although there is not enough information to confirm this:
 - one incident of bottles and other rubbish around a bus stop
 - two incidents of smashed/broken glass on the side of the road
 - one incident of "a lot of glass" on the road.
61. Staff consulted with Mr Chris Mene, Chair of the Shirley Papanui Community Board about alcohol issues in the ward. Mr Mene commented that, anecdotally, there is a combination of drinking and drunkenness around licensed premises.
62. The Police proposed to extend the coverage of the ban to 24 hours a day, seven days a week in the expanded Papanui area. However to date there has not been strong enough evidence to justify extending either the area of the permanent alcohol ban or the duration of the ban beyond the current Northlands Mall Surrounds ban. On that basis staff do not recommend a change to the existing Northlands Mall Surrounds Permanent Alcohol Ban area at this time. However, staff propose to monitor the situation over the next six months, with the Police, and report back to Council if necessary.

Merivale

63. There is currently no alcohol ban, either permanent or temporary, in Merivale.
64. The Police are advocating for an alcohol ban in Merviale to protect the public from nuisance, to protect and maintain public health and safety and to minimise the potential for offensive behaviour in public places. The Police estimate that patronage at local bars and restaurants has increased by 25 to 35 per cent, and note that some former Oxford Terrace patrons appear to have shifted to Merivale's commercial district. As noted in the discussion concerning Papanui above, there appears to have been an increase in offending in the Papanui and Merivale areas since the September and February earthquakes. However, it is not clear from the data where these offences have occurred.

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65. The area proposed for a permanent alcohol ban is bounded by Rossall Street, Rugby Street, Browns Road and Innes Road/Heaton Street (map **attached**). Although licensed premises in Merivale are largely situated in, or adjacent to, Papanui Road, Aikmans Road, and Mansfield Avenue corner, the Police are advocating for a larger area in order to provide clear boundaries to the ban, aligned with streets in the area. Moreover, Police consider that a wide area will help control transport of alcohol into the car park at the Merivale Mall, which has allegedly been used for drinking in public, as well as other private car parks at the rear of shops on the east side of Papanui Road. Alcohol bans are unable to be applied directly to private car parks.
66. On 2 and 3 May 2011, the Police surveyed 23 business owners in Merivale, along Papanui Road between McDougall Avenue and St Albans Street, regarding alcohol concerns in the proximity of Merivale bars before and after the earthquake. Half of the respondents noted increased problems, predominantly more people on the street and patronising bars in the area and more bottles and rubbish.
67. The Council's CSR database contains 22 incidents for Merivale for the period from 1 June 2010 to 1 June 2011. No complaints were received regarding drinking in public. Two incidents might have been alcohol-related, although there is no direct evidence:
 - one incident of a street littered with rubbish and bottles
 - one incident of "a lot of smashed glass" (the type of glass was not specified).
68. The Chair of the Fendalton Waimari Community Board commented to staff in May that there were problems in Merivale but that they were more due to drunkenness rather than drinking in public places.
69. The Police have advocated for a 24-hour seven-day alcohol ban for Merivale. However, there is a lack of clear evidence of a problem and staff do not recommend a permanent alcohol ban in Merivale at this time. As with Papanui, staff propose to monitor the situation over the next six months, with the Police, and report back to Council if necessary.

Akaroa

70. There is already an alcohol ban in place in Akaroa, which applies on New Year's Eve from 5.00 pm 31 December to 7.00 am on 1 January each year. The area is mapped in the Bylaw (map **attached**) and includes Akaroa Beach and the waterfront area (including any wharf or jetty) from Children's Bay to Takapunueke Reserve, the Garden of Tane, Waeckerie Green, Reclamation Parking and Slipway Area, Akaroa Recreation Ground, Jubilee Park, Children's Bay and the War Memorial Grounds.
71. A possible amendment to the alcohol ban was raised in a petition to the Council received at its meeting of 28 April 2011. The petition requested the following:
 - a liquor ban from 10.00 pm to 8.00 am in public areas.
 - trading hours for hotels restricted to 12.00 am.
 - liquor outlet sales banned after 10.00 pm.
 - a lower speed limit in the village to 30 kph or measures to reduce the speed of traffic.
72. The petition was also presented to the Akaroa/Wairewa Community Board on 20 April 2011. The Board decided to receive and support the petition and
 - (a) Forward it to staff for information with a request that the Board be informed of steps that could be taken to enact the requests in the petition.
 - (b) Ask the Bank Peninsula Councillor to support the petition at Council.
 - (c) Ask staff to forward the petition to the Liquor Licensing Agency as evidence of "history of need", for its information in considering liquor licensing hours for Akaroa licence holders.

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73. In regard to the issue in (c) above, the initial response from the Liquor Licensing Inspectors was that the matter of hours of operation of the one hotel mentioned in the petition would be considered by the District Licensing Agency at its time of renewal in January 2012. They have advised that there does not appear to be any good reason for change on the basis of their evidence nor evidence provided by the Police to date. It should be noted that this is not a matter that is relevant to this consideration of the Bylaw. According to the records of noise complaints investigated there have been reductions over a period of years in relation to the premises. That is, in any case, a matter for control under the Resource Management Act 1991.
74. The decision of the Akaroa/Wairewa Community Board was included within the Board's Report to Council at the 9 June 2011 Council meeting.
75. The Police have been unable to provide a body of evidence of incidents and arrests (as used extensively in creating the permanent alcohol bans in the existing Bylaw). There is anecdotal evidence of people consuming alcohol on the beachfront at other times of the year, but it is not considered sufficient to justify a change to the current Akaroa Permanent Alcohol Ban Area Evidence to support the expansion of the existing alcohol ban appears to be limited to the views of the local Police Officers and some local residents and business owners. It is considered insufficient to introduce a significant restriction on persons who may be consuming alcohol in the public place without committing any offences under the Summary Offences Act 1991, or indeed any other criminal legislation. Moreover, Council data for the period from 8 June 2010 to 18 May 2011 has revealed that there was only one complaint regarding bottles left (with other debris) on the beach area, apparently following the Paralympics and busker events in December 2010.
76. The Police from Akaroa indicated that both Wanaka and Queenstown have bans such as they are supporting for Akaroa, which they say are strongly enforced by Police and these have put a brake on anti-social behaviour. It should be noted that both these areas apply in the CBDs and came about after considerable disorder over a number of years. There is no evidence that the Akaroa situation is in any way similar to those two areas in regard to the numbers of persons present in high seasons nor is there evidence for the types of disorder having occurred in the areas leading to the bans. As pointed out previously the Police have been unable to provide evidence for Akaroa of significant disorderly behaviour, wilful damage, or assaults relating to consumption of alcohol in public places. That was not true in the cases of Queenstown or Wanaka where well publicised cases of disorder were apparent in the past.
77. The petition identified one licensed premise as being a problem to a nearby business, largely through noise but also behaviour from allegedly patrons when leaving the premise. This is not a matter that relates to this Bylaw as it does not provide evidence that consuming alcohol in the public place is occurring. Sufficient controls are provided under the Summary Offences Act 1991 to deal with offensive or disorderly behaviour. Noise from the premises can be controlled under the provisions of the Resource Management Act 1991. Records of noise complaints received show there have been a reduction in the past year. Over a period of six years (from 2006 to 2011) a total of 18 complaints had been received relating to the Madeira Hotel and 14 in relation to the Gaiety Hall, all relating to music being played. This total can be compared with 65 over the same period relating to music from residential premises, spread over the area. These all were dealt with under the Resource Management Act 1991 provisions by enforcement officers.
78. On the basis of the above, it is not considered a sufficient case exists for considering applying any further extension to the current alcohol ban in Akaroa applying to New Years Eve.

Okains Bay

79. A Temporary Alcohol Ban was introduced for New Year's Eve 2010/11 for the Okains Bay area due to considerable disorder on previous occasions (see **attached** map). The major incident was in the 2009/10 New Year's Eve period when a group of young people advertised a "Cave" party at Okains Bay on the beach area. On this occasion Police advised that some problems were caused with drinking on the beach and some disorder that spilled over into the adjacent camping ground. The latter is privately operated and is not a public place under the control of the Council, hence no alcohol ban could be placed on that area. It has been reported that there was a considerable decline in incidents of disorder on New Year's Eve 2010/11 in the area in public places.

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80. There is no good evidence that any offences under the Summary Offences Act 1991 have occurred in the past two years in the area sufficient to introduce a regulatory alcohol ban on a permanent basis.

THE OBJECTIVES

81. The purpose of the proposed Amendment to the Bylaw is to reduce alcohol-related harm, damage, disorder and crime and to improve community safety by putting alcohol restrictions in some public places within the Christchurch City Council district.

THE OPTIONS

82. There are three options:

Option 1 - status quo. With this option, there would be no new permanent alcohol ban areas, no changes to existing alcohol ban areas, and the temporary alcohol ban for Riccarton/Ilam would lapse on the close of 30 November 2011.

Option 2 - Amend the Bylaw for Riccarton/Ilam. With this option, an amendment to the Bylaw would see the creation of one new Permanent Alcohol Ban, for the Riccarton-Ilam area.

Option 3, Amend the Bylaw for at least two areas (including Riccarton/Ilam). With this option, the Bylaw would be amended to create at least two new or amended Permanent Alcohol Ban areas, including Riccarton/Ilam area plus:

- amended days/times for the existing Akaroa Permanent Alcohol Ban; and/or
- amended area and/or days/times for Papanui Permanent Alcohol Ban; and/or
- new Merivale Permanent Alcohol Ban; and/or
- new Okains Bay Permanent Alcohol Ban.

THE PREFERRED OPTION

83. The preferred option is Option 2. This option would enable a temporary alcohol ban in Riccarton/Ilam to become permanent.

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ASSESSMENT OF OPTIONS

The Preferred Option

84. Option 2 – creation of a new Permanent Alcohol Ban area for Riccarton/Ilam.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> • potential to reduce alcohol-related harm • contributes to a safer city 	<ul style="list-style-type: none"> • restricts freedoms
Cultural	<ul style="list-style-type: none"> • improve negative drinking culture • reduce the culture of fear/negative perceptions of safety 	<ul style="list-style-type: none"> • not applicable
Environmental	<ul style="list-style-type: none"> • potential to reduce the amount of glass bottles, broken glass and litter on our streets and in our parks 	<ul style="list-style-type: none"> • signage – amenity costs
Economic	Potential to: <ul style="list-style-type: none"> • increase perceptions of safety and to increase business activity • reduce damage, vandalism, etc. • positively impact on tourism 	<ul style="list-style-type: none"> • may impact on off-licence sales within alcohol ban area
<p>Extent to which community outcomes are achieved: A Safe City: We live free from crime, violence, abuse and injury. Rates of crime and injury decline. A Prosperous City: We have a strong economy that is based on a range of successful and innovative businesses. Christchurch has a strong, healthy economy. A Healthy City: We live long, healthy and happy lives. Our city environment supports the health of the community. An Attractive and Well Designed City: Christchurch has a vibrant centre, attractive neighbourhoods and well-designed transport networks. Christchurch is attractive and well maintained. Option 2 would contribute to these four community outcomes. The proposed Permanent Alcohol Ban area may contribute to perceptions of safety and has the potential to reduce alcohol-related harm. While Permanent Alcohol Bans are not a complete solution to alcohol-related issues, they are part of a wider, multi-faceted approach to managing or reducing alcohol-related harm.</p> <p>Impact on the Council's capacity and responsibilities: The LGA 02 gives the Police special enforcement powers for bylaws made for "liquor control purposes". Enforcement for this bylaw is a matter for the Police, rather than the Council. There will be some costs to Council in relation to publicising the alcohol ban area on an ongoing basis and ensuring adequate signage is in place.</p> <p>Effects on Maori: Similar to other ethnic groups.</p> <p>Consistency with existing Council policies: This Option is consistent with the <i>Safer Christchurch Strategy</i>.</p> <p>Views and preferences of persons affected or likely to have an interest: The LGA 02 gives the Police special enforcement powers for bylaws made for "liquor control purposes", so a consultative approach has been taken with the Police in the development of the draft bylaw. Additionally, the need for alcohol ban areas or the evaluation of current areas largely relies on evidence provided by the Police, such as crime statistics or enforcement statistics relating to the current liquor ban areas. The views and preferences of the public can be ascertained through the special consultative procedure on this proposal.</p>		

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Maintain the Status Quo (if not preferred option)

85. Status quo. No new Permanent Alcohol Ban areas and no changes in existing Permanent Alcohol Ban areas.

	Benefits (current and future)	Costs (current and future)
Social	As above	Similar to above
Cultural	As above	As above
Environmental	As above	As above
Economic	As above	As above
<p>Extent to which community outcomes are achieved: As above, but if the ban areas are not updated to reflect the current situation for Riccarton/Ilam, community outcomes will have less chance of being achieved (a Safe City, a Prosperous City, a Health City)</p> <p>Impact on the Council's capacity and responsibilities: As above.</p> <p>Effects on Maori: As above.</p> <p>Consistency with existing Council policies: As above.</p> <p>Views and preferences of persons affected or likely to have an interest: The Police have indicated that the current areas in the Bylaw are not adequate to address current issues in some areas of the city.</p> <p>As amendments to the Bylaw are the subject of a special consultative procedure the views of the public would be ascertained as part of that process, where that process occurs. For the status quo option, a special consultative procedure would not be required.</p>		

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Other Option

86. Option 3 - At least two new or amended Permanent Alcohol Ban Areas, including Riccarton/Ilam and at least one other new or amended Permanent Alcohol Ban Area.

	Benefits (current and future)	Costs (current and future)
Social	As above	Similar to above
Cultural	As above	As above
Environmental	As above	As above
Economic	As above	As above
<p>Extent to which community outcomes are achieved: As for Option 2.</p> <p>Impact on the Council's capacity and responsibilities: There is a risk in creating new or amended Permanent Alcohol Ban Areas in instances where there may not be robust evidence to support an alcohol ban.</p> <p>To make a Bylaw, the following questions must be answered under section 155 of the LGA 02:</p> <ul style="list-style-type: none"> • is there a perceived problem? • is the Bylaw the most appropriate way of addressing the problem? • is the description of the Area and the times, days, or dates, during which the alcohol restrictions apply appropriate? • are there New Zealand Bill of Rights Act 1990 implications? <p>In addition to these statutory requirements, the law generally requires that any bylaw, amongst other things must be reasonable. The Courts have noted that in ascertaining the reasonableness or unreasonableness of a bylaw, they will look to the surrounding facts, including the nature and condition of the locality in which it is to take effect and the problem it seeks to solve or proposes to remedy. If the Council is unable to demonstrate that a bylaw responds to a problem as opposed to a potential problem, there is the risk that the bylaw may be found to be unreasonable. In addition, the Courts may also find that the Council has not complied with section 155 of the LGA 02. Therefore, the Council needs to complete a robust analysis of the background facts and determine that there is a problem that needs to be addressed, before it undertakes to make a bylaw.</p> <p>Effects on Maori: As above</p> <p>Consistency with existing Council policies: As above.</p> <p>Views and preferences of persons affected or likely to have an interest: The Police consider that as well a permanent alcohol ban in Riccarton / Ilam, new or amended permanent alcohol bans are needed in other areas of the city, such as in Merivale and Papanui.</p> <p>As amendments to the Bylaw are the subject of a special consultative procedure the views of the public would be ascertained as part of that process.</p>		