

## 5. POSSIBLE ADDITIONAL PERMANENT ALCOHOL BAN AREAS



<b>General Manager responsible:</b>	General Manager Strategy and Planning
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Author:</b>	Terence Moody

### PURPOSE OF REPORT

1. To seek direction from the Council on whether further analysis should be undertaken on additional alcohol ban areas by amendment to the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 (the Bylaw) in Akaroa, Okains Bay, Merivale and Papanui.

### EXECUTIVE SUMMARY

2. On 28 April 2011, the Council resolved to initiate consultation on a permanent amendment to the Bylaw for the Riccarton/Ilam area which, if adopted, would come into effect when the temporary ban lapses. 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. Staff will undertake an analysis under section 155 of the Local Government Act 2002 to determine whether an alcohol ban is considered the most appropriate means of controlling the problems identified in the Riccarton/Ilam area and report back to the Council in June 2011. A preliminary investigation of the perceived problems in Okains Bay, Merivale and Papanui suggests that consideration should also be given to these areas in this work. For Okains Bay, it is proposed that consideration be given to a permanent alcohol ban on New Year's Eve as last year's temporary ban was successful in reducing disorder in the area. With regard to Merivale and Papanui, Police advise that there has been some displacement of businesses and people drinking at licensed premises from the central city, along with associated anti-social behaviours. The Police anticipate these issues increasing as further licensed premises move in to these areas to cater to the increased customer base.
4. The Police also support extending the alcohol ban in Akaroa beyond New Year's Eve due to problems associated with people drinking on the beach at other times of the year. The primary problems relate to nuisances such as noise and people lighting fires on the beach late at night. In this case, councillors are asked to consider whether there is sufficient evidence to proceed with a section 155 analysis.
5. If the Council agrees that further consideration be given to alcohol bans in these areas, additional information will be sought from the Police on disorder, assaults, and wilful damage in each of the areas (including Riccarton/Ilam) so that the section 155 analysis can be undertaken. Staff will also consult the relevant Community Boards. Community Boards, Residents' Associations and other stakeholders will also be consulted through the Special Consultative Procedure if amendments are proposed.
6. Subject to adequate information being obtained on each of the areas to support a Council resolution to amend the Bylaw, a combined Special Consultative Procedure and amendment will be undertaken to save costs.

### FINANCIAL IMPLICATIONS

7. There are significant costs involved with initiating an amendment to the Bylaw including preparing and printing the Statement of Proposal, Summary of Information and the proposed Amendment of the Bylaw, placing public notices, sending copies to stakeholders, receiving submissions and holding hearings. If changes are adopted, there will be costs associated with publicising the ban(s), advising stakeholders and submitters, and the general public.

## 26. 5. 2011

## 5 Cont'd

8. The costs for the process to amend the Bylaw by way of a Special Consultative Procedure can be funded through budgetary provision in the City and Community Long-term Policy and Planning activity in the LTCCP. It should be noted that it is significantly more cost effective to carry out one Special Consultative Procedure that covers the introduction or changes to a number of alcohol bans than to consult on them separately.
9. There is no funding specifically for advertising and the provision of signage, including costs of production, erection, and where necessary replacement. The costs of signs will depend on the areas chosen for the ban to cover. It is recommended that suitable capital provision be made in the 2011/12 Annual Plan for signage associated with changes to the Bylaw.
10. In addition to signage, other forms of publicity will be required to communicate the presence of the alcohol bans with the aim of discouraging behaviour that contravenes the regulations. For each of the distinct bans in the metropolitan city area the publicity will cost in the range of \$10-15,000. Publicity in Akaroa might cost approximately half of this. These costs can be funded through budgetary provision in the City and Community Long-term Policy and Planning activity in the LTCCP.
11. The Police will be responsible for enforcing any additional alcohol bans and associated costs.

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

12. See above.

**LEGAL CONSIDERATIONS**

13. Under section 145 of the Local Government Act 2002, 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.
14. The process for making, amending or revoking bylaws under the Local Government Act 2002 is outlined in sections 83, 86, 155 and 156 of the Act. Section 155 of the Act 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.
15. Any proposed amendment to the Bylaw would be made under the bylaw-making power in section 147 of the Local Government Act 2002. This allows a council to 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. 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.
16. The purpose of the Bylaw is to control anticipated or potential negative alcohol-related behaviour in any defined areas. Under clause 6 of the 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.

26. 5. 2011

## 5 Cont'd

17. The Bylaw currently provides that certain areas of the city are "Permanent Alcohol Ban Areas". The Permanent Alcohol Ban areas 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.
18. The location and the times that the Permanent Alcohol Ban areas apply are set out in the Schedule to the Bylaw. Therefore, any changes to these areas or times would need to be in accordance with section 156 of the Local Government Act 2002.
19. The Bylaw also provides that the Council may declare a Temporary Alcohol Ban Area by resolution. Any such resolution under this provision must describe the specific area that is a Temporary Alcohol Ban Area and the times, days or dates on which the alcohol restrictions apply to any public places in the area.
20. 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. Due to time constraints an options analysis has not been undertaken to date but would form part of the process if the Council determined it wished to examine amendments to the Bylaw.

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

21. As above. It should be noted that a section 155 analysis would be required if an amendment to the Bylaw is sought for any of the proposed additional Permanent Alcohol Ban areas.
22. It should also be noted that since the Bylaw was made in 2009, the Council has not amended or added to any of the Permanent Alcohol Ban Areas. However, the Council has exercised its discretion under clause 5 of the Bylaw to resolve a number of Temporary Alcohol Ban Areas. These were:
- Temporary Alcohol Ban Area for the Band Together Concert in Hagley Park 2010
  - Temporary Alcohol Ban Area for New Year's Eve at Okains Bay 2011
  - Temporary Alcohol Ban Area for Orientation Period at Ilam 2011
  - Temporary Alcohol Ban Area for Riccarton/Ilam from 19 May 2011 to 30 November 2011.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

23. See 21 below.

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

24. Introducing alcohol bans under the Bylaw 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.*

**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.

26. 5. 2011

5 Cont'd

***Do the recommendations align with the Council's strategies?***

26. Yes – as above.

**CONSULTATION FULFILMENT**

27. Due to time constraints, only a limited amount of consultation with the New Zealand Police has been undertaken at this time. Should the Council decide to seek amendments to the Bylaw, a full Special Consultative Procedure will be undertaken in accordance with the Local Government Act 2002.

**STAFF RECOMMENDATION**

28. It is recommended that the Council:
- (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, and Okains Bay, in addition to Riccarton/Ilam;
  - (d) Determines whether it considers there is sufficient evidence of nuisance to justify staff undertaking a section 155 Local Government Act 2002 analysis of possible amendment to the for Akaroa; and
  - (e) 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.

**BACKGROUND**

29. 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 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 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.*
30. Staff have since undertaken a preliminary investigation into the need for alcohol bans in Akaroa, Okains Bay, Merivale, and Papanui. Each area is discussed in turn.

26. 5. 2011

## 5 Cont'd

## Akaroa

31. 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 – Attachment 1**) 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.
32. 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:
1. *A liquor ban from 10pm to 8am in public areas.*
  2. *Trading hours for Hotels restricted to 12am.*
  3. *Liquor outlet sales banned after 10pm.*
  4. *Lower speed limit in the Village to 30 kph or measures to reduce the speed of traffic.*
33. Staff have discussed the proposed alcohol ban with the Police in Akaroa, who are supportive of an extension to the ban.<sup>1</sup> Senior Constable Steve Ditmer advised that the problem is twofold: the first is that young people are choosing to buy alcohol from the supermarket and drink on the beach, usually late at night, rather than drink in licensed premises (because of the expense). Second, when the licensed premises close at night, people come out and continue drinking on the beach. In both cases, people are not breaking any laws, just being somewhat noisy. There does not appear to have been an issue with vandalism or damage to public or private property.
34. In Senior Constable Ditmer's view, an alcohol ban between 10pm and 6am from Labour weekend to Easter, seven days a week, covering the same areas as those currently covered by the New Year's Eve ban would be adequate to address the above issues. This would enable families and tourists to enjoy the summer days and evenings with a glass of wine or a beer. Police could then address problems with any 'troublemakers' later in the night as need be. His view is that once people know there is a ban in place, by and large they honour it. He notes that Wanaka and Queenstown both have bans along these lines which are strongly enforced by Police and which have put a brake on anti-social behaviour. Senior Constable Prior, on the other hand, considered that a year long ban would be appropriate. He advised that the problems occur throughout the year, with people having fires on the beach while drinking during colder weather.
35. If the Council was to amend the bylaw to introduce an alcohol ban in Akaroa it would be doing so to protect the public from nuisance (i.e. noise and disturbance) and minimise the potential for offensive behaviour in public places. The Police have not indicated that they can provide a body of evidence of incidents and arrests (as used extensively in creating the permanent alcohol bans in the existing Bylaw). It is likely that evidence to support the introduction of the bylaw will be limited to the views of the local Police Officers and possibly some local residents and business owners. If the Council is a view that this type of evidence will provide enough confidence for it to significantly increase the number of days covered by the bylaw in Akaroa, then staff can undertake a section 155 analysis and develop a statement of proposal for the Council to consider. If however this type of evidence is likely to be insufficient for the Council to proceed, this should be signalled and the formal process to consider amending the bylaw terminated now.
36. As there is currently an alcohol ban in Akaroa, legal advice suggests that it would be difficult to deal with this issue by the Council resolving to impose a Temporary Alcohol Ban Area. The Council could be seen to be acting unreasonably or outside its powers if it imposes a Temporary Alcohol Ban for longer hours and increased days where the area is already covered by the Permanent Alcohol Ban Area. Consequently, any additional ban will require an amendment to the Bylaw. This will require an analysis under section 155 of the Local Government Act 2002 to determine whether a Bylaw ban is considered the most appropriate means of controlling the problem, and if so, preparing an amendment for consultation under the Special Consultative Procedure.

---

<sup>1</sup> Personal communication Constable Steve Ditmer and Senior Constable Lyall Prior

26. 5. 2011

## 5 Cont'd

37. The other matters identified in the petition are outside the scope of this report. 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. The Liquor Licensing Inspector has been made aware of this complaint and has advised that the current licence is due for renewal on 23 January 2012. While noise complaints have been investigated, there have been relatively few complaints in recent times. These do not provide sufficient grounds to require intervention regarding the licence hours, nor are any other liquor licence issues apparent. The Police have not expressed any concern to the Liquor Licensing Inspectors about issues with the premise. Any proposal to seek a reduction in operating hours, for either on- or off-licences, would need to be considered by the Liquor Licensing Authority provided sufficient evidence could be provided.
38. The matter regarding the reduction in allowable speed limit has been referred to the Traffic Operations Team in the Council's Transport and Greenspace Unit.

### Okains Bay

39. As noted above, a Temporary Alcohol Ban was introduced for New Year's Eve 2010/2011 for the Okains Bay area due to considerable disorder on previous occasions. There was a considerable decline in incidents of disorder and drinking in public places last year following the introduction of the ban.
40. Staff consider that making this alcohol ban permanent should be examined for the New Year's Eve period to bring it into line with similar permanent alcohol bans at Spencer Park and Akaroa. The Akaroa Police support this approach.

### Merivale

41. There is currently no alcohol ban in Merivale. A Merivale alcohol ban was examined when the Bylaw was introduced in 2009 but, at the time, it was not considered that there was sufficient evidence for a ban in this area.
42. As advised in the report of 28 April 2011, the Police originally sought a temporary alcohol ban in Merivale for 24 hours a day, seven days of the week. The proposed area runs 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 (**map attached – Attachment 2**).
43. Discussions have since been held with Inspector Dave Lawry, Area Commander Northern, New Zealand Police, regarding this request. He advises that there has been a significant displacement of people from central city bars creating overcrowding of the bars in the Merivale area. While there is a certain amount of circumstantial evidence of alcohol being consumed in the public places, such as bottles and cans being left in street furniture along Papanui Road, there appears to be little direct evidence. Inspector Lawry has expressed the view that in addition to the increased patronage of licensed premises currently being experienced in Merivale, a significant number of people who visited licensed premises prior to the earthquake have been socialising at home. He believes that over time these people will start to use licensed premises regularly again and further increase the alcohol related issues in Merivale and Papanui.
44. Police have undertaken a survey of 24 Merivale businesses, and three residents in Aikmans Road.<sup>2</sup> Thirteen businesses reported negative impacts from persons allegedly affected by alcohol, including urination in some public and private places, an increase in rubbish, broken glass and bottles in the area, and vehicles parking in private off-the-road car parks. Some respondents alleged that both underage drinkers and those of age are drinking in public near the Merivale licensed premises. The major problems appear to be occurring on the later days of the week during the evenings.

---

<sup>2</sup> Senior Constable D.L. Brunton, Merivale Alcohol Survey, 4 May 2011

## 26. 5. 2011

## 5 Cont'd

45. Licensed premises in Merivale are largely situated in, or adjacent to, the Papanui, Aikmans Roads, and Mansfield Avenue corner. However, Police consider that an alcohol ban should cover a much wider area (bounded by Browns and Innes Roads, Heaton, Rossall, Rugby, and St Albans Streets) in order to provide clear boundaries to the ban. 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.
46. If the Council was to amend the bylaw to introduce an alcohol ban in Merivale it would be doing so to protect the public from nuisance, to protect and maintain public health and safety and (critically in this case to) minimise the **potential** for offensive behaviour in public places. The Police may not be able to provide a body of evidence of incidents and arrests (as used extensively in creating the permanent alcohol bans in the existing Bylaw).
47. On balance staff believe there is sufficient evidence to undertake further work to consider and carry out the section 155 analysis on a permanent alcohol ban in Merivale. The evidence for alcohol related offences, as noted above, is largely circumstantial but what is available seems to indicate activities during the later nights of the week. Any alcohol ban should therefore be focused along these times and days (for example Wednesday to Sunday from 6pm to 8am). It is not considered sufficient evidence exists to propose a temporary ban over such a wide area for 24 hours seven days a week.
48. Further discussions with the Police indicate they consider any ban should be permanent rather than temporary. Undertaking a Permanent Ban through amendment to the Bylaw would enable consultation on the suitability of the wide area proposed.

**Papanui**

49. As there is currently an alcohol ban around the Northlands Mall and surrounds (**map attached – Attachment 3**), any additional ban or change of area in Papanui will require an amendment to the Bylaw. This will require an analysis under section 155 of the Local Government Act 2002 to determine whether a Bylaw ban is considered the most appropriate means of controlling the problem, and if so, preparing an amendment for consultation under the Special Consultative Procedure.
50. Inspector Lawry advises that there has been a considerable increase in businesses moving into the Papanui area, many of which appear to have relocated from the central city. In general, businesses are moving from an area that has had an alcohol ban for some time to an area only partly covered by a ban. In addition, there has been an increase of persons using, or attempting to use, licensed premises in the Papanui area.
51. Inspector Lawry has expressed the view that in addition to the increased patronage of licensed premises currently being experienced in Papanui, a significant number of people who visited licensed premises prior to the earthquake have been socialising at home. He believes that over time these people will start to use licensed premises regularly again and further increase the alcohol related issues in Merivale and Papanui.
52. It should also be noted that since the existing Northlands alcohol ban was established an additional licensed premise has been located just outside the ban area. Inspector Lawry is concerned that further licensed premises will open outside the current alcohol ban area to cater for the higher numbers of people working in and visiting the Papanui area.

## 26. 5. 2011

## 5 Cont'd

53. The Police have undertaken a survey of business owners in the Papanui area to determine what issues have arisen since the 22 February earthquake.<sup>3</sup> The area in which the businesses were contacted was along Main North and Papanui Roads between Langdons and Blighs Roads. The officer undertaking the survey estimated that three quarters of the businesses in the area were able to be contacted for comment. Of the 42 businesses contacted, 33 per cent stated they had no alcohol-related issues, 26 per cent had issues that were occurring before the 22 February earthquake but had not significantly increased, and 40 per cent reported a significant increase in problems including broken beer bottles, rubbish, vomiting and urinating in doorways.
54. Police have suggested that the alcohol ban should apply to the area bounded by St James Avenue, Blighs and Grants Roads, Grassmere Street, Main North and Vagues Roads and the railway line, (**map attached – Attachment 4**). 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 which may be alcohol-related.
55. If the Council was to amend the bylaw to change the area covered by the alcohol ban in Papanui it would be doing so to protect the public from nuisance, to protect and maintain public health and safety and (critically in this case to) minimise the potential for offensive behaviour in public places. The Police may not be able to provide a body of evidence of incidents and arrests (as used extensively in creating the permanent alcohol bans in the existing Bylaw).
56. As with Akaroa, because there is currently an alcohol ban in the Papanui area, legal advice suggests that it would be difficult to deal with this issue by the Council resolving to impose a Temporary Alcohol Ban Area. Consequently, any changes to the area covered by the current ban or the hours of the current ban will require an amendment to the Bylaw. Again, this will require an analysis under section 155 of the Local Government Act 2002 to determine whether a Bylaw ban is considered the most appropriate means of controlling the problem, and if so, preparing an amendment for consultation under the Special Consultative Procedure.
57. On balance staff believe there is sufficient evidence to commence the process of undertaking a section 155 analysis on a permanent alcohol ban in Papanui. As with Merivale, any ban should apply to the later days of the week at the times of most concern (such as Wednesday to Sunday, 6pm to 8am).

**Next Steps**

58. If the Council agrees that there is sufficient evidence to warrant further consideration of alcohol bans in these areas, staff will undertake a full section 155 analysis, in conjunction with that for the Riccarton/Ilam area and report back in June 2011. Should the Council wish at this stage to propose an amendment to the Bylaw, a full Special Consultative Procedure will be undertaken. It is anticipated that consultation would occur in mid July to August with hearings in early September. This would enable any amendments to take effect in November 2011 before the Temporary Alcohol Ban in Riccarton/Ilam expires.

---

<sup>3</sup> Senior Constable R. Fraser, Liquor Ban Proposal Papanui/Merivale, 4 May 2011