



REPORT OF THE HEARINGS PANEL ON THE ALCOHOL RESTRICTIONS IN PUBLIC PLACES AMENDMENT (OKAINS BAY) BYLAW

General Manager responsible:	Acting General Manager Strategy and Planning
Officer responsible:	Programme Manager Strong Communities
Author:	Alcohol Restrictions in Public Places Amendment (Okains Bay) Bylaw 2011 Hearing Panel

PURPOSE OF REPORT

1. This is a report of the Okains Bay Alcohol Bylaw Amendment Hearing Panel (the Hearing Panel). It summarises the consultation process and the submissions received on the proposed Christchurch City Council Alcohol Restrictions in Public Places Amendment (Okains Bay) Bylaw (the Bylaw) and recommends the adoption of the Bylaw (with amendments), as set out in **Attachment 1**.

EXECUTIVE SUMMARY

2. On 28 July 2011, the Council resolved to consult on a Bylaw to amend the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009. The Bylaw introduces a permanent alcohol ban in the Okains Bay beach and reserve area from 5.00 pm on 31 December until 7.00 am on 1 January each year, to take effect from New Year's Eve 2011/12. The purpose of the Ban is to prevent disorderly and anti-social behaviour arising from the consumption of alcohol.
3. Submissions on the proposed Bylaw could be made between 9 August 2011 and 12 September 2011. Six submissions were received. Three submitters oppose a permanent alcohol ban on the grounds that it unnecessarily restricts people's ability to enjoy themselves with alcohol on the beach on New Year's Eve. Three submitters support the proposed ban as an effective measure to reduce problem behaviours and maintain the safety and security of the area.
4. The Hearing Panel met to consider the proposed Bylaw on 23 September 2011. The panel members were Councillors Barry Corbett (Chair), Aaron Keown and Glenn Livingstone. The Hearing Panel unanimously agreed that a permanent alcohol ban in the Okains Bay area on New Year's Eve is a useful tool for the Police to proactively prevent disorder nuisance behaviours and maintain the beach as a safe place for families to enjoy themselves. The Hearing Panel recommends that the Council adopt the Bylaw in the form proposed.

DEVELOPMENT OF PROPOSED BYLAW

5. A temporary alcohol ban was put in place for New Year's Eve 2010/11 in Okains Bay as a result of disorderly behaviour on the same night the previous year. The Council considered preliminary advice on a possible permanent alcohol ban in the Okains Bay area on 26 May 2011. On 28 July 2011, the Council resolved that there was sufficient evidence to support proposing a permanent alcohol ban in the area and to commence a special consultative procedure on a proposed amendment to the Alcohol Restrictions in Public Places Bylaw 2009.
6. The proposed Bylaw will introduce a permanent alcohol ban in the Okains Bay beach and reserve area. The alcohol ban will apply from 5.00 pm on 31 December until 7.00 am on 1 January each year, to take effect from New Year's Eve 2011/12. The effect of the ban will be to prohibit, or otherwise regulate or control, the possession and consumption of alcohol in the Okains Bay area as specified on the map attached to the Bylaw and the bringing of alcohol into the same area.

CONSULTATION

7. Public consultation on the proposed Bylaw took place from 9 August 2011 to 12 September 2011, by use of the special consultative procedure. Consultation documents were sent directly to a range of groups, organisations and individuals, public notices were placed in *The Press*, *The Star* and community newspapers, including Banks Peninsula. The consultation documents were made available at Council Service Centres, Council Libraries and on the Council's website. Six submissions were received, three of which opposed the Ban and three which supported it. Only one submitter made an oral submission to the Hearing Panel.

27. 10. 2011

9 Cont'd

Those opposed to the proposed ban

8. The three submitters who oppose a permanent alcohol ban are all local residents who have lived in Okains Bay for many years. In general, their views are that such a ban infringes their (and others') ability to enjoy themselves with alcohol on their local beach on New Year's Eve. These submitters indicate they have never had any concerns about behaviour on this night. Two of these submitters consider that to impose a permanent ban as a reaction to one incident two years ago is an over-reaction.
9. All of these submitters consider that a Police presence at the Beach would be sufficient to prevent any potential problems, noting that they would need to be there to enforce the ban if it were to be imposed. These submitters also note that campground residents would be able to enjoy alcohol during the ban period as the campground would not be subject to the ban, which they feel is unfair.

Those supportive of the proposed ban

10. Of the three submissions that support the Ban, one is from a resident of Barry's Bay, one is from the Akaroa-Wairewa Community Board and one is from the new caretakers of the Okains Bay Campground. In general they are of the opinion that the area has been a place for young people to gather together, drink to excess and disrupt the family atmosphere of the campground.
11. These submitters believe the temporary ban imposed for the 2010/11 New Year's Eve was an effective measure in reducing problem behaviours and that a permanent ban would maintain the safety and security of the area.
12. The Akaroa Wairewa Community Board Chair, Pam Richardson, spoke to the Community Board's submission at the Hearing Panel, reiterating the views contained in the written submission and elaborating on them. She explained that the Okains Bay campground is on Ngāi Tahu land, is managed by Council and is run by the Community Board. It is a wilderness campground and thus has no power sites. There is no clear line between the beach and the campground. Police support the ban and would enforce it. The problems have been increasing over the last 20 years, possibly as a result of the ban in Akaroa.

DELIBERATIONS

13. While some submitters consider that the proposed permanent alcohol ban is an unnecessary restriction on people's freedom, the Hearing Panel was of the view that it is a minor restriction since the ban will only apply for one night per year. All the Panel members were in agreement that a Permanent Alcohol Ban in the Okains Bay area on New Year's Eve each year is a useful tool for the Police to proactively prevent disorder and nuisance behaviours and maintain the beach as a safe place for families to enjoy themselves.

LEGAL CONSIDERATIONS

14. A bylaw hearing panel has no decision-making powers, but can make recommendations to the Council, in accordance with its delegation for that purpose, as a result of considering written and oral submissions. The Council can then accept or reject those recommendations, as it sees fit, bearing in mind that the Local Government Act 2002 requires views presented during consultation to be given "due consideration in decision-making".¹

¹ Section 82(1)(e). This is also supported by the Council's Consultation Policy, which states: "we will receive presented views with an open mind and will give those views due consideration when making a decision".

27. 10. 2011

9 Cont'd

15. Three minor corrections are required to the proposed amendment Bylaw:
- (a) The commencement date of the Bylaw should be changed from 30 December 2011 to 1 December 2011. While the actual Permanent Alcohol Ban Area will come into force on 31 December at 5pm, it is intended that signage advertising the ban will be installed before 31 December 2011. The Bylaw Amendment should be in force before the signage is installed.
 - (b) The road in the table in Schedule 1 in the Bylaw is incorrectly named as "Okains Bay Reach Road". It should be "Okains Bay Road".
 - (c) The map in Schedule 1 of the Bylaw associated with the list of Permanent Ban Areas refers to a Temporary Ban Area. This should be a reference to a Permanent Ban Area.
16. If the Council agrees to the proposed amendment to the Alcohol Restrictions in Public Places Bylaw 2009, it should be noted that the Schedule of the Alcohol Restrictions in Public Places Bylaw 2009 will either refer to ten or eleven permanent Alcohol Ban Areas. It will depend on whether the Alcohol Restrictions in Public Places Amendment (Riccarton / Ilam) Bylaw 2011 is adopted before this Amendment.
17. Section 157 of the Local Government Act 2002 requires that the Council give public notice of the making of a bylaw as soon as practicable after the bylaw is made. A recommendation has been made to this effect. It is recommended that the Bylaw come into effect on 1 December 2011.
18. The Legal Services Unit considers that the form of the bylaw, as proposed in this report, is the most appropriate form, and that the Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 (in accordance with section 155 of the Local Government 2002).

HEARING PANEL RECOMMENDATIONS

The Panel unanimously recommends that the Council:

- (a) Adopts the Christchurch City Council Alcohol Restrictions in Public Places Amendment (Okains Bay) Bylaw 2011, as amended (Note: **Attachment 2** shows recommended changes to the Amendment Bylaw. **Attachment 1** is a clean copy for adoption):
 - In clause 2 of the Amendment Bylaw, delete the phrase "30 December 2011" and substitute the phrase "1 December 2011".
 - In Schedule 1 of the Amendment Bylaw, in the Description of Alcohol Ban Area, delete the words "Okains Bay Reach Road" and substitute the words "Okains Bay Road".
 - In Schedule 1 of the Amendment Bylaw, in the map showing the Alcohol Ban Area, delete the word "Temporary" and substitute the word "Permanent".
- (b) Notes that in adopting the Christchurch City Council Alcohol Restrictions in Public Places Amendment (Okains Bay) Bylaw 2011, the Schedule of Permanent Alcohol Ban Areas to the Alcohol Restrictions in Public Places Bylaw 2009 will either refer to ten or eleven permanent Alcohol Ban Areas depending on whether or not the Christchurch City Council Alcohol Restrictions in Public Places Amendment (Riccarton / Ilam) Bylaw 2011 has already been adopted.
- (c) Give public notice as soon as practicable, that the Christchurch City Council Alcohol Restrictions in Public Places Amendment (Okains Bay) Bylaw has been adopted by Council, that it comes into effect on 1 December 2011 and that copies of the bylaw will be made available.