

12. REVIEW OF TEMPORARY ALCOHOL BANS FOR PAPANUI AND MERIVALE AREAS

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Author:</b>	Ruth Littlewood

**PURPOSE OF REPORT**

1. This paper reports back on the operation of the temporary alcohol bans in Merivale and Papanui. This report recommends that the Council proceed with an investigation of permanent alcohol bans for these areas, and proposes that the Council extend the current temporary bans to cover the period of time required for processing any bylaw amendments.

**EXECUTIVE SUMMARY**

2. On 25 August 2011, the Council resolved to declare temporary alcohol bans in Merivale and Papanui which will cease to have effect from 8 March 2012. Police advice was that following the February 2011 earthquakes businesses and people drinking at licensed premises were displaced from the central city to new and overcrowded venues in the suburbs with a consequent increased level of anti-social behaviours in the Merivale and Papanui areas. The bans were introduced to address actual and anticipated problems identified by the Police; to protect and maintain public health and safety and to minimise the potential for offensive behaviour in public places.
3. As part of this review staff have assessed relevant information with respect to operation of the temporary alcohol bans; in particular updated Christchurch City Council Customer Services 'requests for services' data and provisional Police statistics to December 2011. In contrast to the police data provided in August 2011 (January–June 2011) which showed little evidence of an increase in alcohol related problems for Papanui and Merivale following the 22 February earthquakes<sup>1</sup>, the updated provisional Police data to December 2011 shows significantly increased rates of alcohol related crime for both areas compared to previous years, with a generally upward trend in incidents from April/May 2011.
4. Consultation on the effect of the temporary bans was initiated in early December 2011 with support for continuation of the temporary bans from Police representatives, two residents groups and limited if positive feedback from the Fendalton/Waimairi and Shirley/Papanui community boards (the Boards). Staff will further consult the Police, the Boards and community in January and early February, and report back on the outcome to the 23 February 2012 Council meeting.
5. Council decisions are required as to the next steps to be taken to address these issues. Options include: allowing the bans to expire without replacement, for the bans to be further extended on a temporary basis, or for the bans to be made permanent through amendments to the Alcohol Restrictions in Public Places Bylaw 2009 (the Bylaw). If the latter option is preferred a Section 155 Local Government Act 2002 (the Act) investigation into amending the bylaw is required. Legal advice is that further extension of the current temporary bans would only be appropriate as an interim measure covering the period of the statutory process to amend the Bylaw.
6. Staff do not recommend that the current bans are simply allowed to expire as recent evidence shows a significant increase in alcohol related offending in Merivale and Papanui since the closure of the CBD licensed premises and there is police and community support for the continuation of the bans. The high level of patronage of venues and the spill-over effects associated with alcohol consumption in public places is no longer considered a short term or temporary phenomenon and permanent alcohol bans may be warranted. Approval is sought for staff to carry out an (LGA02 Section 155) investigation of the costs and benefits of amending the Bylaw and for the Council to approve 'interim' temporary bans to apply for the duration of the process to amend the Bylaw.

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<sup>1</sup> Council Report, 25 August 2011, 'Temporary Alcohol bans, Papanui, Merivale and Akaroa'

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7. Staff have prepared a tentative timeline for amending the Bylaw. If the Section 155 investigation supports the creation of permanent alcohol bans for Papanui and Merivale, the investigation report will be provided, together with draft Statement of Proposal, Summary of Information and draft Bylaw amendments, for the Council's consideration at the 26 April 2012 Council meeting.
8. Subject to the Council's approval to proceed with the bylaw amendments, it is anticipated that the Special Consultative Procedure could be commenced in May with the hearing of submissions in early July and decisions made by the end of July. The Bylaw amendments would come into force in August or September.

#### FINANCIAL IMPLICATIONS

9. There are 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 signage, publicising the ban(s), advising stakeholders and submitters, and the general public. The costs for the process to amend the Bylaw by way of a Special Consultative Procedure (SCP) can be funded through budgetary provision in the City and Community Long-Term Policy and Planning activity in the 2009-19 LTCCP. Funding for the provision of signage, including costs of production, erection, and where necessary replacement has been provided for in the draft 2012/13 Annual Plan.
10. Expenditure on (extending the) temporary bans as an interim measure is largely limited to the cost of some replacement signage; no SCP is required and publicity for the temporary bans can be carried out in association with that required for the proposed bylaw changes.
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 Act, 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. Any proposed amendment to the Bylaw would be made under the bylaw-making power in Section 147 of the Act. 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.
15. The purpose of the Alcohol Restrictions in Public Places 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

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- (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.
16. The Bylaw currently provides for 11 areas of the city to be "Permanent Alcohol Ban Areas" as set out in the Schedule to the Bylaw. Changes to the Schedule would require the Special Consultation Process in accordance with section 156 of the Act.
17. 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. Generally a temporary alcohol ban should last no longer than 6 months and it is not open to the Council to simply 'roll over' a ban. However if the Council expressed an intention to introduce a Permanent Alcohol Ban Area, legal advice is that it would be appropriate for the Council to put in place a further temporary ban while consulting on proposals to put in place the permanent ban.
18. The Council's consideration of any (further) temporary ban for Papanui or Merivale must have regard to the relevant 'criteria' set out in Clause 5(2) of the Bylaw, below:
- (b) the nature and history of alcohol-related problems usually associated with the area, together with any anticipated alcohol-related problems; and
  - (c) whether the benefits to local residents and to the city would outweigh the restrictions the resolution would impose on local residents and other people, including those who may be attending any events, in the area covered by the resolution; and
  - (d) any information from the Police and other sources about the proposed dates, the event or the area to be covered by the resolution; and
  - (e) whether the Police support the proposed Temporary Alcohol Ban Area; and
  - (f) any other information the Council considers relevant.
19. The bans were assessed as appropriate in terms the above considerations prior to their introduction (Report to Council and Council resolutions of 25 August 2011 refer) and the latest information available in terms of Police data and the results of community consultation strengthens the evidence supporting (continuation of) temporary bans for the period of investigation of and consultation on permanent bans.
20. 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.
21. Section 77 of the Act, which relates to decision-making 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. Options include: allowing the bans to expire, for the bans to be further extended on a temporary basis, and/or for the bans to be made permanent through amendments to the Alcohol Restrictions in Public Places Bylaw 2009 (the Bylaw). If the latter option is preferred a decision is required to authorise the preparation of a Section 155 report into amending the bylaw. The Act requires a review of any bylaw no longer than 5 years after it comes into force and the Section 155 report would address the appropriate review period for any proposed permanent ban.

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22. The option of allowing the current temporary alcohol bans to lapse without replacement is not recommended because police statistics show a significant increase in alcohol related offending in Merivale and Papanui, and because police and community representatives support the continuation of the bans. Staff recommend that the options to create permanent alcohol bans for these areas are further investigated.
23. With respect to the option for extending the current temporary bans, legal advice (see paragraph 17 above) is that this option may be appropriate as an interim measure. Given the relatively low costs and potential benefits of the alcohol bans staff recommend (extensions to the) temporary bans; the bans to be in force until either permanent bans are in place or until the Council decides not to proceed with bylaw amendments to create permanent bans.

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

24. As above. It should be noted that a Section 155 analysis would be required if an amendment to the Bylaw is sought for additional Permanent Alcohol Ban areas.

**ALIGNMENT WITH LTP AND ACTIVITY MANAGEMENT PLANS**

25. This report is broadly aligned to the City and Community Long-Term Planning Activity through the provision of advice on key issues that affect the social, cultural, environmental and economic wellbeing of the city.

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

26. See above.

**ALIGNMENT WITH STRATEGIES**

27. The Safer Christchurch Strategy aims to see rates of injury and crime decline, for people to feel safe at all times in Christchurch City and for Christchurch to have excellent safety networks, support people and services. The Bylaw supports the Strategy through the provision for Alcohol Bans which contribute to a reduced level of unacceptable behaviours and vandalism associated with excessive drinking in public places.

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

28. Yes – as above.

**CONSULTATION FULFILMENT**

29. Community consultation in December and early January, seeking feedback on (the effectiveness of) the temporary bans for this report elicited responses from the Police, Shirley/Papanui and Fendalton/Waimairi Community Boards (the Boards) and two residents' associations, St James Avenue Residents Association and Merivale Precinct Society. This initial response, reveals community and police support for the the alcohol bans to address alcohol related problems in the areas. Merivale Precinct Society seeks the continuation of an alcohol ban given the 'changed drinking culture' in Merivale, while members of the St James Avenue Residents Association want a permanent alcohol ban to apply for the area together with an extended 24 hours a day ban for St James Park. The Boards' responses referred to their previous expressions of support for the (introduction of the) bans.
30. The information obtained through consultation undertaken to-date has been limited by the availability of affected and interested parties over the December-January period and the necessarily short time frame for the review, commencing 3 months into the 6 month duration of the bans. Further consultation will be undertaken and the results reported to the 23 February Council meeting. Should the Council decide to proceed with amendments to the Bylaw, a full Special Consultative Procedure will be undertaken in accordance with the Local Government Act 2002.

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**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Direct staff to undertake a Section 155 Local Government Act 2002 analysis of possible amendments to the Bylaw with respect to declaring new Permanent Alcohol Ban Areas for Merivale and Papanui, and report back by April 2012.
- (b) Having considered the matters in clause 5(2) of the Christchurch City Alcohol Restrictions in Public Places Bylaw 2009, declares Temporary Alcohol Ban Areas for Merivale and Papanui; being the areas shown on the attached maps (**Attachment 1** and **Attachment 2**), to apply from 9 March 2012; Wednesday Thursday, Friday and Saturday nights from 6.00pm to 6.00am.
- (c) Resolve that the temporary bans (provided for in (b) above) shall expire either on 9 September 2012 or if and when Council resolves that a permanent ban for that area will not be imposed.

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#### BACKGROUND

31. Following the 22 February 2011 earthquakes the Police approached the Council seeking the introduction of new alcohol bans for Merivale and for an area of Papanui not already covered by the permanent ban for "Northland Mall surrounds". The Police sought (permanent) alcohol bans as a tool to address problems associated with an significant influx of drinkers displaced from central city licensed premises into these suburbs. Staff advice (reports to June and August Council meetings) was that there was insufficient evidence of a problem to justify permanent bans but recommended (August 2011) the introduction of temporary bans for both Merivale and Papanui to address potential problems and to allay expressed community concerns having regard to the limited evidence of developing problems in these areas.
32. On 25 August 2011, the Council resolved to declare
  - (a) *...a Temporary Alcohol Ban Area in Papanui, (being the area shown on the attached map (Attachment 2)), applying for six months from 8 September 2011 to 8 March 2012 for Wednesday, Thursday, Friday and Saturday nights from 6.00pm to 6.00am.*
  - (b) *...a Temporary Alcohol Ban Area in Merivale, (being the area shown on the attached map (Attachment 3)), applying for six months from 8 September 2011 to 8 March 2012 for Wednesday, Thursday, Friday and Saturday nights from 6.00pm to 6.00am.*

Staff have undertaken a preliminary review of the effects of the temporary bans and investigated the need for permanent alcohol bans in Merivale, and Papanui. This has involved an assessment of the data available and discussions with identified key stakeholders as outlined in paragraph 29 above. Each area is discussed in turn.

#### Merivale

33. The current temporary liquor ban 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 Road/St Albans Road intersection [**Attachment 1**]. The ban applies for Wednesday to Saturday nights 6pm-6am as specified in the resolution quoted above.
34. Provisional police 'Calls for Service' data have been provided for the Temporary Liquor Ban Area for 01 July–30 November 2011 and monthly data for 2009-2011 for the wider Merivale area. Some tentative conclusions can be drawn from the suburban data provided (see table below). In particular there appears to have been a significant increase in the number of alcohol related incidents from May-October 2011 compared with the same period in 2010 and 2009. The nature of the alcohol related issues and the effectiveness of the alcohol ban for the Merivale area was discussed (15 December 2011) with Inspector Dave Lawry, Area Commander Northern, New Zealand Police. His view was that from April/May drinkers progressively returned to licensed premises created overcrowding of the bars in the Merivale area and disorder in public places requiring police attention. Inspector Lawry's perspective appears generally consistent with the provisional police statistics.

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Provisional Police Statistics: Alcohol Related Offending -Merivale

		<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>MERIVALE</b>	Jan	6	5	1
	Feb	1	2	8
	Mar	9	3	3
	Apr	4	4	4
	May	5	1	6
	Jun	3		9
	Jul	4		9
	Aug	7	9	3
	Sep	2	3	6
	Oct		6	11
	Nov	8	6	9
	Dec	7	3	3
<b>MERIVALE</b>	<b>Sum:</b>	<b>56</b>	<b>42</b>	<b>72</b>

35. Inspector Lawry considered that the ban had been effective, preventing drinking by people in public places 'pre-loading' before entering Merivale licensed premises, and allowing his officers 'to move intoxicated people on' before they became involved in more significant incidents such as scuffles or fights. It should be noted however that the police data above does not directly relate to the alcohol ban area and does not record the number of breaches of the ban or whether other offences declined within the ban area, following its introduction.
36. The President of the Merivale Precinct Society says that the Society supports a ban for as long as the post-earthquake change in clientele and 'drinking culture' prevails; venues in Merivale are overcrowded and there is increased drinking in public and drunkenness on the streets. The Society considers that the ban has been useful, in providing increased levels of security and has allowed police to remove alcohol from drunk people and to disrupt alcohol related anti-social activities.
37. As well as consideration of police data, the Council's own Requests for Service (RFS) data was viewed. No significant trends e.g. in the amount of broken bottle glass within the alcohol ban area were discernable in the RFS data for the alcohol ban area.
38. On balance staff consider there is sufficient information to proceed with the section 155 analysis on a permanent alcohol ban in Merivale having regard to the provisional police data and the preliminary consultation undertaken. For the section 155 investigation, a survey of businesses is proposed which together with more detailed analysis and interpretation of data should provide more information on the merits of any ban.
39. 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 to minimise the potential for offensive behaviour in public places. The process of instituting a permanent ban through amendment to the Bylaw would enable full community consultation on a ban including whether a permanent ban should be in the same or different form, in the area, and times when the ban applies, as the current temporary ban.

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Papanui

40. The temporary alcohol ban area for Papanui applies Wednesday- Saturday nights 6pm to 6am for the area shown on the attached map [**Attachment 2**]. The temporary ban extends the hours and area covered by the permanent ban provided for Thursday-Saturday night from 9pm to 6am for the 'Northlands Mall and surrounds' [**Attachment 3**]. As stated above any change or addition to the permanent ban in Papanui must be through an amendment to the Bylaw, requiring an analysis under section 155 of the Act and consultation under the Special Consultative Procedure.
41. Inspector Lawry advises that as with Merivale there has been a considerable increase in the number of people using, or attempting to use, licensed premises in the Papanui area and that additional licensed premises have opened outside the current permanent alcohol ban area to cater for the higher numbers of people working in and visiting the Papanui area. He assessed the temporary ban to have had positive effects in addressing some of the problems associated with Patrons 'preloading' before entering licensed premises in Papanui and in drinking in public places especially along the walkways beside the railway lines.
42. The president of the St James Avenue Residents Association confirmed that, following the influx of drinkers to Papanui, its members have observed a dramatic increase in the sort of alcohol related behaviours which the ban is designed to address e.g. drinking in public, broken bottles on the road, the stashing of liquor (behind street trees and in the adjoining park and properties) for 'pre and post- loading' by patrons, together with more serious alcohol related crimes such as destruction of property, intimidation and violence. The president noted that a press report (Star Advertiser 28/11/11) which publicised the ban and included a Police statement to the effect that alcohol related offending in the area would be targeted, seemed to have a significant effect in the short term; "the quietest weekend for months". Some Association members consider that the ban should be made permanent, extended to apply 24 hours a day in St James Park, publicised widely and more consistently enforced.
43. Provisional police data 'Calls for Service' data for the Papanui Temporary Liquor Ban Area for 01 July–30 November 2011 and monthly data for 2009-2011 for the wider Papanui area have been provided to Council - See table below. Some tentative conclusions can be drawn from the data provided. In particular there appears to have been a significant increase in the suburb's number of alcohol related incidents from April -December 2011 with a total of 188 for 2011 compared with 126 for the same period in 2010. It should be noted however that the police data below does not directly relate to the alcohol ban area and does not record the number of breaches of the ban or whether other offences declined within the ban area, following its introduction. As well as consideration of police data, Council's own Requests for Service (RFS) data was viewed. No significant trends e.g. in the amount of broken bottle glass within the alcohol ban area were discernable in the RFS data for the alcohol ban area.

Provisional Police Statistics: Alcohol Related Offending- Papanui

		2009	2010	2011
<b>PAPANUI</b>	Jan	17	4	16
	Feb	12	18	12
	Mar	15	20	15
	Apr	13	13	26
	May	19	11	22
	Jun	13	6	28
	Jul	16	14	26
	Aug	27	21	22
	Sep	16	16	18
	Oct	18	15	17
	Nov	6	16	17
	Dec	13	14	12
<b>PAPANUI</b>	<b>Sum:</b>	<b>185</b>	<b>168</b>	<b>231</b>



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44. In April/May 2011, as part of their supporting information for the introduction of a ban, the Police undertook a survey of business owners in the Papanui area to determine what issues have arisen since the 22 February earthquake.<sup>2</sup> Staff will undertake a further survey of these businesses which could contribute to the Section 155 analysis into the effects of the bans.
45. 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
46. If the Council was to amend the Bylaw to provide a wider permanent alcohol ban for the Papanui area it would be doing so 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 process of instituting a permanent ban through amendment to the Bylaw would enable full community consultation on the ban including consideration of changes e.g. 24 hour ban for St James Park, to the current temporary ban.

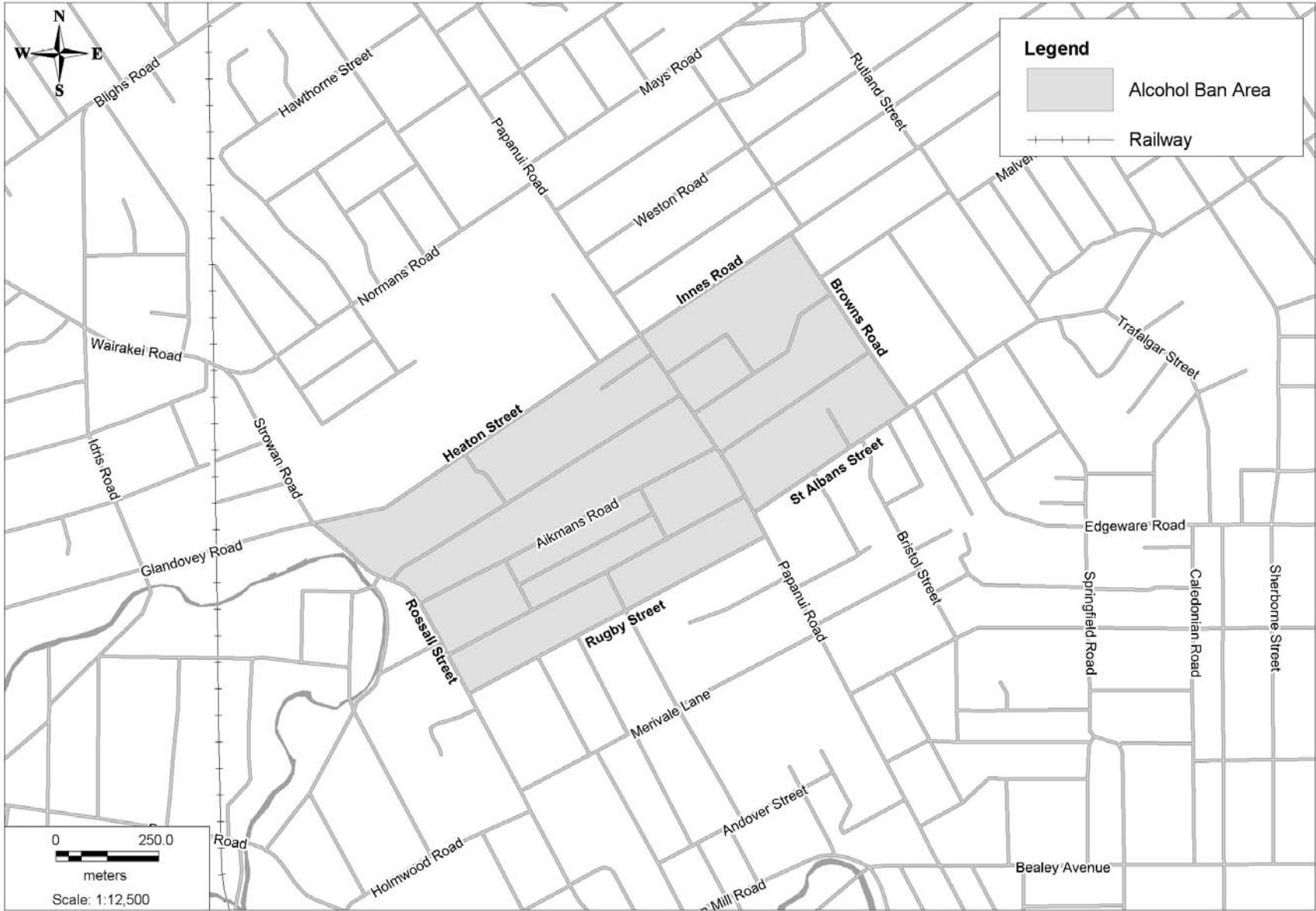
### Next Steps

47. If the Council agrees that there is sufficient evidence to warrant further consideration of permanent alcohol bans in these areas, staff will undertake a full section 155 analysis, and report back in April 2012. At that stage Council decisions will be required as to the next steps to be taken to address these issues. As outlined above, options include: allowing the bans to expire without replacement, for the bans to be further extended on a temporary basis, or for the bans to be made permanent through amendments to the Alcohol Restrictions in Public Places Bylaw 2009 (the Bylaw).
48. As discussed above, further temporary bans are considered appropriate as interim measures, addressing alcohol related problems in Merivale and Papanui during the procedure to amend the Bylaw. Legal advice is that any temporary ban should lapse as soon as a permanent ban comes into effect or immediately following a Council decision not to amend the Bylaw.
49. Should the Council decide in April to proceed further with the process to amend the Bylaw, a full Special Consultative Procedure will be undertaken. It is anticipated that consultation would occur in May to mid June with hearings in late June or early July. This would enable any amendments to take effect in August 2012 before the recommended temporary alcohol bans expire.

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<sup>2</sup> Senior Constable R. Fraser, Liquor Ban Proposal Papanui/Merivale, 4 May 2011

Merivale Temporary Alcohol Ban Area



Papanui Temporary Alcohol Ban Area



<b>Name of Alcohol Ban Area</b>	Northlands Mall Surrounds
<b>Description of Alcohol Ban Area</b>	The area bounded by and inclusive of all of, or the relevant parts of, Main North Road, Sawyers Arms Road, Sisson Drive, Restell Street and Harewood Road, as well as all of St James Park, as indicated in the map below.
<b>Times, days or dates during which alcohol restrictions apply</b>	Thursday, Friday and Saturday nights, from 9.00pm to 6.00am.

