

HUTT CITY COUNCIL**HEARINGS PANEL**

Report of a meeting held in the Council Chambers, 2nd Floor, 30 Laings Road,
Lower Hutt on

Friday 9 December 2016 commencing at 9.30am

PRESENT: Cr L Bridson (Chair) Cr MJ Cousins
Cr C Barry Cr T Lewis

APOLOGIES: There were no apologies.

IN ATTENDANCE: Cr J Briggs
Mr B Cato, Solicitor
Mr G Sewell, Principal Policy Advisor
Mr J Ballantyne, City Safety Manager
Ms H Clegg, Minute Taker

PUBLIC BUSINESS**1. APOLOGIES**

There were no apologies.

The Chair asked officers to provide background information regarding the Control of Alcohol in Public Places Bylaw 2016 prior to hearing of submissions.

2. RECOMMENDATIONS TO COUNCIL - 15 December 2016

- a) Control of Alcohol in Public Places Bylaw 2016: Information to assist hearing of submissions (16/1244)

The Principal Policy Advisor elaborated on the report. He stated all evidence had been gathered according to the requirements of the Local Government Act 2002 (LGA). He advised that the LGA had very specific legal criteria for alcohol related bylaws and that there was a high threshold to meet, requiring specific evidence.

The Solicitor expanded on this point, stating an authority must be satisfied the imposition of an alcohol ban could be justified with specific evidence of a high level of crime and disorder, and that that activity had been made worse by the consumption of alcohol. He added that it needed to be proven that a bylaw was appropriate and apportionate for that level of crime and disorder. He advised such a bylaw was useful for trouble spots, and that there was no case law for the application of a citywide bylaw banning consumption of alcohol.

In response to questions from members, the Solicitor explained the current city wide ban approved by the Kapiti Coast District Council had been adopted under the previous legislation. He further advised that there was no legal definition of "disorder" and that the dictionary meaning of the word was to be used. He said small levels of rubbish left after people had been drinking may not constitute a "high level of disorder", but that repeated occurrences could.

In response to further questions from members, the Solicitor noted that the boundaries of any alcohol ban area needed to be clearly defined, logical and able to be policed. He added that the public needed to be able to understand the boundaries and that any such areas needed to be practical. He clarified that the law covered driving through an alcohol ban area with unopened bottles.

In response to questions from members, the Principal Policy Advisor explained the use of roads was an easily identifiable boundary for alcohol ban areas, and that if the boundary was on one side of a road, then both sides of the road were within the ban area.

3. HEARINGS OF SUBMISSIONS ON THE CONTROL OF ALCOHOL IN PUBLIC PLACES BYLAW 2016

Mr Kevin Melville presented submission SAL16/18. He stressed any bylaw that restricted the consumption of alcohol in public places would affect his personal liberty. He noted that a time limit after sunset could be acceptable.

Mr Mike Fisher, representing the Petone Community Board, presented submission SAL16/40. He asked that North Park, Petone and the Seaview area be included in the alcohol ban area as there were existing alcohol related problems in these areas. He added the shopping area of Moera should also be included, and that the whole area of Eastbourne should not be excluded as people would go there in the absence of public areas to consume alcohol, in the rest of the city. He requested clarification of the alcohol ban area for Jackson Street, Petone.

In response to questions from members, Mr Fisher acknowledged he did not have specific evidence of high levels of crime and disorderly behaviour as a result of alcohol consumption for the proposed alcohol ban areas in Petone. He was suggesting precautionary thinking-ahead. He agreed that if it was a relatively easy process to get new areas added to the alcohol banned areas, this may go some way to alleviate any problems.

Mr Casey Diver, representing Stokes Valley Community House, presented submission SAL16/55. He supported the continuation of the alcohol ban for Stokes Valley shopping centre and Speldhurst Park. He said with the current building works occurring in this area, the dynamics of the centre may change in the future, and it was vital this ban remained. He stated there was sufficient evidence to support the retention of this ban. He further suggested a new ban area for the Wagon Road Park at the entrance to Stokes Valley, citing the existence of alcohol related rubbish and evidence from the Community Patrols that this area was used for the exchange of alcohol. He added that intoxicated people were often seen alighting from buses at the bus stop and causing a nuisance. He expressed concern that the BMX circuit in Wagon Road would escalate alcohol related issues.

In response to questions from members, Mr Diver expressed support for monitoring the Wagon Road Park area. He advised he had not received alcohol related complaints about the George Street area of Stokes Valley.

Ms Virginia Horrocks, representing the Eastbourne Community Board (ECB), presented submission SAL16/37. She advised that the ECB did not want Eastbourne areas to be excluded from a citywide ban. She explained there was an existing problem which would be exacerbated if most of the city became alcohol free at night, and the areas of Eastbourne were not. She explained the Rimu Street area had experienced problems for a long time, with retailers and the Rona House residents regularly complaining about alcohol related bad behaviour and rubbish. She stated similar problems existed at Days Bay Beach. She said it was illogical to have the areas of Woburn and Boulcott as alcohol banned areas and not the areas of Eastbourne.

In response to questions from members, Ms Horrocks considered a 9.00pm start time for an overnight ban was sensible and that she was unaware of alcohol related problems at other beaches in Eastbourne. She

was aware of problems in the Burden's Gate area, and possibly in the hill areas behind the Eastbourne suburbs. She agreed that specific evidence of alcohol related issues was required prior to the introduction of alcohol ban areas.

Mr Tom Pere, Mr Ashley Bloomfield, Ms Bridget Allan and Ms Hayley Goodin, representing the Healthy Families Lower Hutt Leadership Group (the Group), presented submission SAL16/56. Ms Goodin commended Council for its leadership role in addressing alcohol related problems, stressing the Group wanted the city to be a healthy city. Mr Pere supported a city wide ban with no exceptions. He elaborated on the input from all the Group to the submission.

Mr Bloomfield considered a citywide ban on alcohol would present a balance between the rights of individuals and businesses and the public good. He said the hospital had evidence showing the harmfulness of the consumption of alcohol at night. He supported ECB's submission that Eastbourne should not be excluded from the banned area as to do so would shift the current problems to that area. He also explained the disproportionate impact of harmful alcohol on specific areas of society – namely Maori/Pacifica. Ms Allan stated she fully supported the submission.

In response to questions from members, Mr Bloomfield said that the Police were best qualified to answer questions relating to evidence. He added that the hospital had some statistics on evidence, but that currently they did not collect specific information from presenting patients in the emergency department.

In response to further questions from members, Mr Pere said he was uncertain of the alcohol ban boundaries in the Naenae area, and that there was evidence from the Pacific Health practice to support an alcohol ban in the area.

The meeting adjourned at 11.00am and resumed at 11.12am.

Inspectors Sean Hansen, Tracey Thompson and Sergeant Damian Rapera-Davies from the District Alcohol Harm Prevention Unit, New Zealand Police presented submission SAL16/60. Inspector Hansen clarified that the Police supported a 9pm-5am citywide alcohol ban, and would support extending the ban to include the Western Hills and Eastbourne areas. He said he had evidence of increased public place violence, assaults and robberies as a result of alcohol consumption, over the past year. He added there were three or four such incidences each night. He emphasised the proposed ban would not fix the substantial problem, but that it was another tool to help educate and reduce alcohol harm and considered a safer city would eventuate.

Inspector Thompson tabled additional information and data detailing the problematic nature of having defined alcohol ban areas. She concluding that many alcohol related incidents do not occur within

specified alcohol banned areas, but were occurring city wide. She added alcohol renders a person incapable of making rational decisions, and that often the intoxicated person became a victim.

Inspector Hansen explained that the Police were not interested in policing a quiet family picnic on the beach, where the adults were drinking a glass of wine. He said that Police had discretion and used its judgement as to whether such an activity was causing or likely to cause crime or disorder. Sergeant Rapera-Davies added that such a scenario was unlikely to create a complaint, and that of the 2400 alcohol related infringements he had reviewed, none involved such a situation.

In response to questions from members, Inspector Hansen explained when dealing with a breach in an alcohol ban area, the Police first ascertained whether the person was aware they had breached the ban, and then whether the Police had correctly interpreted the situation and had sufficient evidence to make an arrest, issue an infringement notice, or give a warning. He further explained that where there were multiple alcohol ban areas, or where boundaries were not easily defined, the situation became complicated. He said the Police favour a whole of city ban, or clear geographical boundaries.

In response to questions from members, Sergeant Rapera-Davies stressed the importance of clear boundaries for alcohol ban areas. He agreed that the Police could provide Council with quarterly reports of breaches of a citywide ban, if required, to assist Council with monitoring such a ban. He added that the Police had improved its data collecting mechanisms.

In response to a further question from a member, Inspector Hansen agreed there was a grey area around the possession versus the consumption of alcohol in alcohol ban areas, particularly when it involved an opened bottle.

In response to further questions from members, Sergeant Rapera-Davies explained there were more warnings than infringements or arrests made for alcohol related problems, as Police tried to educate people.

Inspector Hansen concluded that a citywide ban on alcohol overnight would provide Police with another tool to help make the city safer.

4. RECOMMENDATIONS TO COUNCIL - 15 December 2016

- a) Control of Alcohol in Public Places Bylaw 2016: Information to assist hearing of submissions (16/1244)

The Principal Policy Advisor explained that a new area could become an alcohol ban area by Council resolution, but that it still had to pass the threshold test.

The Solicitor added that the inclusion of a new alcohol ban area would not need to be consulted on. He drew members' attention to s147 of the Local Government Act 2002 when dealing with opened bottles of alcohol.

In response to questions from members, the Solicitor outlined the process that led to the new legislation. He said that the Law Commission suggested the threshold test to prevent blanket bans from being imposed, where there was no evidence to support them. He advised members that a Bylaw was always subject to a legal challenge. He noted that a risk of a city wide bylaw was a challenge from an individual in possession of alcohol in an area where there had been no specific evidence of a high level of crime or disorder caused by alcohol consumption. He said it would be difficult for Council to defend that. He stressed the importance for good justification, ease of enforcement and clarity of area boundaries.

The City Safety Manager said he was confident, given the evidence from the Police as part of its submission, that Council had sufficient evidence to justify a citywide ban. The Solicitor explained the logistics of advertising a specific alcohol ban area had not been explored but that geographical boundaries were a sensible approach.

In response to further questions from members, the Solicitor advised a citywide ban with excluded areas would show that Council was applying the ban to areas where there was evidence. He further advised that part of the threshold test was whether a ban was appropriate and apportionate. He agreed there was evidence that night time alcohol related incidents were more prevalent than daytime incidents. He said that if there was no evidence for all areas in the City, then a blanket alcohol ban could not be imposed.

The City Safety Manager said that additional data was being collected via Hutt Hospital and the Police.

In response to questions from members, the Principal Policy Advisor clarified the Naenae alcohol ban boundaries. He agreed that the boundaries of all areas needed to be clearly identified. He stated a detailed communication plan would be implemented.

The Chair thanked all the submitters and adjourned the meeting at 12.45pm. The Panel deliberated in private.

Members discussed the renewal of the alcohol free zones established under the previous Control of Liquor in Public Places Bylaw 2004. They noted that evidence of alcohol related incidences from the Police did not always correspond to the location of licensed premises.

When considering the written and oral submission, members agreed to the:

- Days Bay Beach at Guy Fawkes night - the hours of the night ban be amended to 6pm 5 November to **5am** 6 November, to bring the closing time in line with the year round 9pm – 5am alcohol free zone proposed for Days Bay Beach. The introduction of the year round 9pm – 5am alcohol ban zone was in response to evidence presented through the submission process. A proposed night ban was deemed the most appropriate tool. Members considered that a night ban on alcohol would provide a balance between individuals' rights and the public good;
- Norfolk St Shopping area, Wainuiomata - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times;
- Homedale Village Shops, Wainuiomata - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times;
- Queen Street shops and Hugh Sinclair Park, Wainuiomata – members noted that the number of incidents had reduced since the park was included in an alcohol ban zone, and that there was sufficient evidence of disorder to continue with the ban at all times. There was sufficient evidence to support the continuation of the Queen Street shopping area as an alcohol free area at all times;
- Stokes Valley shopping centre and Speldhurst Park, Stokes Valley - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times;
- The designated area of Petone - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times. Members agreed that there was sufficient evidence to

extend this area to include the length of Pito-One Road up to and including both sides of Cornish Street in a 9pm – 5am ban year round. The ban was proportionate to the likely incidence of disorder and was deemed the most appropriate way to address the problem. The ban on alcohol would provide a balance between individuals' rights and the public good;

- The designated area of the central business district (CBD), including an extension of the Hutt River bank area to cover current crime and disorder issues - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times;
- Jubilee Park, Normandale - there was sufficient evidence to include the carpark area of Jubilee Park as an alcohol ban zone from 9pm to 5am. The proposed ban was proportionate to the likely incidence of disorder and was deemed the most appropriate way of addressing the problem. The ban on alcohol would provide a balance between individuals' rights and the public good;
- Carpark area of the Oakleigh Street, Maungaraki entrance to Belmont Regional Park – there was sufficient evidence to include the carpark area of Oakleigh Street entrance to Belmont Regional Park as an alcohol ban zone from 9pm to 5am. The proposed ban was proportionate to the likely incidence of disorder and was deemed the most appropriate way of addressing the problem. The ban on alcohol would provide a balance between individuals' rights and the public good;
- Taita shopping area and Walter Nash Park - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times;
- Naenae shopping area - there was sufficient evidence to support the continuation of this area as an alcohol ban area at all times;
- Seaview/Gracefield, Petone - there was sufficient evidence to introduce an alcohol ban zone for this area and report back in 2017. Members considered a 9pm – 5am alcohol ban was proportional to the level of disorder.
- Eastbourne - there was sufficient evidence to introduce a 9pm – 5am alcohol free zone for part of Eastbourne. The alcohol ban was found to be appropriate and proportionate to the level of crime or disorder.
- In addition to the designated alcohol ban zones areas, members agreed there was sufficient evidence to monitor several areas of the city for incidents of crime and disorderly behaviour caused by alcohol consumption, with a view for possible inclusion in an

alcohol ban zone in the future. There areas are:

- Dry Creek entrance to Belmont Regional Park including the camping area;
- Moera shopping area;
- Burden's Gate, Eastbourne;
- Oakleigh Street Carpark to Belmont Regional Park (for possible inclusion in a total alcohol ban at all times zone);
- Rural and rural/residential areas of the city;
- Whitcher Grove Wainuiomata Recreation Area;
- Arakura Park;
- The unnamed park (often referred to as Wagon Park) bordered by Wagon Road, Stokes Valley Road and Thomas Street, Stokes Valley, including Wagon Road and that portion of Stokes Valley Road;
- Sladden Park, including all of Halford Place;
- Pito-One Road up to and including Cornish Street (for possible inclusion in a total alcohol ban at all times zone).

Based on evidence provided through written and oral submissions, members agreed to adopt a citywide ban, excluding the following areas:

- exclude Eastbourne apart from the areas identified above (Days Bay Beach and Eastbourne - Marine Parade, Oroua Street, Karamu Street) as evidence presented showed these areas met the test;
- exclude the Western Hills, defined as the area west of SH2, apart from the areas identified above (Jubilee Park carpark; the extended Petone area to include Cornish Street and Pito-One Road; and the Oakley Street carpark entrance to Belmont Regional Park which have a 9pm-5am alcohol ban) as evidence presented met the test;
- exclude those areas in Wainuiomata in a 70km/h or greater speed zone, and the area of Upper Fitzherbert Road, north of the ends of Wise Street and Wellington Road as evidence presented met the test, and areas of low density development have little evidence of alcohol related incidences.

RESOLVED:

Minute No. HC16501

"That the Hearings Panel notes the spreadsheet summary of all submissions received attached as Appendix 8 to the report."

RESOLVED:**Minute No. HC16502***"That the Hearings Panel considers the full submissions (separately circulated)."***RECOMMENDED:****Minute No. HC16503***"That the Hearings Panel makes the following recommendations to Council based on the information raised through the submission and hearing process:*

- (i) agrees to provide for the following alcohol free areas within the city:
 - a) Days Bay Beach, Eastbourne on Guy Fawkes Night alcohol free zone hours be reduced to 6pm 5 November to 5am 6 November every year;
 - b) Days Bay Beach, Eastbourne to be an alcohol free zone 9pm-5am year-round (except as provided for on Guy Fawkes Night);
 - c) Norfolk Street shopping area, Wainuiomata to be an alcohol free zone at all times;
 - d) Homedale Village shops, Wainuiomata to be an alcohol free zone at all times;
 - e) Queen Street shops and Hugh Sinclair Park, Wainuiomata to be alcohol free zones at all times;
 - f) Stokes Valley shopping centre and Speldhurst Park, Stokes Valley to be alcohol free zones at all times;
 - g) the designated area of Petone to be an alcohol free zone at all times; and including an extended area to include the length of Pito-One Road, Korokoro up to and including Cornish Street, Korokoro to have a 9pm – 5am alcohol free ban year-round;
 - h) the designated area of the central business district to be an alcohol free zone at all times;
 - i) the introduction of the carpark area of Jubilee Park, Normandale with a 9pm – 5am ban on alcohol year-round;
 - j) the introduction of the carpark area of Oakleigh Street, Maungaraki with a 9pm – 5am ban on alcohol year-round;
 - k) Taita shopping area and Walter Nash Park to be alcohol free zones at all times;
 - l) Naenae shopping area to be an alcohol free zone at all times;
 - m) Seaview/Gracefield to be an alcohol free zone 9pm – 5am year-round;
 - n) Eastbourne specified area to be an alcohol free zone 9pm – 5am year-round;
 - o) the following areas be monitored for incidents of crime and disorderly behaviour caused or made worse by alcohol consumption, with a view for possible inclusion in an alcohol free zone in the future:
 - aa) Dry Creek entrance to Belmont Regional Park including the camping area;
 - bb) Moera shopping area;
 - cc) Burdens Gate, Eastbourne;
 - dd) rural and rural/residential areas of the city;

- ee) Whitcher Grove, Wainuiomata Recreational Area;*
 - ff) Arakura Park, Wainuiomata;*
 - gg) Wagon Park, Stokes Valley;*
 - hh) Sladden Park, Petone including Halford Place;*
 - ii) Pito-One Road, Korokoro up to and including Cornish Street, Korokoro (for possible inclusion in a total alcohol ban at all times zone);*
- (ii) agrees to introduces a city-wide alcohol ban covering all public places within the City of Lower Hutt from 9pm to 5am seven days a week, excluding the following areas:*
- a) Eastbourne from Point Howard to Burdens Gate, except as already outlined and Days Bay Beach;*
 - b) the Western Hills area west of SH2, except the Jubilee Park carpark, Normandale, the extended Petone area to include Pito-One Road and Cornish Street, Korokoro; and the Oakleigh Street carpark entrance to Belmont Regional Park;*
 - c) those areas in Wainuiomata in a 70km/h or greater speed zone, and the area of Upper Fitzherbert Road; and*
- (iii) adopts the Alcohol in Public Places Bylaw 2016, attached as Appendix 2 to the report, effective 21 December 2016."*

Cr Cousins requested that her dissenting vote be recorded against part (i)m) above.

b) Dangerous and Insanitary Buildings Policy 2016 (16/1249)

The Principal Policy Advisor elaborated on the report. He said he had been in discussion with Heritage New Zealand Pouhere Toanga regarding its submission. He noted that he had no objection to the inclusion of its suggested wording for the policy.

In response to a question from a member, the Principal Policy Advisor advised that these proposed amendments would not alter the intent of the policy and he did not anticipate any objections would arise from the amendments.

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| RECOMMENDED: | Minute No. HC16504 |
| <i>"That the Hearings Panel recommends that Council:</i> | |
| <i>(i) notes that one submission was received with respect to the proposal to replace the existing Dangerous and Insanitary Buildings Policy 2011 with an updated Dangerous and Insanitary Buildings Policy 2016;</i> | |
| <i>(ii) agrees to amend the Dangerous and Insanitary Buildings Policy 2016 to reflect the submitter's suggested wording as outlined in the officer's report; and</i> | |
| <i>(iii) adopts the Dangerous and Insanitary Buildings Policy 2016, including the proposed changes as outlined and attached in Appendix 2 to the report."</i> | |

There being no further business the Chair declared the meeting closed at 2.40 pm.

Cr L Bridson
CHAIR

CONFIRMED as a true and correct record

Dated this 14th day of March 2017