

# **APPENDIX A**

## **STATEMENT OF PROPOSAL TO AMEND THE LIQUOR CONTROL BYLAW**

# APPENDIX A

## STATEMENT OF PROPOSAL

### Wellington City Council Liquor Control Bylaw 2010 CONTENTS

1. Introduction
2. Reasons for proposal
3. Problem definition
  - 3.1 Assaults in suburban areas
  - 3.2 Environmental impacts of public place drinking in suburban areas
  - 3.3 Safety issues arising from public place drinking in suburban areas
4. Is a bylaw the most appropriate way to address the problem?
5. Is the proposed bylaw the most appropriate form of bylaw to address the problem?
  - 5.1 The Proposal
  - 5.2 NZ Bill of Rights Act 1990 – implications
6. Implementation
  - 6.1 Enforcement
  - 6.2 Exemption process
  - 6.3 Publicity and signage
  - 6.4 Evaluation
  - 6.5 Process and timeline
7. Have your say

---

APPENDIX 1 - Proposed bylaw: Liquor Control Bylaw and Map  
APPENDIX 2 – Map: Control Area that includes Newtown and Mount Cook  
APPENDIX 3 – Map: Wellington Free Ambulance Regional Assault Data

# APPENDIX A

## 1. Introduction

This Statement of Proposal concerns an amendment to the Liquor Control Bylaw. The current bylaw prohibits the consumption and possession of liquor in a public place at all times in the Wellington central area, Oriental Bay, Mt Victoria Lookout, Aro Valley and Central Park. Collectively this area is known as the current control area.

It is proposed that the bylaw is amended so that the possession and consumption of liquor is prohibited in public places across the entire city 24 hours a day, seven days a week (as shown on the attached map, marked option 1).

In addition this Statement of Proposal notes that the Council, following consultation could decide against proceeding with the proposed amendment and instead amend the current bylaw to include some suburbs or some areas. Alternatively the Council could decide to make no amendment to the current bylaw.

Section 147 of the Local Government Act 2002 (LGA 2002) provides for the Council to make a bylaw for liquor control purposes in relation to any public place under the control of the Council. Wellington City Council has had a Liquor Control Bylaw in place since 21 November 2003. It is a response to police and community concerns about the anti-social behaviour, harm and negative perceptions of safety in public places derived from the public consumption of liquor. The bylaw was introduced to address a gap in measures aimed at managing alcohol related behaviour and at having a city where people felt safe and free from intimidation at all times. It applied to Friday and Saturday nights and there was a seasonal split to hours. The bylaw was subsequently amended in:

**2006** –to include Thursday and the hours were changed from a seasonal split to a consistent 5pm to 8am, also included Christmas Eve and New Years Eve

**2007** - to extend the bylaw area to include Oriental Bay and Mount Victoria Lookout

**2008.** –to extend the hours to 24/7 and the area to include Te Aro Valley and Central Park.

The Council's experience of the Liquor Control Bylaw is that it is supported by the community. There is a public perception that a bylaw prohibiting public place drinking creates a safer environment. The current Liquor Control Bylaw was adopted in June 2008 and came into effect in July 2008.

The Council continues to come under pressure to implement liquor control bylaws in the suburbs.

The LGA 2002 requires that a special consultative procedure is used when it proposes to make or amend a bylaw. This Statement of Proposal has been prepared in accordance with the requirements set out in s86 LGA 2002 (the special consultative procedure).

# APPENDIX A

It includes:

- the reasons for the proposal
- consideration of whether a bylaw is the most appropriate way to address the perceived problem
- whether the proposed bylaw is the most appropriate form of bylaw
- implementation issues
- a draft of the proposed bylaw.

## 2. Reasons for proposal

Profound change in the last 20 years has shaped the drinking environment/culture we have today. Some of those changes have been:

- the increased availability of alcohol – liquor can now be purchased 24/7 and from a much greater range of premises, such as supermarkets and corner stores
- the lowering of the purchase age from 20 to 18
- a proliferation of licensed venues, in the last 20 years, the number of liquor licenses has doubled (6,295 in 1990 to 14,183 in 2009).

Yet the debate today about how to deal with the fall out from those who over indulge in alcohol bears a resemblance to our concerns half a century ago with the social ills attributed to the six o'clock swill.

The Law Commission produced a discussion document late last year called 'Alcohol in our Lives: An issues paper on the reform of New Zealand's liquor laws', to which the Council made submission. The Law Commission's report on its consultation is due out in March/April 2010 but the review has already established that liquor has become a serious source of social problems in New Zealand.

Alcohol abuse gives rise to disorder and causes considerable harm in Wellington city. A large proportion of this takes place in the central city but it also occurs in city fringe locations and suburban areas.

The Council has received calls and come under pressure from various communities wanting a liquor control bylaw in their area. Concerns raised relate specifically to public-place liquor consumption, associated anti-social behaviour and alcohol-related harm. The Council has received requests for liquor control bylaws from city fringe and suburban communities such as Tawa, Kilbirnie, Newtown, Berhampore, Island Bay, Owhiro Bay.

Council's goal is to reduce alcohol related harm in support of its vision that Wellington is a safe, healthy vibrant city for people to live work and play in. Public place liquor consumption outside the control area of the current bylaw is adversely affecting perceptions of Wellington as a safe, healthy, vibrant city and inhibiting communities' enjoyment of public spaces.

The current Liquor Control Bylaw has proved a valuable tool for police (when bylaw enforcement goes up, violence in the city trends down), and people feel

# APPENDIX A

safer using public spaces. The Council is proposing a city wide liquor control bylaw – an extension of the existing bylaw to cover the entire city to its coastal and jurisdictional boundaries (see map attached to Appendix 2).

## 3. Problem Definition

Alcohol related disorder and harm resulting from drinking in public spaces may not be as frequent in suburban and city fringe locations as it is in the central area, however, when it does occur it impacts, particularly on perceptions of safety and community use of public spaces. Liquor consumed in licensed premises is subject to management controls set out in the Sale of Liquor Act and server host responsibility policies. In public places within the control area of the bylaw, police have the ability to exercise a measure of control by requiring people consuming liquor in public to dispose of their liquor, and warn or arrest individuals in breach of the bylaw. There is currently no tool, in Council's suite of measures employed to reduce alcohol-related harm, which manages liquor consumption in public places outside the current control area.

### 3.1 Assaults in suburban areas

Notwithstanding the expected concentration in the central area, data supplied by Wellington Free Ambulance shows that responses to 111 assault related calls are spread across suburban locations (see map attached as Appendix 3). Suburbs with particularly high levels of assault calls in 2009 were Newtown (19), Kilbirnie (9), Johnsonville (14) and Tawa (12).

Peter Collins, Team Manager Operations at Wellington Free Ambulance commented that the injury category of '*assault*' was the single most likely injury to have resulted from alcohol consumption.

Dr Paul Quigley of Wellington Hospitals Emergency Department reports that up to 40% of weekend ***night presentations*** to the ED are directly related to alcohol, predominantly assaults and falls. In his experience, 90 per cent of presentations by people aged under 30 during weekend night shifts were directly related to alcohol. The impact on the department in weekends when staffing levels are low is profound, as is the knock on effect in delays to other patients waiting to be seen.

This data is not able to tell us the proportion of incidents directly related to the public consumption of liquor however, it paints a picture of the serious nature and the size of the problem we face. It also confirms that the central area does not have a monopoly on anti-social behaviour, crime or alcohol-related harm. This is a message the Council has been hearing and responding to since the liquor control bylaw was first introduced in 2003.

### 3.2 Environmental impacts of public place drinking in suburban areas

Public-place liquor consumption and anti social behaviour related to public-place drinking are creating an increasingly volatile environment for business owners and residents. Residents report being unable to utilise public spaces in the manner intended due to the litter, damage and intimidatory behaviour exhibited by those drinking, urinating and vomiting in locations such as playgrounds, shop frontages and bus shelters.

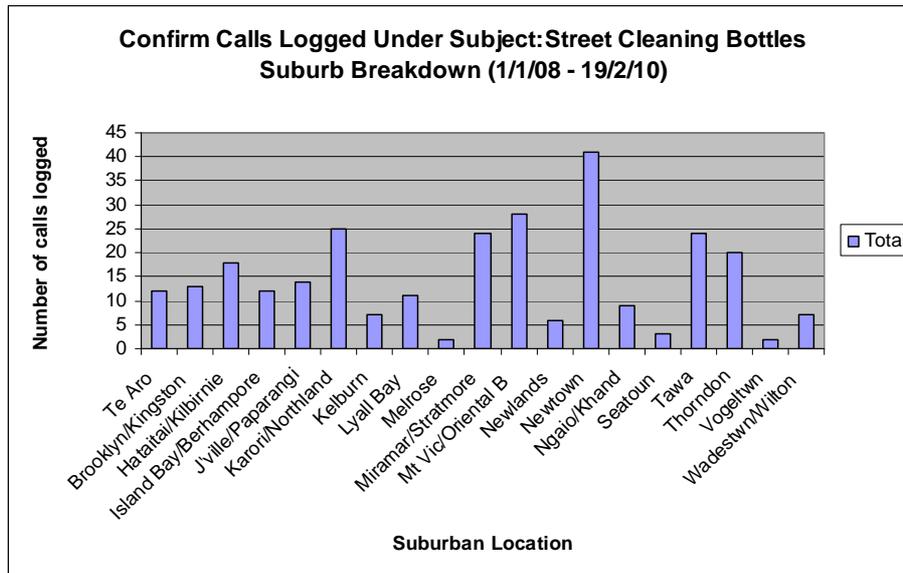
WCC infrastructure staff support this view.

# APPENDIX A

Data collected from complaints logged indicate that although there is an expected concentration of complaints about alcohol related issues in the central area, suburban locations also feature.

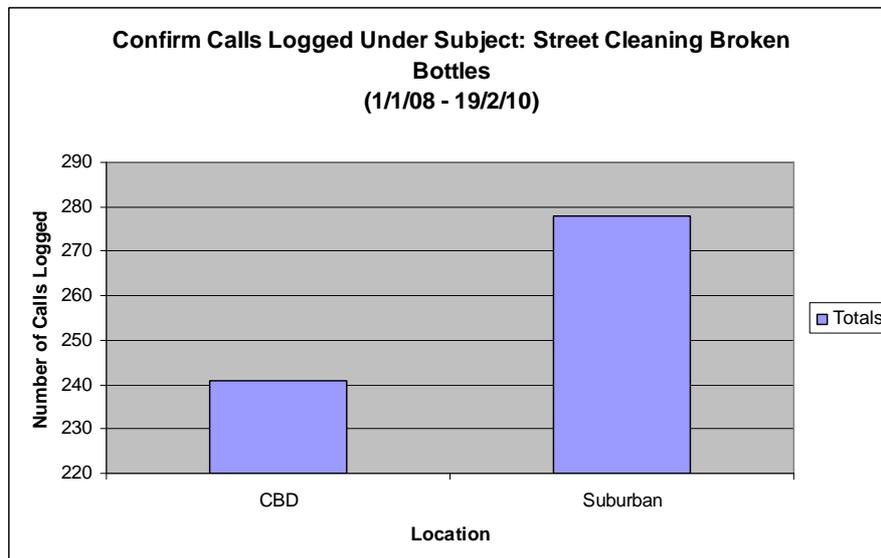
Calls logged under the subject: Street Cleaning Broken Bottles support resident perceptions (see figure 1). Incidents appear higher in those suburbs that have approached the Council and complained about the public consumption of liquor. The spread of complaints across the city indicate that most suburban locations are likely to be touched by the public consumption of liquor.

**Figure 1**



Taken collectively calls logged regarding a suburban location exceed those logged for the CBD (figure 2). Although this is not unexpected, as the CBD is within the current control area and is subject to a daily cleaning schedule, it can also be said there is more opportunity for surveillance and a higher motivation to call in and request a clean up given the level of public use and retail activity.

**Figure 2**



# APPENDIX A

The Council's Walkwise officers report a range of incidents they come across in their work. Although the majority of alcohol related incidents occur in the central city, over the last 18 months alcohol related incidents noted during the day in Newtown and Kilbirnie have shown a small but steady increase<sup>1</sup>. In a recent survey of Walkwise officers, most staff (90%) reported seeing public place drinking and felt that it decreased public safety. Staff reported the liquor control bylaw has had a positive impact on public spaces.

Adshel NZ Limited, the company that cleans and maintains advertising in bus shelters, report that between January 2009 and January 2010, 200 sheets of glass were replaced in Wellington bus shelters. John Burt, General Manager for Adshel NZ, indicated that most acts of vandalism related to glass damage. Whilst there is no connection drawn by the company about the relationship of public liquor consumption to such vandalism, anecdotal evidence from Council staff, Walkwise and the Police suggest a likely relationship between drinking in bus shelters and vandalism.

### **3.3 Safety issues arising from public place drinking in suburban areas**

Each weekend the Wellington Police attend 2 to 3 parties where the people involved are drinking on the street. The reason police attend these parties is that members of the local community or party organisers have complained of gate crashing, noise, disorder and fighting. Often callers will not identify the offenders involved fearing retribution. This reluctance to become involved leaves police with no evidence to arrest or prosecute anyone for the alleged offences. When police arrive and the party has been closed down typically large groups remain on the street drinking, smashing bottles and making sufficient noise to disturb neighbours.

Inspector Simon Perry of Wellington Central Police says in such situations police have limited ability to proactively manage the situation and encourage groups to move on. A liquor control bylaw would enable police to require a person to dispose of their alcohol, issue warnings or arrest which more often than not diffuses volatile situations.

The Police report in a National Alcohol Assessment that:

- public place settings were identified as the most common location where alcohol-related offending occurred, irrespective of where the place of last drink was consumed<sup>2</sup>
- The highest proportion of those who committed an offence in a public place also named their place of last drink as a public place.

In a snapshot taken from Confirm, Council's asset database (1/1/2008 – 19/2/2010), a third of all CBD complaints were alcohol related however in suburban settings, although there were a lot less incidents, the ratio of alcohol related complaints to other complaints such as noise or skateboarding is higher.

---

<sup>1</sup> Walkwise officers patrol Newtown Monday, Wednesday and Friday and Kilbirnie Tuesday and Thursday from 10.am to 7pm.

<sup>2</sup> Stevenson., R. (April 2009). *National Alcohol Assessment*. New Zealand Police.

# APPENDIX A

Residents' perceptions of safety in their neighbourhood after dark had steadily declined up until 2009. A slight increase in 2009 halted this declining trend but perceptions have still not reached 2006 levels and overall, perceptions of those who felt very safe in their neighbourhood after dark remain static at 35% following a decline from 46% in 2006.

A large proportion of residents (61%) were concerned about 'alcohol and drug problems' in the city. Of all the concerns raised, this was the area of most concern to residents. This updates the results of a 2007 TNS– Dominion Post election poll. Crime and Safety was listed as one of the top 10 issues for the city; underage drinking, safety in the streets, and removing intoxicated people from key public areas were also cited as concerns<sup>3</sup>.

These negative perceptions of safety in Wellington are adversely affecting the Council's strategic aims – that Wellington is a safe, healthy, vibrant city. Some people feel less safe when alcohol is consumed in public places, regardless of whether criminal offending occurs or not.

The rationale behind a suburban liquor control bylaw is different from that for the central city. The central city bylaw is premised, in the main, on issues associated with consistently large numbers of people congregating, intimidating behaviour and the consequent disorder that is alcohol related which impact on real experiences of, and perceptions of safety.

Outside the central city, the rationale is more concerned with responding to communities and the situations that arise as a consequence of alcohol consumption in public places. Residents in various communities across the city say that alcohol-related disorder is impacting negatively on their enjoyment of public spaces by affecting their ability to use the space in the manner intended.

Such events do not necessarily occur frequently or in a specific location but often give rise to issues such as violence, property damage, intimidation, negative perceptions of safety and the general disruption of local amenity when they do.

#### **4. Is a bylaw the most appropriate way to address the problem?**

In thinking about the most appropriate way to address the negative impacts of public place drinking in suburban areas, the Council has looked at many options. The table below gives a summary of options, a brief description of their application and appropriateness, and an indication of whether or not each option is already in use.

---

<sup>3</sup> Watt, E. (August 29, 2007) Fighting crime and making cities safe. Dominion Post

## APPENDIX A

Initiatives	Description	Does it target the problem?	In use?
Liquor Control Bylaw	24/7 liquor control bylaw across the entire city	<p>Yes.</p> <p>A bylaw enable police to respond to issues of public liquor consumption which are likely to give rise to anti-social behaviour and harm</p> <p>Liquor Control Bylaws make people feel safer. 44% of residents surveyed felt the bylaw made public places safer.</p> <p>Liquor Control Bylaws have restored the use of public spaces to their intended purpose.</p> <p>When bylaws are enforced, violence trends down.</p>	✘
Change the offence provisions of the bylaw.	Include a behavioural element in the offence provisions - required as a pre-condition for action being taken.	The offence provisions for liquor control are prescribed in section 147 of the LGA 2002 and cannot be altered.	✘
Social interventions which address why people want to drink in public.	Identify why people choose to consume liquor in public and address those issues	<p>Partly.</p> <p>But not enough to solve the problem. Many agencies are currently carrying out this type of work in Wellington which is considered a critical component to our response to alcohol related harm. This approach however, cannot work in isolation; it must be supported by other initiatives.</p>	✔
Provide an alternative place for some people to drink	An alternative venue for liquor consumption	<p>Partly, but not enough to solve the problem.</p> <p>This type of facility may not appeal as a legitimate drinking location to the majority of those who choose to consume liquor in public spaces.</p>	✘

## APPENDIX A

Initiatives	Description	Does it target the problem?	In use?
		Licensed premises (including those that offer outside areas licensed for liquor consumption) exist in the central area and in many suburban locations.	
Use environmental design to discourage public place drinking	Employ crime prevention through environmental design principles that discourage drinking in public places	Yes. The Council already uses this approach in its assessment of problem areas. However, this approach on its own, would not deal with issues of vandalism, noise, parties that spill out onto the streets which occur randomly and threaten local amenity.	✓
Regulatory controls on access to alcohol	Use regulatory levers under the Sale of Liquor Act and Council policies to reduce access to alcohol	No. The Council has in place a licensing policy and monitors licensed premises.  This will not prevent people who legitimately purchase liquor consuming it in a public place.  A planned review of the current Liquor Licensing Policy may address issues of hours and outlet density.	✓
Education	Campaigns that encourage responsible consumption of liquor in public places	No. This will not prevent people determined to consume liquor in a public place.  Education programmes could have a long-term impact however will not likely be helpful at the time public place drinking is occurring.	✓
Increased police resources in problem areas	Target policing to identified hot spots for public place drinking	No. Without the ability to use the bylaw as a tool to require the disposal of alcohol, warn or arrest, the police have limited ability to proactively manage potentially volatile situations.	✓

# APPENDIX A

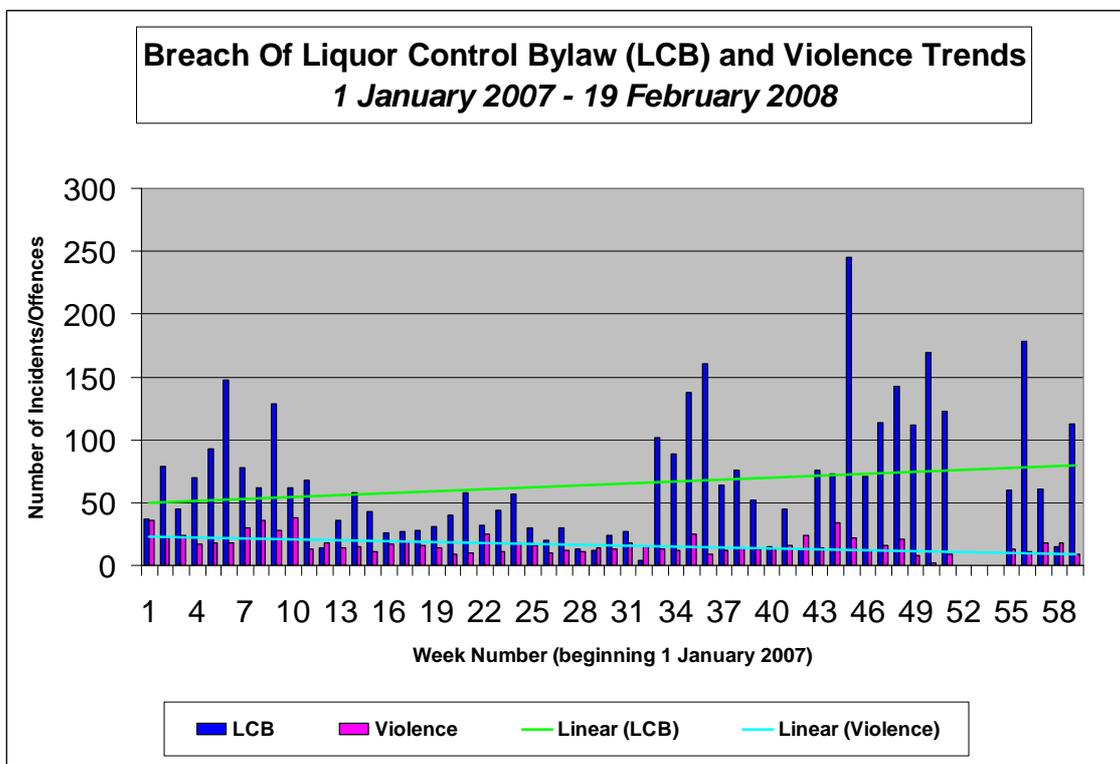
In 2005, the Liquor Control Bylaw was evaluated. At the time, the Bylaw prohibited the consumption and possession of alcohol in public spaces in Central Wellington on Friday and Saturday nights from 5pm (1 May to 31 October) and from 8pm (1 November to 20 April), through to 6.00am the following day.

The evaluation reported that there was little evidence that public place drinking during ban times or offending related to public place drinking during ban times had reduced. Despite that lack of empirical evidence, awareness of, and support for, the current Bylaw was high and people reported feeling safer knowing that a ban on public place drinking existed in the Central City on Friday and Saturday nights.

Although the evaluation did not indicate a drop in offending or drinking in public places, this needed to be seen in the context of an increasingly active inner city. In addition the Police had taken a relatively light handed approach to enforcement of the bylaw in accordance with the Council's expectation that initially, Police should focus on educating the public with a preference to warn rather than arrest.

In 2007 Police statistics showed that violent offending relating to alcohol consumption decreased when enforcement of the bylaw increased. Figure 3 illustrates the corresponding decrease in violence when bylaw enforcement increased.

**Figure 3: Breach of Liquor Control Bylaw and Violence Trends**



Public perceptions about the positive difference bylaws that control the public consumption of liquor can make to a community are strong and reinforced by

## APPENDIX A

examples such as the effect of extending the current bylaw to cover Oriental Bay in 2007 And Te Aro in 2008. In both cases, residents report a significant improvement in the quality of local amenity.

There is considerable international research that suggests that when people start to take ownership of public spaces not only perceptions of safety but the safety of public spaces improve. In effect, the liquor control bylaw gives residents the confidence to respond to situations that are likely to give rise to anti-social behaviours such as violence, general disorder, property damage, litter and broken glass in their community. This enables communities to set behavioural standards by making a statement about community norms and expectations in an effort to preserve local amenity whenever and wherever that is threatened.

A liquor control bylaw prohibition is not a panacea, however, and does not on its own:

- reduce alcohol-related harm associated with risky and unsafe practices
- reduce alcohol-related offending where the liquor has been consumed on licensed premises
- provide a response to offending
- address issues associated with homelessness (those issues often arise from mental health problems or from abuse of substances not captured within the definition of liquor – such as methylated spirits, drugs and glue).

However, a bylaw complements the range of initiatives that contribute to a safe and vibrant city. In a suburban setting the bylaw complements the Council's other initiatives such as Walkwise (Newtown & Kilbirnie Patrols), Liquor Licensing Policies, Controlled Purchase Operations, Council's community interaction programme, Neighbourhood Support Programmes, work with the Downtown Community Ministry, mental health service providers, the Police and our Community Safety Audit Model.

Evidence suggests that liquor bans are most effective when introduced alongside a range of other initiatives, policing practices and complementary strategies such as CCTV, host responsibility/server intervention policies on licensed premises, controlled-purchase operations and regulatory enforcement of poorly performing licensed premises.

Work is currently underway on a comprehensive Alcohol Management Plan (AMP) to ensure a consistent city wide approach to alcohol management. A city wide Liquor Control bylaw will sit alongside this holistic approach to alcohol management. The AMP will document and develop current initiatives, identify opportunities for new partnerships and projects to assist the Council to strike a balance between, on the one hand the enjoyment and benefits from the sale, supply and consumption of alcohol, and on the other hand, the costs and harm experienced when it is abused.

No other option specifically targets the problem of liquor consumption in public places across the city. Without a bylaw in place there is no provision to take proactive steps to avoid liquor-related harm, but rather serious offending must

# APPENDIX A

occur before any action can be taken. Regardless of offending, people may feel less safe or intimidated when there is drinking in public places.

The option of a 24/7 city wide Liquor Control Bylaw on the other hand provides for early intervention to manage the downstream effects of liquor consumption in public places whenever and wherever it occurs and is called to police attention.

## **5. Is the proposed bylaw the most appropriate form of bylaw to address the problem?**

In adopting the bylaw, the Council must agree that the proposed bylaw is the most appropriate form of bylaw to address the perceived problem of drinking in public places.

### **5.1 The Proposal**

#### *24/7 city wide Liquor Control Bylaw*

The proposed bylaw amendment provides for a 24/7 ban across the entire city. City boundaries would serve as the boundaries for the new control area (see map attached to draft bylaw and attached as Appendix 1).

Extending the bylaw city wide is the only low-level tool available to prevent anti-social behaviour associated with public-place liquor consumption and negative perceptions of safety outside the current bylaw control area. It provides a mechanism to address a gap in the suite of measures the Council employs to support its strategic outcomes of a safe, healthy, vibrant city that places a high value on local amenity.

From a social perspective, it would:

- Send a clear message to residents and visitors that the consumption of liquor in public spaces and the anti-social behaviour derived from this activity is not acceptable
- Empower communities to make a statement about community norms and expectations
- Likely improve perceptions of safety in suburban settings

From an enforcement perspective, Police advise this is their preferred option. They endorse a 24/7 city wide liquor control bylaw for the following reasons:

- a city wide liquor control bylaw is easy for the public to understand.
- a city wide liquor control bylaw provides for a more consistent approach that is simpler to enforce
- it is a positive step towards keeping a lid on anti-social behaviour whenever and wherever that behaviour threatens local amenity

In addition, it means a consistent expectation that the consumption of liquor in public places is unacceptable and can be responded to. It is anticipated that a city wide Liquor Control Bylaw will modify the behaviour of all residents, not only of those who consume liquor in public and are likely to cause harm or disorder. The bylaw includes a process to obtain prior written permission from the Council to authorise activities that would otherwise breach the bylaw.

# APPENDIX A

The potential exists for individuals to have a criminal record based on a breach of the bylaw. Police have indicated that in most cases individuals, when warned, comply with the provisions of the Bylaw. In some cases, the behaviour of those in breach of the Bylaw warrants arrest. In those cases, police have determined the behaviour of those individuals will lead to more serious offending. In effect, being apprehended for a lesser offence is of benefit to those subject to a charge of being in breach of the Liquor Control Bylaw.

Police have indicated the focus of enforcement is on anti-social behaviour and will largely be complaint driven in suburban areas. Although a possibility, it is unlikely that someone having a glass of wine with a picnic will be arrested. In the event that police determine it is a priority response, the offenders will most likely be warned and asked to dispose of the alcohol.

There are some activities in public spaces for which consumption of liquor is an integral part. For such activities or events, there is provision for organisers to apply to the Council for written permission for an exemption from the bylaw. In 2009, the Council granted written permission for three such exemptions to the bylaw.

Consistent control across the entire city will result in an increased awareness of, and compliance with, the bylaw. With such a bylaw visitors and the general public clearly understand that public place drinking is prohibited in public places city wide rather than differentiating multiple boundaries.

## ***Other Options***

As a result of consultation, the Council could decide against proceeding with a city-wide 24/7 ban. Given that the proposal to some extent was driven by concerns in Newtown, the Council could choose to amend the current bylaw to include Mount Cook and Newtown (as shown on the map at Appendix 2). It could also choose to amend the bylaw to include other suburban areas or areas such as reserves, parks or bus shelters.

Such options would address issues recently profiled in the Mount Cook, Newtown area, or with the actual or potential problems that are related to public consumption of liquor that occur in fringe or suburban locations across the city.

Evidence shows that public liquor consumption is an issue in many suburban locations, not just Newtown. In the past the Council has had and responded to calls from Oriental Bay, Mount Victoria and Te Aro communities. Anecdotal reports and data collected from both internal and external sources show that alcohol-related activity is having an impact on communities across the city.

Evidence suggests that when liquor control bylaws are applied to specific areas, there is some displacement of drinking to locations that fringe the control area unless there are natural geographical boundaries to make this an unattractive option. For example, if the ban was applied to Mount Cook and /or Newtown, there may be displacement to neighbouring suburbs such as Berhampore and Island Bay. It is likely that Council will continue to receive community pressure

# APPENDIX A

to extend bylaw coverage due to actual or perceived displacement and anti-social behaviour associated with incidents of public liquor consumption.

The Police have indicated that having selected suburban centres included in the bylaw with differing boundaries will cause confusion. The issue of displacement to locations such as schools that fringe what would be a plethora of controlled areas; and the anticipated sidestepping of boundaries likely to occur, would render the bylaw more complex to enforce.

The Council, following consultation, could decide against making any amendments to the Bylaw, thereby retaining the current Bylaw in its present form.

## 5.1.1 Summary

The proposed bylaw attached as Appendix 1 is recommended as the best way to address the perceived problem of drinking in public places across the entire city.

The proposed bylaw:

- prohibits the possession and consumption of liquor in all public places across Wellington City 24 hours a day, seven days a week (24/7).
- includes a process to obtain prior written permission from the Council to authorise any activity that would be in breach of any prohibition under this part of the bylaw.

The bylaw does not apply to authorised road encroachments or to licensed premises with pavement leases. It does not prohibit the carrying of unopened liquor from licensed premises or to licensed premises provided the liquor is removed from the public place promptly.

## 5.2 NZ Bill of Rights Act 1990 - Implications

The New Zealand Bill of Rights Act 1990 (BORA) sets out the fundamental freedoms and rights of all New Zealanders, including the freedom of expression, peaceful assembly and association. It only applies where these rights and freedoms are limited by public acts - this includes the Council's act of making bylaws.

The Local Government Act 2002 requires the Council to consider the freedoms and rights protected by BORA when making bylaws. The statement of proposal has been assessed in relation to BORA and the requirements contained in the LGA 2002.

The proposed bylaw is consistent with the specific empowering provisions prescribed by law in the Local Government Act 2002. This is important when completing an assessment under BORA, as Parliament must have been satisfied at the time of introducing section 147 that a liquor control bylaw in a public place can be imposed by a Council without breaching BORA. Furthermore, the rights contained in the BORA, (including freedom of expression, peaceful assembly and association) are not specific to alcohol or reliant on alcohol.

# APPENDIX A

Overall, it is considered that the rights and freedoms under BORA are not affected by the proposed bylaw – any limitations that may arise from the bylaw are justified and reasonable. The proposed bylaw does not preclude the enjoyment of those rights, it merely requires they are exercised without alcohol. The rights and freedoms protected under BORA can be limited (Section 5) where:

- *The limitation is prescribed by law;*  
The proposed bylaw descends from a specific empowering provision in section 147 of the Local Government Act 2002, and the more general related provisions of that Act. This requirement is satisfied.
- *The limitation is reasonable;*  
The proposed bylaw applies equally to all people, whether they are ratepayers, inhabitants of the district, or visitors from other areas. The proposed bylaw also allows any person to apply for permission to possess or consume alcohol in any public place. The reasons to justify the proposed bylaw are outlined in this document. The Council considers that the proposed bylaw is both reasonable and justified.
- *The limitation is demonstrably justified in a free and democratic society.*  
The proposed bylaw will be consulted on using the special consultative procedure. Subject to any issues arising through that consultation process, the Council does not consider that the proposed bylaw gives rise to implications under BORA.

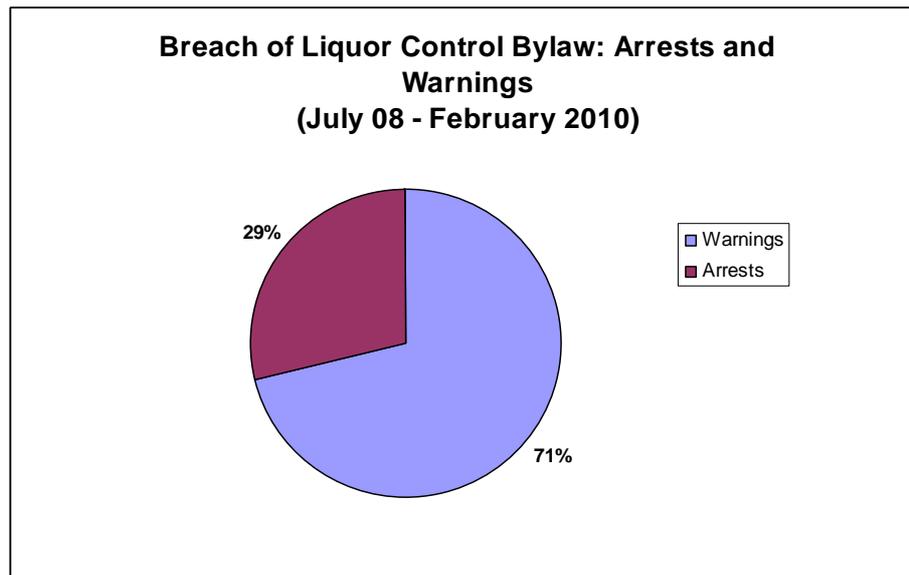
## 6. Implementation

### 6.1 Enforcement

As provided in section 169 of the LGA, the Police will continue to be responsible for the enforcement of the bylaw. The Police can:

- search a container or vehicle entering a public place
- seize and remove the liquor if the liquor is in breach of the bylaw
- arrest a person who has been asked, and has refused, to either leave a public place or surrender liquor that is in breach of the bylaw.

# APPENDIX A



The Police advise that the bylaw will continue to be used as an early-intervention tool. That is, people breaching the bylaw will be given the opportunity to comply by relinquishing the alcohol or by leaving the public place. The focus of enforcement is on anti-social behaviour and police enforcement guidelines will be revisited to ensure this is clearly communicated to all staff.

Police have provided assurances about the use of discretion and the type of behaviour they will focus on when using this tool. Inspector Simon Perry of Wellington Central Police states:

*"It's not the intention of officers to spoil the fun. Officers have and will continue to take a time, place and circumstance approach to enforcing liquor bans and generally, there would have to be a complaint, something sensible drinking was unlikely to attract".*

Police have indicated that as with many laws, they will manage resources and prioritise their response based on the nature of the complaint and will continue to use their discretion to warn where a warning is deemed an appropriate response. Police enforcement guidelines will be revisited to ensure they clearly reflect this approach. It should however be noted that guidelines are not in any way intended to fetter the discretion of Police.

## 6.2 Exemption Process

Guidelines around the ability to apply for an exemption to allow for alcohol to be consumed in a public place have been developed; these will be updated to ensure a simple and efficient process is in place for the consideration and, as required, issue of exemptions to the bylaw. In considering a request for exemption, officers will take into account the nature and size of the activity, occasion or event for which an exemption is being sought.

## 6.3 Publicity and signage

The signage in place for the existing bylaw will be updated as required. Signage depicting a consistent 24/7 liquor control bylaw across the city would be clear,

# APPENDIX A

could be simplified and targeted to key entry, congregation points, heavily utilised public spaces such as parks and playgrounds.

A communications plan to advise the public is being developed and will be in place at the time the amended bylaw is introduced.

## **6.4 Evaluation**

If implemented, officers will monitor the performance of the amended Bylaw and report back to the Council in accordance with the evaluation and monitoring strategy developed in the Alcohol Management Plan.

## **6.5 Process and timeline**

The proposed bylaw has been developed in consultation with the Police.

External consultation will be undertaken in terms of the special consultative procedure required under section 156 of the Local Government Act 2002.

Consultation will take place in March/April with oral submissions in May. The Council will make a final decision in June 2010 with any amendments coming into effect in August 2010.

## **7. Have your say**

Wellington City Council is keen to know what you think about the matters covered by this proposal. Anyone can make a submission on the proposal. If you wish to make a submission, please ensure you include the following information:

- your name, postal address, phone number and email address (if applicable)
- your submission, with reasons for your views
- any changes you would like considered
- whether you wish to speak to the Council in support of your submission.

A submission form is attached to help you.

Councillors will consider all the submissions and take account of the issues raised before deciding on whether to adopt the bylaw. The process and timetable for conducting this review is shown in section six of this document.

Please fill in the attached submission form or make a submission on line at Have Your Say/Public Input section of [www.wellington.govt.nz](http://www.wellington.govt.nz) or email your submission to [citizenengagement.submission@wcc.govt.nz](mailto:citizenengagement.submission@wcc.govt.nz).

Submissions can also be faxed to (04) 801 3124, or sent to:

Freepost 2199  
Liquor Control Bylaw Review Consultation  
Consultation and Engagement Team  
Wellington City Council  
P O Box 2199  
Wellington

# APPENDIX A

## APPENDIX 1

### WELLINGTON CONSOLIDATED BYLAW 1991 PART 23 – LIQUOR CONTROL

#### Part 4: Liquor Control

##### 1. Purpose

This part of the bylaw prohibits the consumption and possession of liquor in all public places at all times. It applies to all public places in Wellington city. The extent of Wellington City is shown on the attached map. The bylaw includes a process to obtain prior written permission from the Council to authorise activities that would otherwise breach the bylaw. The Council will erect signage to communicate the terms of the bylaw to the public.

[Liquor Ban Area Map (282Kb PDF)]

The purpose of this bylaw is to address concerns relating to potential offending and safety concerns that are linked to the possession or consumption of liquor in public places. By imposing this ban, the consumption of liquor should primarily be restricted to private residences or licensed premises.

The bylaw is introduced pursuant to s147 of the Local Government Act 2002 - this section should be read together with this part of the bylaw as it contains relevant definitions and the situations when this bylaw control will not apply (particularly relating to the transportation of unopened liquor). Pursuant to s169 and s170 of the Local Government Act 2002, the Police can enforce this part of the bylaw. Further details on the statutory provisions are provided as a note at the end of this part of the bylaw.

##### 2. Exclusions

The prohibition on the consumption or possession of liquor in a public place in Wellington City does not apply to:

- a. Any area that is subject to a road encroachment license issued by the Council;
- b. Any licensed premises that occupies a paved area on legal road or Council land where permission to occupy has been granted by the Council.

##### 3. Liquor Prohibition

- 3.1 The consumption or possession of liquor in any public place (including while in a vehicle), is prohibited within Wellington City. This prohibition is effective at all times.

##### 4. Council Permission

- 4.1 Any person may apply to the Council for prior written permission for any activity that would be in breach of any prohibition under this part of the bylaw.
- 4.2 The process for obtaining the Council's permission is outlined in Part 1 (Introduction) of this bylaw. Fees may be prescribed for processing these permissions, as set out in Part 1 of this bylaw (clause 1.6.1).

##### 5. Signage

- 5.1 The Council will erect signage within public places covered by this bylaw to provide information to the public on the terms of the bylaw. The size, location and terms of this signage shall be at Council's discretion. To avoid any doubt, the absence of signage in any public place does not authorise breach of this part of the bylaw.

# APPENDIX A

## 6. Offences

6.1 Everyone commits an offence who:

- a. Consumes or possesses any liquor in a public place in breach of a prohibition under this part of the bylaw; and
- b. Breaches, or permits a breach of, the terms of any Council permission granted pursuant to clause 4 of this bylaw.

### **Note:**

*This bylaw is introduced pursuant to the specific empowering provisions of the Local Government Act 2002 that provide for bylaws for liquor control purposes. This bylaw does not repeat or paraphrase those statutory provisions, and accordingly those provisions should be read in conjunction with this bylaw. In particular, the following provisions are noted:*

*Section 147 empowers the Council to make this bylaw. It also defines 'liquor' and 'public place'. In addition, s147 (3) sets out a number of specific exemptions when the bylaw will not apply with respect to the transportation of unopened bottles or containers.*

*Section 169 provides the Police with powers of search and seizure, without warrant, to enforce the bylaw. The Police are responsible for enforcing the bylaw.*

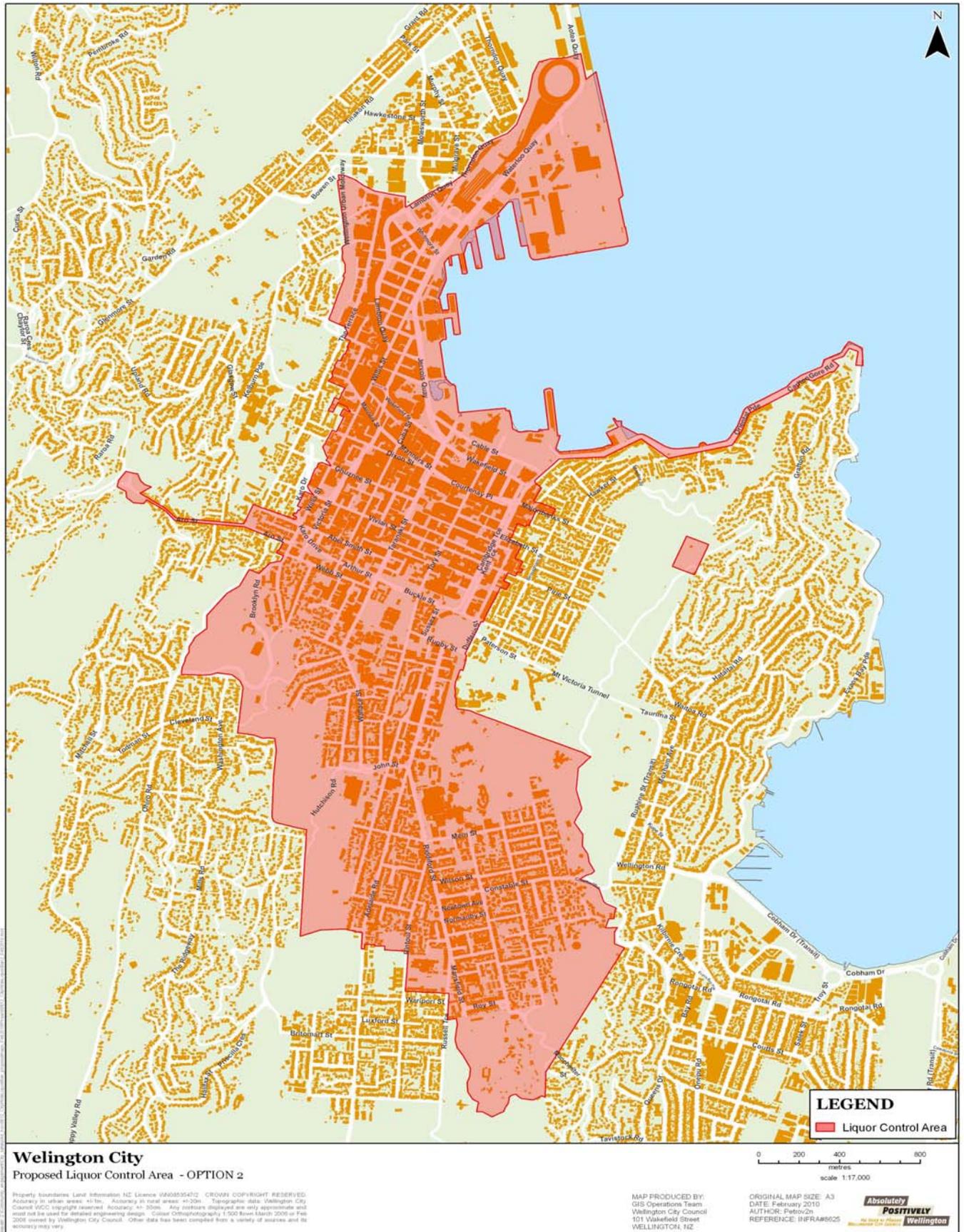
*Section 170 sets out certain conditions imposed on the Police powers of search under s169.*

*This bylaw has no effect on any other Police powers of search, seizure and arrest or any other statutory offences.*



# APPENDIX A

## APPENDIX 2



# APPENDIX A

## APPENDIX 3

### All Wellington Free Ambulance Responses (Wgtn Region) to Assault 111 calls from 1/1/2009 – 31/12/2009

