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**REPORT 1**  
*(1215/11/IM)*

## **LIQUOR CONTROL BYLAW – BAN FOR SPECIAL EVENT: NEW YEARS EVE 31 DECEMBER 2006**

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### **1. Purpose of Report**

To amend the wording of the Council resolution of Wednesday 27 September 2006 with regard to the extended liquor ban for New Years Eve 2006.

### **2. Recommendations**

It is recommended that the Council:

- 1. Receive the information.*
- 2. Resolves to invoke a liquor control ban for the following specific event under the provisions of Clause 23.2.1 of the Consolidated By Law:*

***New Years Eve Celebrations – Sunday 31 December 2006*** from 5pm until 8am the following day, within an extended liquor ban area that includes the Wellington Central Area (as defined in the bylaw) and including all of Oriental Parade to and including Point Jerningham.

### **3. Background**

On Wednesday 27 September 2006 the Council agreed to adopt the recommendations of the Strategy & Policy Committee Meeting of Thursday 7 September 2006, for a number of special event bans from 1 November 2006 to 30 May 2007, under the Liquor Control Bylaw.

The liquor control special event ban as approved by Council for New Years Eve 2006 states as follows:

***Event 2 - New Years Eve Celebrations*** – Saturday 31 December 2006 from 5pm until 8am the following day, within an extended liquor ban area that includes the Wellington Central Area (as defined in the bylaw) and including all of Oriental Parade to and including Point Jerningham.

Officers have identified that the date for New Years Eve 2006, Saturday 31 December 2006, as approved in the resolution is incorrect and the actual date is Sunday 31 December 2006.

## **4. Discussion**

### **4.1 Implications**

The Wellington Consolidated Bylaw part 23 states:

This part of the bylaw prohibits the consumption and possession of liquor in public places from 5.00pm each Thursday, Friday and Saturday until 8.00am the following day. In addition, the prohibition applies every year on Christmas Eve, the 24th of December and New Years Eve, the 31st of December from 5.00pm to 8.00am the following day.

Whilst New Years Eve is clearly defined within the Bylaw, the resolution for the proposed extension of the liquor ban to Oriental Bay specifies a specific day of the week. The error in the resolution creates a significant issue for the enforcement of the Bylaw by the New Zealand Police.

With respect to this extension of the liquor ban to Oriental Parade, if there were any defended prosecutions arising from the enforcement of the liquor ban by the Police then one potential source of defence would be the lack of certainty relating to the terms of the ban on the basis of the error in the resolution. In that regard, there is sufficient risk to the Council of a challenge of this nature arising from a defended prosecution.

## **5. Conclusion**

Successful enforcement of the Liquor Control Bylaw, for special event bans in particular, relies heavily upon accuracy in any resolution passed by Council and the subsequent public notification of that resolution to the public.

A further resolution for a special ban for New Years Eve 2006, is required to ensure that a special ban is extended to Oriental Bay for Sunday 31 December 2006.

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<b>Supporting Information</b>
<p><b>1) Strategic Fit / Strategic Outcome</b>  <i>The recommended ban supports Council's overall vision of Creative Wellington – Innovation Capital specifically by contributing to objectives concerned with safety – that Wellington should be safe at all times.</i></p>
<p><b>2) LTCCP/Annual Plan reference and long term financial impact</b>  <i>not applicable</i></p>
<p><b>3) Treaty of Waitangi considerations</b>  <i>not applicable</i></p>
<p><b>4) Decision-Making</b>  <i>This is not a significant decision. The report sets out the views and preference of those with an interest in this matter who have been consulted.</i></p>
<p><b>5) Consultation</b>  <i>Wellington Police, Oriental Bay Residents Association</i></p>
<p><b>6) Legal Implications</b>  <i>Council's lawyers have been consulted in relation to the wording and the implications of the resolution. This will be particularly important in the public notification process.</i></p>
<p><b>7) Consistency with existing policy</b>  <i>The report is consistent with (and applies) existing policy.</i></p>