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**REPORT 3**  
*(1215/52/IM)*

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

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

To present a statement of proposal to amend the Liquor Control Bylaw. If the Committee agrees, the Statement of Proposal will be referred to Council to initiate the special consultative procedure as required by section 156 of the Local Government Act 2002.

### **2. Recommendations**

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that on 18 February 2010, the Strategy and Policy Committee considered an Issues Paper on Options for a Liquor Ban that included the following options:*
  - a) *the status quo;*
  - b) *a 24/7 Liquor Control Bylaw in Newtown,*
  - c) *a 24/7 Liquor Control Bylaw city wide.*
3. *Note that the Strategy and Policy Committee agreed that officers should do further work to develop a statement of proposal for a city wide liquor ban.*
4. *Agree to consult on the draft Liquor Control Bylaw (attached as Appendix 1 of the Statement of Proposal) that:*
  - (a) *prohibits the consumption and possession of liquor in public places at all times in Wellington City as shown in the map attached to the proposed bylaw*
  - (b) *includes provision for Council to authorise activities that would otherwise breach the bylaw.*
5. *Agree to delegate to the Chief Executive and the Social Portfolio leader the authority to make any amendments to the Statement of Proposal, prior to it being presented to Council, arising from decisions of this Committee.*

6. *Recommend to Council that it agrees:*
- (a) *a bylaw is the most appropriate way of addressing the perceived problem*
  - (b) *that the most appropriate form of bylaw is one that prohibits the consumption and possession of liquor in public places at all times in Wellington City*
  - (c) *the bylaw does not place unreasonable limitations on any rights established in the NZ Bill of Rights Act 1990*
  - (d) *to the Statement of Proposal (attached as Appendix A) to amend the Liquor Control Bylaw*
  - (e) *to resolve that the proposed bylaw proceeds through the Special Consultative Procedure as required by section 156 Local Government Act 2002*
  - (f) *to delegate to the Chief Executive and the Social Portfolio leader the authority to make any amendments to the Statement of Proposal arising from decisions of the Council.*

### **3. Background**

A number of communities have asked the Council to introduce a liquor control bylaw in their area. Concerns relate 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.

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 spaces within the current 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, 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.

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 negatively impacting on communities' enjoyment of public spaces.

### **3.1 Legal Context**

Section 147 of the Local Government Act 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 would be the first major New Zealand city to consider a city wide Liquor Control Bylaw.

In making or amending a bylaw the LGA 2002 requires that the Council first determine that a bylaw is the most appropriate way of addressing the perceived problem. If it is, then the Council must determine whether the proposed bylaw is the most appropriate form of bylaw and whether it gives rise to any implications under the Bill of Rights Act 1990. The special consultative procedure contained in section 83 must be followed.

The New Zealand Bill of Rights Act 1990 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.

In addition to this general application of BORA, the Local Government Act 2002 expressly requires the Council to consider the freedoms and rights protected by BORA when making bylaws, Section 155(2)(b) and Section 155(3)

Overall, it is considered that the rights and freedoms under BORA are not affected by the proposed bylaw. The proposed bylaw is consistent with the specific empowering provisions prescribed by law in the Local Government Act 2002.

Attached, as Appendix A, is a Statement of Proposal to amend the Liquor Control Bylaw so that there is a city wide prohibition on the consumption and possession of liquor in public places at all times. It applies to the entire city as depicted in the map attached to the draft bylaw.

## **4. Discussion**

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, intimidatory 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 empowering communities to establish standards of acceptable behaviour. Residents in various communities across the city have advised 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.

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.

The option of a 24/7 city wide Liquor Control Bylaw 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.

#### ***4.1 Consultation and Engagement***

The attached statement of proposal has been developed in consultation with key stakeholders and the Police.

If the Council agrees that the proposed amendment to the bylaw can proceed through the Special Consultative Procedure, as required by section 156 of the Local Government Act 2002, public consultation on the proposal will be carried out.

An independent survey of residents' views on alcohol related issues will be conducted and reported on during the consultation period. This work will inform the current proposal and also support the development of the draft alcohol management plan.

#### ***4.2 Climate Change Impacts and Considerations***

There are no direct climate change impacts or considerations related to this decision.

#### ***4.3 Long-Term Council Community Plan Considerations***

There are financial implications for the replacement of existing signage, placement of signs city wide and promotional activity. This is estimated to be a one off cost of between \$150-200k with an annual estimate of \$10k for signage maintenance.

#### ***4.4 Timeline***

If Council agrees to the Statement of Proposal to amend the bylaw, the special consultative procedure must be initiated. Committee agreement is sought to refer the Statement of Proposal and draft bylaw to the Council so that the special consultative procedure can be initiated and commence on 30 March 2010.

Consultation will take place in March/April with oral submissions in May. The Council would be in a position to make a final decision in June 2010 before a final decision is made on the Draft Annual Plan.

## **4.5 Implementation Issues**

### **4.5.1 Enforcement**

Liquor Control Bylaws are enforced by Police under section 169 of the LGA 2002.

The suburb of Tawa falls outside the Wellington Central Area Policing boundary. Officers have consulted with the Kapiti-Mana Area Commander and the local Police Officer stationed in Tawa who have confirmed support for a liquor ban in that area. Police advise 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.

### **4.5.2 Exemption Process**

Provision in the bylaw exists for individuals to obtain prior written permission for activities that would otherwise breach the bylaw. Guidelines developed will ensure a simple and efficient process is in place, one which takes accounts of the nature and size of the activity, its history and any measures in place to mitigate the downstream effects of alcohol consumption.

### **4.5.3 Monitoring and Evaluation**

The Liquor Control Bylaw will be monitored in accordance with the evaluation and monitoring strategy developed in the Alcohol Management Plan.

## **5. Conclusion**

Officers recommend that the Strategy and Policy Committee agree to the Statement of Proposal amending the current Bylaw and initiates the Special Consultative Procedure.

Contact Officer: *Giselle Bareta, Senior Advisor City Safety*

## **Supporting Information**

### **1) Strategic Fit / Strategic Outcome**

*This paper is consistent with Council's overall vision of Creative Wellington – Innovation Capital and contributes to Outcome 9 Safer*

### **2) LTCCP/Annual Plan reference and long term financial impact**

*The financial implications for the preferred option are yet to be finalised but are expected to be between \$150-200k and relate to signage and promotion. Figures are not yet contained in the Draft Annual Plan.*

### **3) Treaty of Waitangi considerations**

*The proposal will be sent to manawhenua as part of the special consultative procedure.*

### **4) Decision-Making**

*This is not a significant decision.*

### **5) Consultation**

#### **a) General Consultation**

*Once Council has agreed the consultative procedure required by the LGA 2002 will be initiated.*

#### **b) Specific Consultation**

*An independent survey of residents' views on a city wide bylaw will be conducted during the consultation period and reported back to the Strategy and Policy Committee.*

#### **c) Consultation with Maori**

*The proposal will be sent to manawhenua as part of the special consultative procedure. The wider Maori community will have the opportunity to submit within the consultation process.*

### **6) Legal Implications**

*The legal implications of the proposal are discussed in the background section. The proposal incorporates advice received from the Council's legal advisors.*

### **7) Consistency with existing policy**

*The Statement of Proposal is consistent with existing policy.*