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**REPORT 1**  
*(1215/52/IM)*

## **CITY-WIDE LIQUOR CONTROL BYLAW – CONSULTATION PROCESS**

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

To report on the special consultative procedure carried out for the proposed Liquor Control Bylaw and seek agreement that the proposed bylaw be referred to Council for adoption.

### **2. Executive Summary**

In March 2010 the Council agreed to consult on a proposal to amend the Liquor Control Bylaw so that the consumption and possession of liquor in public places is prohibited at all times across the city.

604 written submissions were received. Forty two submitters presented their view orally to the Strategy and Policy Committee (SPC) on 20 and 21 May 2010. The majority of submitters (76%) were opposed to the proposal for a 24/7 city wide ban and independent research also found more people were opposed than favoured the blanket ban (47% and 39% respectively). A petition opposing the ban attracted 480 signatures and a Facebook site opposing the ban had just over 1300 members.

The views and issues raised by those opposing the city wide ban were, in the main, the same as those that have been raised in the past and were taken into account when the proposal was developed. Therefore officers do not have a reason to change their advice. However given that community views indicate that the majority are in opposition, it is for Councillors to decide the weight that they wish to give those community views.

The special consultative procedure has been undertaken for the proposed amendment to the Liquor Control Bylaw as required by the Local Government Act 2002. It is recommended that SPC agree to the draft bylaw attached as Appendix 1 and refer it to Council for adoption.

### **3. Recommendations**

It is recommended that the Committee:

- 1. Receive the information.*

2. *Note that 604 written submissions on the proposal to amend the Liquor Control Bylaw were received during the special consultative procedure undertaken in accordance with section 156 of the Local Government Act 2002.*
3. *Note that 42 oral submissions were heard by the Strategy and Policy Committee on 20 May 2010.*
4. *Agree that the special consultative procedure has been completed in accordance with sections 83 and 86 of the Local Government Act 2002.*
5. *Agree that NZ Bill of Rights Act 1990 implications have been considered for the Liquor Control Bylaw amendments, and that the bylaw is appropriate in accordance with section 155 of the Local Government Act 2002.*
6. *Agree to the Liquor Control Bylaw attached as Appendix 1 subject to any amendments arising from this meeting.*
7. *Note that an alcohol management plan will be developed to give an holistic approach to Council's interventions in addressing alcohol issues.*
8. *Recommend to Council that it:*
  - (a) *Note that the Strategy and Policy Committee considered the submissions received in response to the Statement of Proposal for the proposed Liquor Control Bylaw.*
  - (b) *Resolve to adopt the Liquor Control Bylaw attached as Appendix 1, pursuant to sections 83, 86, 147 and 156 of the Local Government Act 2002.*
  - (c) *Agree that NZ Bill of Rights Act 1990 implications have been considered for the Liquor Control Bylaw amendments, and that the bylaw is appropriate in accordance with section 155 of the Local Government Act 2002.*
  - (d) *Resolve that the draft Liquor Control Bylaw (attached as Appendix 1) is part of the Wellington Consolidated Bylaw 2008.*
  - (e) *Resolve to amend the existing Wellington Consolidated Bylaw 2008 by revoking Part 4 (Liquor Control) and replacing it with the new Part 4 (Liquor Control) attached as Appendix 1, to come into effect at 8am Tuesday 10 August 2010.*
  - (f) *Agree to amend the Terms of Reference for the Regulatory Processes Sub-Committee so that it may hear appeals on officer's decisions to decline permission for an activity that would breach the bylaw.*
9. *Note that media releases, advertising and signage will be arranged to inform the public of the bylaw coming into effect.*

## **4. Background**

### ***4.1 The Proposal***

In March 2010 the Council agreed to initiate the special consultative procedure to amend the Liquor Control Bylaw so that the consumption and possession of liquor in public places (including whilst in a vehicle) is prohibited at all times across the whole of Wellington city.

The consultation period opened on 6 April 2010 and written submissions were received until 5 May 2010. Oral submissions were heard by the Committee on 20 May 2010.

In addition, the statement of proposal noted that if the Council did not agree to a city wide ban at all times it could consider other options such as a ban in Newtown/Mt Cook.

### ***4.2 The Current Bylaw***

The current Liquor Control Bylaw prohibits at all times the consumption and possession of liquor in public places (including whilst in a vehicle) in the CBD, Mt Victoria Lookout, Oriental Bay, Aro Valley and Central Park. It provides for the Council to invoke a special events ban anywhere in the city and provides for people to obtain prior written permission from the Council to hold events that would otherwise breach the Bylaw.

The Council first adopted a liquor ban in October 2003. At that time the prohibition on possession and consumption of liquor applied to the central city only and was in place on Friday and Saturday nights only. The Council could also invoke prohibitions for special events such as Christmas Eve and New Year's Eve in the central city.

The bylaw has been amended several times, first to include Thursday nights (2006), then to include Oriental Bay and Mt Victoria (2007) and then to extend the ban to 24/7 and include Aro Valley and Central Park in 2008.

### ***4.3 Rationale for a Bylaw***

The Liquor Control Bylaw provides for early intervention to manage the downstream effects of liquor consumption in public places. A liquor ban does not, on its own provide a response to offending; address alcohol related concerns where the alcohol was consumed on licensed premises or address issues associated with homelessness or other underlying causes. Therefore it is important to ensure that other mechanisms and initiatives are also in place.

The reasons for amending the Liquor Control Bylaw are to:

- address growing concerns about the escalation of public-place liquor consumption, associated anti-social behaviours, and alcohol-related harm outside the current control area and control times of the existing Bylaw
- improve perceptions of Wellington as a safe and vibrant city

- enhance the quality of life for residents and visitors to Wellington.

Previously, perceived problems associated with public place liquor consumption (escalation of criminal offending and anti-social behaviour impacting on people's perceptions of Wellington as a safe city) have centred on hotspots in the city / numbers and types of offences on particular days of the week.

The current bylaw reflects this approach, prohibiting the consumption and possession of liquor in the central area and identified hot spots - Oriental Bay, Aro Valley, Central Park and Mt Victoria.

In proposing a city-wide control area, the emphasis has moved from a focus on hotspots, to the impact of public place drinking generally on perceptions of safety and the risk of some public place drinking escalating into anti-social situations, for example where parties spill onto streets.

The bylaw is one mechanism amongst a range of initiatives that manage alcohol related behaviour. Strategies of an educational nature, regulatory controls on licensed premises and a number of city safety initiatives are aimed at preventing or minimising alcohol abuse.

#### ***4.4 Consultation Process***

A summary of information, statement of proposal and submission form were posted on the Wellington City Council website, distributed to the City Service Centre (101 Wakefield Street) and the Wellington libraries network. Documentation was also sent to 23 stakeholder groups and to all resident's associations in Wellington city.

Public notices were placed in the Dominion Post, and press releases were provided to the Wellington media.

In addition independent research by AC Nielsen was commissioned to give a poll of 600 randomly selected residents from across the city.

## **5. Discussion**

### ***5.1 Consultation Results***

604 written submissions were received about the proposal to introduce a city wide ban at all times. 134 supported the ban while 462 were opposed to it and 8 were unsure.

The submission form asked specifically about support for or opposition to a liquor ban in Mt Cook and Newtown. Of those that indicated a preference, the majority were in opposition although not to the same degree as the opposition to the city wide ban as shown in Table 1:

**Table 1: Support and opposition to liquor ban options.**

<b>Option</b>	<b>Support</b>	<b>Oppose</b>	<b>Unsure</b>	<b>Total</b>
<b>24/7 city wide</b>	134 (22.2%)	462 (76.5%)	8 (1.3%)	604
<b>Newtown</b>	164 (30.7%)	319 (59.8%)	51 (9.5%)	534
<b>Mt Cook</b>	141 (26.6%)	342 (64.4%)	48 (9%)	531

The submission form noted that the Council could decide against proceeding with a city-wide ban and also asked whether the bylaw should be extended to include other suburbs or areas. The results for other suburbs or areas are varied. 84 submitters made suggestions. Suggestions ranged from “all suburbs” to specific suburbs (most were mentioned at least once) or to bus shelters, parks and school grounds.

A petition opposing the ban was posted by a member of the public on the Council website. It attracted 480 signatures and was presented to Strategy and Policy Committee on 20 May 2010. The Committee agreed to refer the petition to officers to inform the work on the liquor control bylaw.

A Facebook site opposing the ban was established and attracted just over 1300 members. A variety of comments were made concerned with powers of the police, arrests and searches, civil liberties and encouraging people to sign the petition and to make a submission.

In addition AC Nielsen was commissioned to undertake a survey to assess support for the proposed city-wide amendment and towards other options for bans.

## **5.2 The AC Nielsen Research**

The AC Nielsen research may be a more reliable indicator of overall public feeling about the proposed 24/7 city wide ban as the sample was randomly selected from across the city. That research also found more opposition than support for the ban. The level of opposition was less than that in the submissions – however still significantly higher than those in favour with 47% opposed to the city-wide ban and 39% in favour of it.

The research assessed support for the proposed city-wide amendment as well as support for alternative city options and support for bans in specific public places around the city. Additionally respondents were asked about their level of support for a ban in their own suburb.

Table 2 gives a summary of results for the various proposals:

**Table 2: Summary of AC Nielsen research results.**

Proposal	In Favour / Strongly in Favour %	Opposed / Strongly Opposed %	Neither In Favour nor Opposed %	Don't care / no opinion %
Current bylaw	79	11	10	1
Proposed city-wide amendment	39	47	13	0
Extending to Newtown <i>only</i>	49	24	24	2
Extending to Mt Cook <i>only</i>	35	34	27	4
Extending to both Mt Cook and Newtown	52	24	22	2
Ban in own suburb	38	41	19	1
Ban at bus shelters	78	16	5	1
Ban on streets or footpaths (other than licensed premises with outdoors or footpath areas)	75	17	8	0
Ban in public parks or reserves	48	35	16	1
Ban at sports grounds (excluding Westpac stadium and licensed clubs)	48	33	17	2
Ban at beaches or coastlines	38	46	15	1

Given that only 39% support the proposed ban it is of interest that 75% of respondents support a ban on streets or footpaths and 48% support bans in public parks, reserves and at sports grounds – which are commonly mentioned as picnic spots.

The survey reported that 34% of residents have consumed alcohol in a public place over the most recent daylight saving period (October 2009 – April 2010), mostly in public parks or reserves and beaches for a picnic or sporting or cultural event.

Nearly a quarter of all respondents have left or avoided public spaces because of drinking there. This is based on the following results from the survey:

84% or 505 of the 600 respondents in the survey had either seen people

drinking in public places or seen or heard about problems associated with drinking in public places. Of those 505, 28% or 146 agreed that they or their family had left a public place because of problems associated with people drinking alcohol in public places. As a proportion of the total (600) this means 23% have left or avoided a public place because of alcohol consumption.

Of those that had left or avoided a public place:

- 50% reported feeling unsafe
- 35% reported actually being threatened or intimidated
- 54% left or avoided streets and footpaths
- 38% left or avoided public parks
- 20% left or avoided bus shelters.

### **5.3 Submission Themes**

Submissions were generally opposed to amending the liquor control bylaw. Many submissions both in favour of, and opposed to the proposal did not include comments. Of the 341 submissions with comments, 73 were in support of the ban, 186 were opposed and 3 were unsure.

From the submissions where comment was made, the comments have been grouped into themes. It can be noted that some of the themes are very closely related and could have been grouped together. For example some submitters say that the bylaw is heavy handed because it penalises the majority who are drinking responsibly and therefore it unfairly infringes people's rights. Officers have separated heavy handed, responsible drinking and an unnecessary infringement of people's behaviour into separate themes because those comments came up frequently and because for some submitters there was some distinction as to the points being made. In the same vein, "drinking at picnics" is closely related to these themes but given 104 people specifically made mention of picnics, that topic has been identified separately in the analysis.

#### **5.3.1 Opposition to the proposal**

186 people made comments about why they opposed the proposal. Comments have been grouped together in the following theme areas. Comments such as "Don't extend the bylaw" or "This is absolutely ridiculous" have not been included in any themes.

1) It penalises responsible drinkers. Comments noted that it is penalising the majority because of the behaviour of a minority, that many people drink responsibly and that drinking is a legitimate and enjoyable part of socialising and indeed can promote socialisation for example with street parties where neighbours build local networks. (133 submissions)

2) It is heavy handed. The bylaw is heavy handed and disproportionate to the problem. Comments included that it was draconian and a sledge hammer to crack a nut and variations on that theme. Submitters said the proposed ban would make criminals of good citizens. (63)

3) It impacts on picnics. Many submitters commented on the impact on picnics with examples in particular around picnics at Botanic Gardens, family picnics and that not all residents have outdoor space. (104)

4) It is unnecessary because current laws are sufficient. Police should rely on the offence provisions available to them under the Crimes Act and Summary Offences Act. (66)

5) Enforcement drew a number of comments noting that current enforcement should be improved or is ineffective and that the proposed ban is unenforceable. Included in this issue are submitters who commented on the proposal that police would use discretion by saying that it should be enforced consistently or that it was poor law to rely on inconsistent enforcement and in effect discretion is discriminatory. The New Zealand Council of Civil Liberties was concerned about the search provisions that are provided for in the Local Government Act. Police, before searching a container or vehicle must give the person an opportunity to leave the control area. Given the size of the control area, the NZCCL contend the police could search vehicles anywhere in the city and this provides scope for potential misuse of that power. There were comments about such a ban being a poor use of police resources. (48)

6) Liquor bans are ineffective as they do not change behaviour and this can shift the problem indoors thereby increasing risks particularly for women and children. Public place drinking could also shift to areas that are out of sight which also raises safety issues. Some comments on this issue also noted that the current bylaw has not stopped drinking in public places within the control area. This topic was closely related to issues around enforcement, that is, that bans are ineffective as they are poorly enforced. (32)

7) The rationale for the proposal is poor. Submitters commented that the rationale was poor and that statistics used were flawed. For some this is closely related to the ideas around the proposal being heavy handed in that submitters were suggesting that the bylaw did not appear to be proportionate to the identified problem. Newlands Paparangi Progressive Association noted that changing the control area should be for individual communities to decide rather than being imposed across the city. (10)

8) It is an unnecessary infringement of people's rights. This theme includes those that cited human rights and Bill of Rights Act issues along with those that commented that the proposal was unreasonably restricting behaviour. Those making the latter comments were often commenting on the bylaw being heavy handed. There was some comment that the bylaw discriminated against homeless people as it left them with nowhere to legitimately drink. (30)

### **5.3.2 Miscellaneous/ Neutral Issues**

Other miscellaneous issues raised by small numbers of submitters opposing the proposal were that:

- The offence should be drunk in a public place (5)
- It is a waste of money on signage (2).



35 submissions (both in favour of and against the proposal) said the Council should explore other options to address alcohol issues such as education campaigns, enforcing littering laws and supporting a wet house. Some of these comments were particularly in the context of impact on a small group of chronic drinkers who may also be homeless. In addition 14 submitters made comments or suggestions about licensing issues, for example, licensed premises serving intoxicated people or hours of opening.

Those suggestions (including those concerned with licensing) will be taken into account in the development of the alcohol management plan.

There were some suggestions about changing the hours of the ban.

### **5.3.3 Support for the proposal**

Comments in support of the proposal for city wide ban were concerned with:

- 1) Newtown issues – submitters outlined experiences of disorderly behaviour and groups of drinkers in parks being intimidating, there were claims of increased violence, graffiti and litter associated with public place drinking. (22 submitters)
- 2) Litter – concerns about litter referred to increasing quantities of broken glass, bottles and cans in streets and parks. (19)
- 3) Health costs of drinking – these submissions commented on health issues discussed the health impacts of alcohol abuse along with injuries and medical attention required for alcohol related injuries and abuse. In addition there was comment about the need for more support services for chronic alcoholics. (5)
- 4) Giving police a tool to intervene early and consistency across city (19)
- 5) Reducing disruptive behaviour, vandalism and other anti-social behaviours. (23)
- 6) Enforcement – the submitter supported the notion that enforcement should be discretionary. (1)
- 7) Perceptions of safety – these comments were concerned with the amenity of Wellington, perceptions of safety and promoting a city with an excellent reputation for safety. (7)

### **5.4 Mt Cook/ Newtown**

The initial driver for liquor control to be re-considered was because of an increasing number of reports to the Council of disorderly behaviour, lowered perceptions of safety, graffiti and rubbish in the Newtown area. Those concerns were usually presented as arising from or associated with public place drinking. A public meeting was held in Newtown in February and there was general agreement that a liquor ban was an appropriate response to those problems.

Because of the focus on Newtown, submitters were asked for their views on not only the city-wide ban but also on Mt Cook and Newtown being included in the current control area as an alternative to the city-wide ban.

There were 133 submitters in favour of a ban in Newtown and 319 against with 51 unsure. There was a similar result for Mt Cook with 141 in favour, 342 against and 48 were unsure.

Officers also analysed separately the results of the submissions where the submitters identified themselves as being from Newtown and Mt Cook.

	<b>City-wide</b>	<b>Newtown</b>	<b>Mt Cook</b>
<b>Mt Cook submitters (40)</b>			
Support	11	12	10
Oppose	19	21	22
<b>Newtown Submitters (71)</b>			
Support	37	41	37
Oppose	31	23	25

Generally, Newtown submitters favoured a ban in their area while Mt Cook submitters do not.

When liquor control bylaws are in force in specific areas, there is a risk of displacement of drinking to locations that fringe the control area unless there are natural geographical boundaries to make this an unattractive option. For example, in addressing issues in Newtown, Mt Cook is a likely destination for displacement; a factor that Mt Cook Mobilise note in their submission (that favours the ban).

The Police have indicated that having selected suburban centres included in the bylaw with differing boundaries will cause confusion. Displacement to locations that fringe controlled areas and sidestepping of boundaries would render the bylaw more complex to enforce.

### ***5.5 Permission for Exemption***

Little comment was made on the provision for obtaining written permission for an exemption from the bylaw. Those that did comment noted that it was draconian to be required to seek permission from the Council and activities like picnics were often spur of the moment or impulsive.

The process of granting written permission for exemption to the bylaw is premised on the grounds that there are some *low risk* situations in which the public may wish to enjoy a limited amount of alcohol in a public place. For example, a family picnic, a photo shoot, a celebration such as a wedding or anniversary, or a neighbourhood street gathering.

We do not anticipate receiving many applications for such permission, however, there is a possibility that we may have to decline some applications if they are considered high risk and/or are inappropriate. A decision to decline an application is subject to the possibility of judicial review, and it is recommended that in line with good practice there is an appeal process in place to hear such matters. Accordingly, it is recommended the delegations of the Regulatory Processes Committee be amended to include provision for hearing appeals on decisions to decline such applications.

### ***5.6 Bylaw Making Process***

There were a small number of submitters suggesting that the proposed bylaw may be *ultra vires* (going beyond the Council's jurisdictional mandate). The New Zealand Council for Civil Liberties considers that where there is no demonstrable need, an extension to the prohibition is unjustified. The Local Government Act clearly provides that "a territorial authority may make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for 1 or more specified periods" for the possession and consumption of liquor. This gives the Council jurisdiction to make the bylaw.

The rights contained in the Bill of Rights Act, (freedom of expression, peaceful assembly and association) are not specific to alcohol or reliant on alcohol. These rights are not impinged except to the extent that liquor is involved. It is considered that the proposed bylaw is justified in a free and democratic society.

The Liquor Control Bylaw is consistent with the definitive empowering provisions prescribed in the LGA (section 147) which gives Council the ability to restrict the "bringing" "possession" and "consumption" of liquor in a public place. Exemptions apply which allow people to carry/transport unopened liquor between licensed premises and residences.

### ***5.7 Officers Comment***

In the main the issues raised by those opposing the city wide ban were the same as those that have been raised in the past and were taken into account when the proposal was developed. Therefore officers do not have a reason to change their advice. However given that community views indicate that the majority are in opposition, it is for Councillors to decide the weight that they wish to give those community views.

It seems that the critical issue for Councillors to consider is the balance between the rights of individuals to enjoy liquor in a responsible way and the needs of the community to feel safe. Some people feel less safe or are intimidated by groups of people drinking in public places or by people who are drunk, regardless of whether criminal offending occurs or not. The Liquor Control Bylaw is a preventative tool to manage the downstream effects of liquor consumption in public places. It is intended to complement other measures in place to manage anti-social behaviour.

A key factor in the decision making is the size of the control area. Some drinking in public places is enjoyable and responsible. The proposed bylaw would preclude that drinking (unless permission had been granted by the Council). The benefit of a general prohibition is that drinking in public places that is irresponsible can be responded to no matter where it happens. 23% of survey respondents said they had avoided or left a public place because of alcohol related issues – they said they felt unsafe and some were actually threatened or intimidated.

Issues around licensing, education programmes, support for a wet house etc will be addressed in the development of the alcohol management plan. There are a range of measures aimed at preventing or minimising alcohol abuse, crime and anti social behaviour (e.g. safety initiatives and education, CCTV, host responsibility and server intervention policies on licensed premises, controlled purchase operations and regulatory enforcement of poorly performing licensed premises). The alcohol management plan will consider that wider set of tools. The Government's response to the Law Commission's report "*Alcohol in our lives; curbing the harm*" will be used to inform the work on the alcohol management plan. Extending the current control area does not detract from the work on the plan. In effect the extension is an amendment to a current tool.

The Liquor Control Bylaw is adopted by the Council but enforced by the police and therefore is a partnership between the Council and the police. The police views have been sought and police continue to support a city wide ban in place at all times.

### ***5.8 Police View***

The submissions received on the proposed amendment have been discussed with the police (Wellington Area Commander Peter Cowan). Police continue to support the proposed liquor control bylaw for the reasons set out in the statement of proposal. That is:

- 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. Police say it would enable police to require a person to dispose of their alcohol, issue warnings or arrest which more often than not diffuses volatile situations.

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. Inspector Cowan says since the ban's inception nearly seven years ago it can be seen that police have consistently taken a discretionary approach to enforcement.

Police note that giving permission for exemptions will be somewhat confusing for the public but understand the reasons the Council may wish to do this.

In response to submitter's comments about poor use of police resources, Inspector Cowan says all police resources are deployed according to risk. His view is that having an early intervention tool such as the Liquor Control Bylaw means there is fewer requirements at a later stage for intensive police resourcing for more serious offences. He says this is in line with international studies.

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 that fringe controlled areas; and the anticipated sidestepping of boundaries likely to occur, would render the bylaw more complex to enforce.

### ***5.9 Adoption of the Liquor Control Bylaw***

It is recommended that the Strategy and Policy Committee agree to the bylaw attached as Appendix 1 and refer it to Council for adoption.

If the Council adopts the bylaw it will come into effect at 8am on Tuesday 10 August. This will allow for public notices following the Council meeting of 25 June 2010, and sufficient time to arrange media releases, advertising and signage to ensure that the public are aware of the bylaw.

Should the Committee wish to alter the proposed liquor control area it can make that recommendation and the map within the bylaw can be altered accordingly.

### ***5.10 Financial Considerations***

If the proposal is adopted there will be a need for signage and some publicity. Publicity will be an essential part of implementation and \$15k (opex) has been provisionally provided in the 2010/11 Annual Plan. Provisional funding of \$70k (capex) is in the Annual Plan for new signage and a further \$5k per annum for ongoing maintenance. This does not allow for extensive signage but rather signs will be installed at strategic points across the city. Should the Council decide not to adopt the proposed amendment and place a ban on Mt Cook and Newtown instead, the same amount will be required as there will be a greater density of signs.

## **6. Conclusion**

This paper reports on the special consultative procedure undertaken in respect of the proposed amendments to the Liquor Control Bylaw. It outlines the key issues raised in submissions and recommends that the bylaw attached as Appendix 1, subject to any amendments, is referred to Council for adoption.

Contact Officer: *Helen Walker, Manager, Consultation and Engagement*

## Supporting Information

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

*This paper is consistent with Council's overall vision of Creative Wellington - Innovation Capital and contributes to the following Council Outcomes; 1 More Liveable, 9 Safer; and 10 Healthier.*

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

*Re-design of current liquor control signage, and the erection of new signs will be required as a result of changes to the control time and control area. Funding for signage and publicity associated with the Liquor Control Bylaw is provided in the Annual Plan.*

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

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

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

*This is not a significant decision.*

### **5) Consultation**

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

*The special consultative procedure was adopted and carried out. 604 written submissions were received.*

#### **b) Consultation with Maori**

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

### **6) Legal Implications**

*Council lawyers have been consulted during the development of the proposed bylaw.*

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

*The draft Liquor Control Bylaw is consistent with existing policy.*

# APPENDIX 1

## WELLINGTON CONSOLIDATED BYLAW 2008 PART 4 – 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.

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 licence 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 1

## 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 1

