
REPORT 1
(1215/52/IM)

LIQUOR CONTROL BYLAW AMENDMENT

1. Purpose of Report

This report presents a statement of proposal to amend the Liquor Control Bylaw, and recommends that the Committee refer the attached Statement of Proposal to the 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. *Recommend to Council that it agree:*
 - a) *a bylaw remains the most appropriate way of addressing the perceived problem*
 - b) *that the most appropriate form of the bylaw prohibits consumption and possession of liquor consistently across the control area at all times*
 - c) *that Aro Valley is included in the control area of the Liquor Control Bylaw as depicted in the map attached at Appendix 1.*
 - d) *that the Liquor Control Bylaw does not place unreasonable limitation on any rights established in the Bill of Rights Act 1990*
 - e) *to the Statement of Proposal (attached as Appendix A) to amend the Liquor Control Bylaw*
 - f) *to resolve that the Bylaw proceed through the Special Consultative Procedure as required by section 156 of the Local Government Act 2002*
 - g) *agree to delegate to the Chief Executive the authority to make any minor drafting changes to the Statement of Proposal.*
3. *Agree that a comprehensive evaluation of the effectiveness of the Liquor Control Bylaw be undertaken by Council officers and reported back to the Strategy and Policy Committee in late 2009.*

3. Background

3.1 Process to Amend the Bylaw

Section 147 of the Local Government Act 2002 (LGA) enables the Council to make a bylaw for liquor control purposes in relation to any public place. These provisions were used to adopt a Liquor Control Bylaw on 30 October 2003 and also to amend the bylaw on 31 May 2006 and 28 June 2007.

In making or amending a bylaw, the LGA 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 86 of the LGA must then be followed.

Attached, as Appendix A, is a Statement of Proposal to amend the Liquor Control Bylaw to prohibit the consumption and possession of liquor in the control area at all times. It applies to:

- the Wellington Central Area (excluding Thorndon and the area north of the Stadium)
- the whole of Oriental Parade including the beach
- Mt Victoria
- Aro Valley.

The revised control area is depicted in the map attached to the draft Bylaw amendment attached.

The Statement of Proposal also discusses alternative options regarding both the control area and control time.

3.2 Timeline

Committee agreement is sought to refer the Statement of Proposal and draft Bylaw to the Council on 27 March 2008 so that the special consultative procedure can be initiated and commence on 03 April 2008.

The proposed timeline for amending the Bylaw is:

[27 March 2008]	The Council considers the proposed Bylaw and initiates the Special Consultative Procedure as required under section 156 of the Local Government Act 2002.
[03 April 2008]	Consultation commences.
[08 May 2008]	Written submissions close.

[22 May 2008]	The Strategy and Policy Committee hears the oral submissions.
[05 June 2008]	The Strategy and Policy Committee considers a report on the Special Consultative Procedure findings.
[26 June 2008]	The Council will reflect on the report from the Strategy and Policy Committee and consider the adoption of the proposed bylaw.

4. Discussion

4.1 *Appropriateness of the Liquor Control Bylaw*

The Liquor Control Bylaw provides for early intervention to manage the downstream effects of liquor consumption in public places.

In New Zealand, 51 district or city councils now have either permanent, year round liquor controls or seasonal liquor control at holiday spots or for particular festivals. Of those councils, 29 have permanent 24/7 liquor control. Wellington is the only metropolitan city that does not have a 24/7 liquor control in its central city.

Attached at Appendix B is a list of district councils that have a liquor control bylaw and a record of the control time for each.

The Liquor Control Bylaw is a city safety initiative which:

- reduces alcohol-related crime and disorder
- provides a safe city environment
- enhances the quality of the city environment.

Liquor Control Bylaws are not a panacea and do not on their own reduce alcohol-related offending where the liquor has been consumed on licensed premises. Nor do they provide a response to offending.

However, the importance of the local environment in shaping a city's drinking culture is highlighted in international research on alcohol-related harm and prevention strategies. Drinking patterns, risk behavior and health and safety outcomes can be influenced through approaches that combine national policy with community action.¹

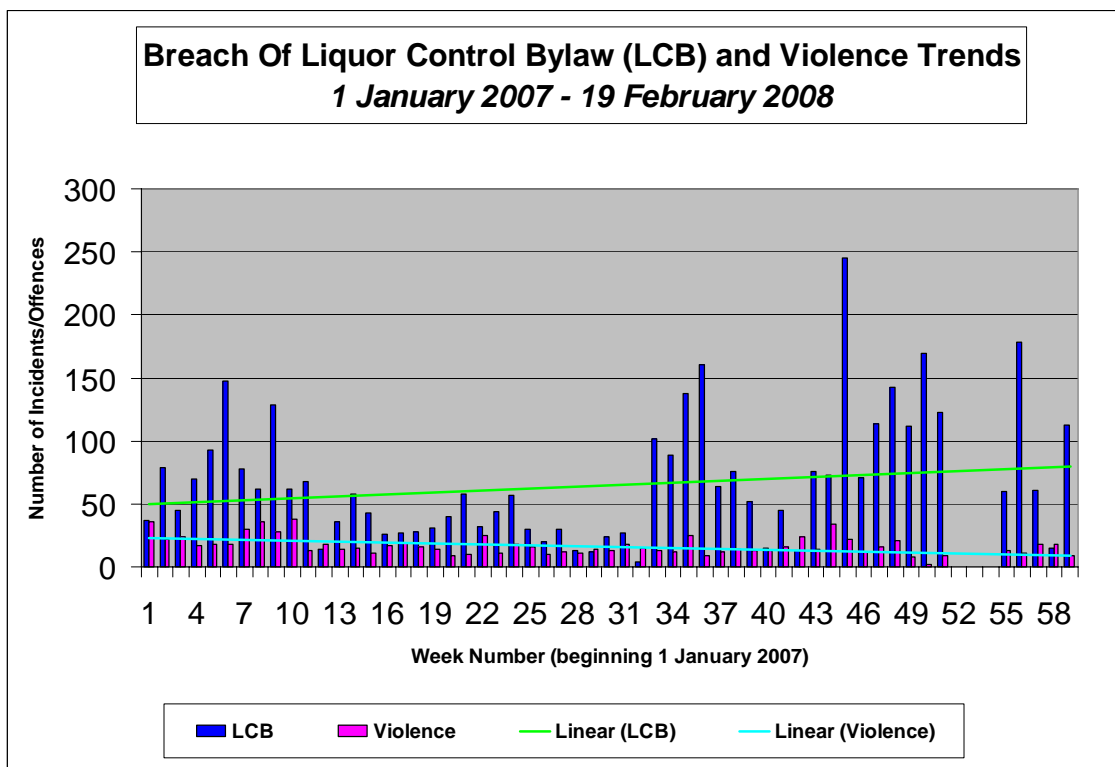
¹ *Planning for Alcohol in the Community*; Alcohol Advisory Council of New Zealand (ALAC); December 2005.

Evidence suggests that liquor controls 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). International studies support this multifaceted approach to dealing with alcohol related harm.²

“Even where Liquor Control Bylaws are seen as very successful tools in the crime prevention and community safety tool kit, they are only that – one piece, albeit an important piece, in a much larger jigsaw puzzle. It is difficult to disentangle the independent effects of police enforcement of a liquor ban from other initiatives which, in a comprehensive crime prevention and community safety strategy, are likely to have mutually-reinforcing effects on one another”³

Isolating positive impacts solely attributable to the Liquor Control Bylaw in Wellington has proved difficult. However, recent Police statistics illustrated in Table 1 note a corresponding positive impact on violent offending. Although violence increased over the period 2005 – 2007, the Police report that over the 2007 calendar year, an increase in enforcement of the Bylaw has resulted in a decrease in violence offences in the central city.

Table 1: Breach of Liquor Control Bylaw (LCB) and Violence Trends



² *Liquor Control Bylaw Evaluation*; Wellington City Council; Baretta G; 01 December 2005.

³ Webb, M; Marriot-Lloyd, P; Grenfell, M. *Banning the bottle: Liquor bans in New Zealand*. (2004).

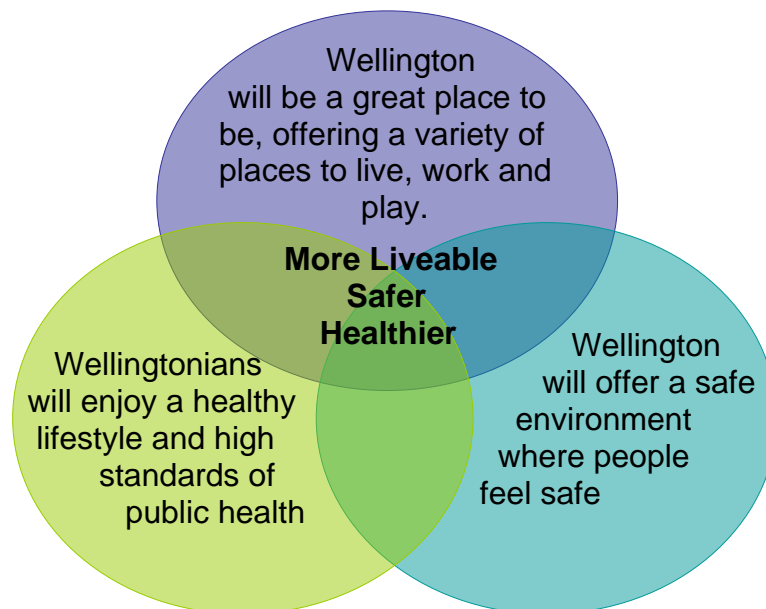
There are a number of other early alcohol intervention strategies of an educational nature, specific controls in place for drinking in licensed premises, and a number of safety strategies that impact on alcohol related-behaviour. However, up until the introduction of the Liquor Control Bylaw in 2003, there were no similar low level policies or programmes to manage alcohol-related behaviour in public places. The Liquor Control Bylaw is the only low level tool available to manage the perceived problem of public place drinking and fills what would otherwise be a gap in current measures that contribute to a safe and vibrant city

The Bylaw complements other Council initiatives, including Walkwise, CCTV, and the City Communities interaction programme, and in conjunction with these initiatives, contributes to the Council's strategic direction to build strong, safe and healthy communities.

The community consultation process involved in creating and amending the Liquor Control Bylaw underlies the fact that the Bylaw is a local solution to local problems associated with alcohol.

Table 2 illustrates that the Liquor Control Bylaw has relationships with 3 of the Council's strategic outcomes:

Table 2: Liquor Control Bylaw supporting the Council's Strategic Direction



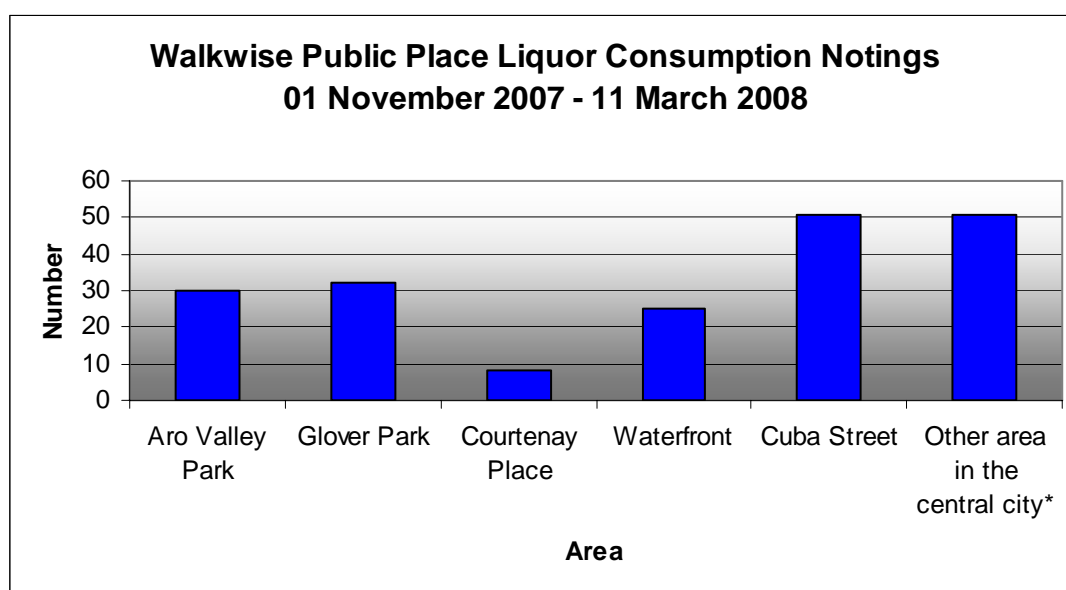
4.2 Limitations of the current Bylaw

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.

However, an increasingly busy inner city and changing drinking habits are resulting in more people drinking liquor in public places on days and at times of the day not currently covered under the existing Bylaw.

In the five-month period from 01 November 2007 – 11 March 2008, Walkwise have noted 197 instances of public place liquor consumption in the central area (currently within the existing control area of the Bylaw) and Aro Valley (outside the control area). This equates to approximately 39 notings per month. Of the total number of notings, 138 (70%) are outside the current control time of the Bylaw. Attendant problems associated with public place liquor consumption noted by Walkwise included anti-social behaviours, intimidation and littering.

Table 3: Walkwise Public Place Liquor Consumption Notings



* Other areas in the central city include Manners, Dixon, Taranaki and Vivian Streets.

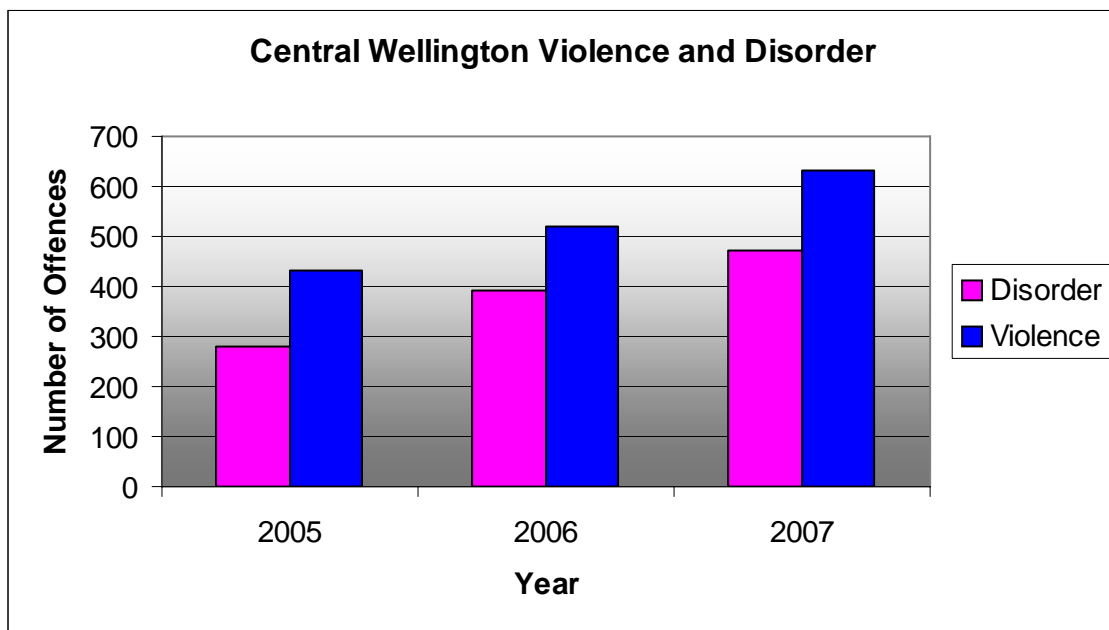
Public place liquor consumption has increased negative perceptions of safety in Wellington that adversely affect the Council's strategic outcomes – that Wellington is a safe, healthy, vibrant city. For example, in the 2007 Annual Residents' Satisfaction Survey, there was a drop in the number of residents reporting feeling safe in Wellington City at night. The top issue, which affected respondents' feelings of safety, were perceptions of alcohol and drug related problems.

Respondents to a TNS-Dominion Post election poll listed crime and safety as one of the top ten issues in Wellington, with safety in the streets and removing public place drinkers from Cuba Mall frequently quoted concerns.

Public perceptions about the escalation of alcohol-related harm and crime are warranted. Table 4 illustrates the escalation in disorder and violence offences in the central city over the past three years. The Police report that:

- the peak hours for criminal offending are between 10pm and 6am on Wednesday, Friday and Saturday nights
- 92% of these offences are alcohol related.

Table 4: Violence and Disorder Offences in the central city



Although a high proportion of violence and disorder offences in the central city occur between the hours of 10pm and 6am on Wednesday, Friday and Saturday nights, Tables 5 and 6 notes that other hours of the day/days of the week are not immune from disorder and violence.

Table 5: Violence and Disorder by Time of Day

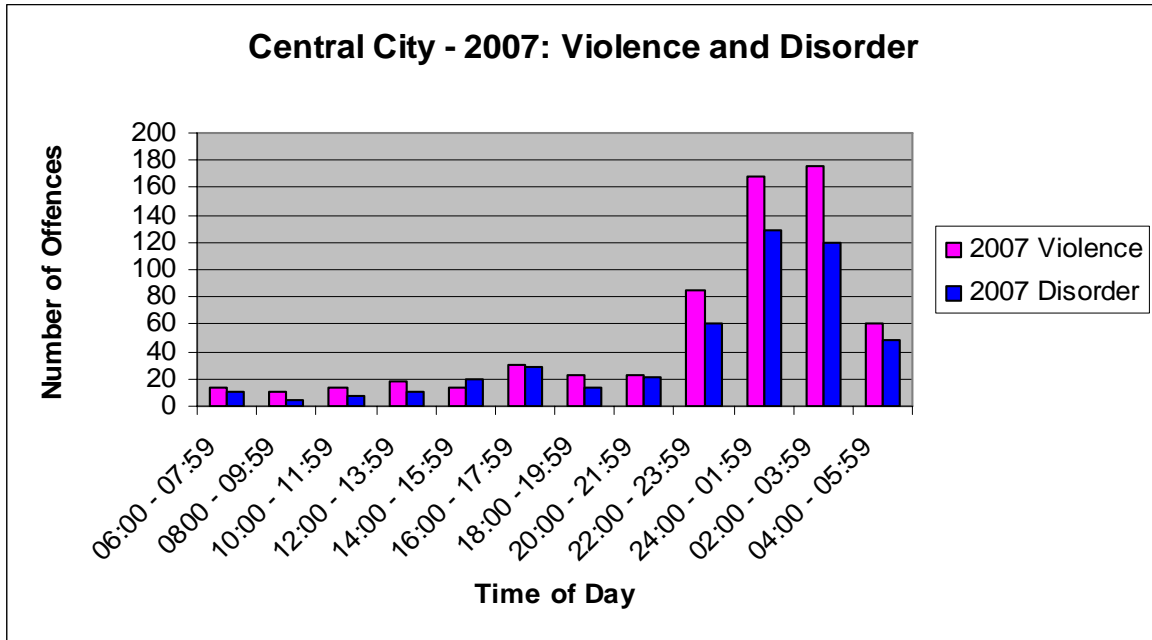
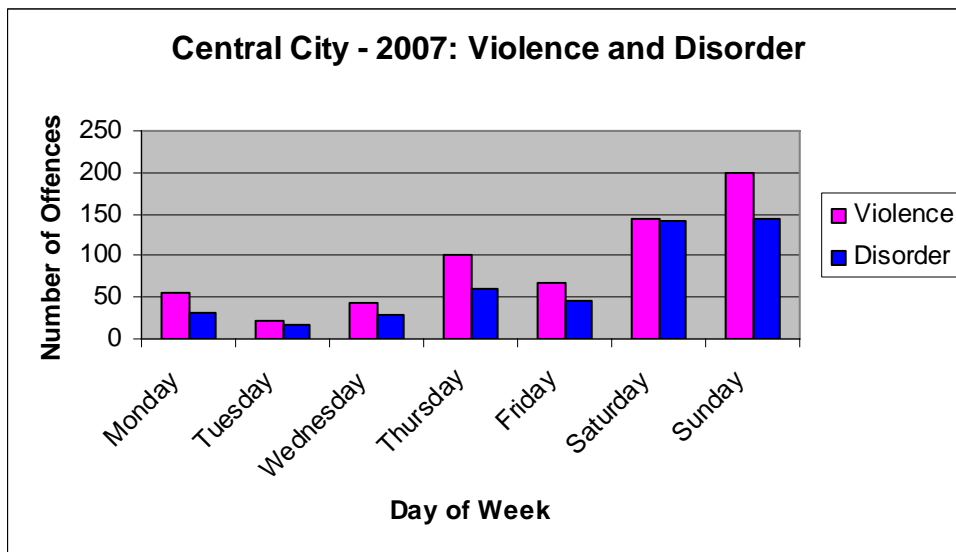


Table 6: Violence and Disorder by Day of Week



Attached, as Appendix C is a break down of violence, disorder and theft offences in the liquor control area from 2005 – 2007.

The volatility associated with public place liquor consumption is adversely affecting the cultural and economic wellbeing of the creative Cuba Quarter and Courtenay Place entertainment areas/precincts.

A recent report to Council on the Courtenay Place precinct⁴ noted that public place drinking in the Courtenay precinct occurs outside the hours of the liquor ban. The paper noted that this type of drinking can contribute to violence, disorderly conduct and anti-social behaviours making some people feel intimidated and threatened. Concerns have also been raised about the negative impact alcohol-related harm is having on this thriving entertainment district which operates as a 24 hour economy. Anecdotally, there were reports of people staying away from the Courtenay Place precinct because they perceived it to be unsafe.

Similar issues in the Cuba precinct have also been raised with the Council⁵, however, the problems appear to be more acute in this area during the daytime and evenings. Cuba precinct retailers concerns recently culminated in a petition calling for 24/7 liquor control. Signatories noted a range of ongoing anti-social behaviours often linked to the consumption of liquor including intimidation, aggression and abuse toward staff and customers, vandalism, lewd behaviour, as well as an ongoing escalation of violence.

Aro Valley

Aro Park, located in Aro Valley, borders the Wellington Central Area and is currently not included in the existing Liquor Control Bylaw.

Since December 2006, there have been reports of a regular group of people drinking excessive amounts of alcohol in Aro Valley Park. While to date they have, at the request of Aro community, moved further up Aro Street when students of Te Aro School make their way through the park after school, it appears their drinking has signalled the Park as a good spot for younger and less orderly groups to join them and drink in this area.

Walkwise note 30 instances of public place liquor consumption in Aro Park since 01 November 2007. Public place drinking in the Park occurs during the day and early evening and is often accompanied by intimidating and aggressive behaviour, littering, vandalism and in one instance, a small fire. Given that this behaviour occurs outside the current Liquor Control Bylaw, it suggests that liquor consumption and anti-social behaviour in the park are not occurring as a result of displacement from the central area due to the existing Liquor Control Bylaw.

The Police have been called to the Park on occasions when workers in the Te Aro Park precinct and members of the public have felt vulnerable and threatened by alcohol related disorderly behaviour.

The Park is located next to the Community Centre and Aro Valley Community Crèche, and is also used by children as they make their way home from Aro

⁴ *Courtenay Place Project*; Wellington City Council Strategy and Policy Committee; 06 March 2008.

⁵ *Zero Tolerance on Alcohol*; Petition; Presented to the Wellington City Council Strategy and Policy Committee on 14 February 2008.

School. Anti-social behaviour in this populated area has had a negative impact on perceptions of Aro Park as a family friendly and community orientated space.

5. Options

The following bylaw options have been identified and are noted in the Statement of Proposal attached as Appendix A.

Option 1: Status Quo

The current bylaw prohibits the consumption and possession of liquor in the Wellington Central Area, Oriental Parade and Mt Victoria (the control area) on each Thursday, Friday and Saturday from 5.00pm until 8.00am the following day.

This option does not address the escalation of anti social behaviours and safety concerns linked to public place liquor consumption occurring outside the current control area and control times.

This option is ***not recommended***.

Option 2: Impose a continuous 24/7 control in the Wellington Central Area only

This option proposes that the Wellington Central Area operates under a continuous 24/7 liquor control at all times while Mt Victoria and Oriental Parade continue to operate under the current liquor control restriction - each Thursday, Friday and Saturday from 5.00pm until 8.00am the following day.

Extending the Bylaw to a continuous 24/7 liquor control is the only low level tool available to prevent public place liquor consumption and associated anti-social behaviour from escalating outside current Bylaw control times. It provides a mechanism to address the gaps in current measures that contribute to a safe and vibrant city. The absence of public place drinking in the central area is expected to address concerns raised about perceptions of safety in Wellington, and support Council's strategic directions of a safer, healthier, more liveable city.

However, having parts of the city with different control times will likely cause confusion, and make the control area boundaries harder to enforce with varying liquor ban control times in different parts of the city. A 2005 evaluation of the Liquor Control Bylaw concluded that there was a general awareness of the liquor ban but confusion around the days and hours it is in effect. Confusion and boundary issues associated with the Bylaw are likely to escalate if control times vary across the control area.

Furthermore, there is an increased likelihood of displacement from the central area to other areas contained in the Bylaw not included in a 24/7 control time –

specifically from Courtenay Place (contained in the central control area) to Oriental Parade.

This option is ***not recommended***.

Option 3: Impose a continuous 24/7 liquor control across the entire Liquor Control Bylaw area – the Wellington Central Area, Mt Victoria and Oriental Parade

This option proposes a 24/7 control across the current Liquor Control Bylaw area – the Wellington Central Area, Oriental Parade and Mt Victoria.

A consistent control time across the entire control area provides consistency and clarity for both residents of, and visitors to, Wellington city. The Police favor a uniform approach as it eliminates confusion and aids in enforcement. It is also likely to mitigate displacement issues as discussed in Option 2 above.

From an enforcement perspective, the Police advise that they would endorse a 24/7 liquor control that consistently operates across the control area for the following reasons:

- having parts of the city with differing hours will likely cause confusion
- the boundaries are harder to enforce when different parts of the city are affected by the Liquor Control Bylaw at different times
- it is a positive step towards keeping a lid on anti social behaviour
- displacement is likely to occur if only part of the control area operates under a 24/7 control.

A continuous 24/7 control across the entire control area may result in increased public awareness of, and compliance with, the Bylaw. Moreover, the combination of education, signage and enforcement may counter the recent escalation in negative perceptions of safety in Wellington city.

This option is ***recommended***.

Option 4: Include Aro Valley in the Amended Liquor Control Bylaw (recommended)

The current control area of the Bylaw does not include Aro Park. This option proposes that Aro Valley be included in a 24/7 Liquor Control Bylaw to address ongoing escalation of anti-social behaviour associated with liquor consumption in Aro Park.

If Aro Park and the immediate surrounds are not included in the control area of the Bylaw, there is a significant risk that liquor consumption and anti-social behaviors in the park will continue.

There is also an inherent risk that if a 24/7 liquor control is imposed on the central area, displacement will occur to Aro Park because:

- i) it is already a spot for public place drinking; *and*
- ii) of its close proximity to the Wellington Central Area.

It is recommended that Aro Valley only be included in the Bylaw if the control time is a continuous 24/7 control. A continuous control reflects the nature of public place drinking in Aro Park which predominately occurs during the day and early evening.

The revised control area is shown in the map attached to the draft bylaw amendment. The extension of the control area, incorporating Aro Valley, provides for a continuous extension from the Wellington Central Area. The extension takes the ban area up to (and including) the memorial at the end of Aro Street. The Police support this recommendation.

This option is ***recommended***.

Option 5: Include Central Park in the Amended Liquor Control Bylaw (not recommended)

The current control area of the Liquor Control Bylaw does not include Central Park. This option proposes that the control area of the Bylaw be extended to include Central Park.

If a 24/7 liquor control is imposed in the existing control area of the Bylaw, there is an inherent risk that a displacement to Central Park will occur because of its close proximity to the central area. Furthermore, if Aro Valley Park is included in the control area of the Bylaw, again there is a risk that displacement to Central Park may occur because of close proximity to Aro Valley.

However, there have been no known issues of public place liquor consumption, associated anti-social behaviours/harm or safety issues associated with public place liquor consumption in Central Park to date. Therefore, the continued non-inclusion of Central Park in the control area of the amended Bylaw is justified for the time being.

This option is ***not recommended***.

It is paramount that if a 24/7 liquor control operates in the control area of the Bylaw, any potential displacement of public place liquor consumption is monitored to surrounding areas - including Central Park.

War Memorial on Buckle Street

During consideration of the 2006 amendment to the Liquor Control Bylaw, questions were raised about whether the War Memorial on Buckle Street could be included in the Liquor Control Bylaw.

Officer's advice at that time was that the Council has no ability to enforce a bylaw over the National War Memorial Grounds. Section 147 of the LGA allows

the Council to impose a liquor bylaw over any public place within its jurisdictional control. The key issue is whether the War Memorial Grounds are under the control of the Council. As the War Memorial is in the care of the Ministry of Culture and Heritage, it is not possible for the Council to include the war memorial in the amended Bylaw.

In 2007, central government announced proposed construction of the New Zealand Memorial Park at Buckle Street. Responsibility for the Park once it is constructed will come under the control of the Ministry of Culture and Heritage. The construction of the Park is currently on hold while a number of matters are resolved. If and when this area is upgraded and a park constructed, public place liquor consumption will be monitored in the areas surrounding the Park.

6. NZ Bill of Rights Act 1990 - Implications

The New Zealand Bill of Rights Act 1990 (NZBORA) sets out the fundamental freedoms and rights of all New Zealanders, including freedom of expression, peaceful assembly and association. Under the NZBORA, these rights and freedoms are subject only to reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.⁶

The Liquor Control Bylaw is consistent with the specific empowering provisions prescribed in the LGA.⁷ Furthermore, the rights contained in the NZBORA, (freedom of expression, peaceful assembly and association) are not specific to alcohol or reliant on alcohol. Therefore these rights are not impinged except to the extent that liquor is involved.

7. Critical Success Factors

A 24/7 Liquor Control Bylaw in the control area including Aro Valley will further complement the range of initiatives, including Walkwise, CCTV, Liquor Licensing Policies and the City Communities community interaction programme, that contribute to a safe and vibrant city,

The effectiveness of a 24/7 liquor control will depend on:

- sufficient Police resources to enforce the Bylaw
- positive community engagement prior to implementation of the 24/7 Liquor Control Bylaw so that the community is aware of the ban, the reasons for it, and the consequences of ignoring it
- visible signage, making it clear to the public that liquor consumption in the Control Area is prohibited.

⁶ Section 5; New Zealand Bill of Rights Act 1990.

⁷ Section 147; 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.

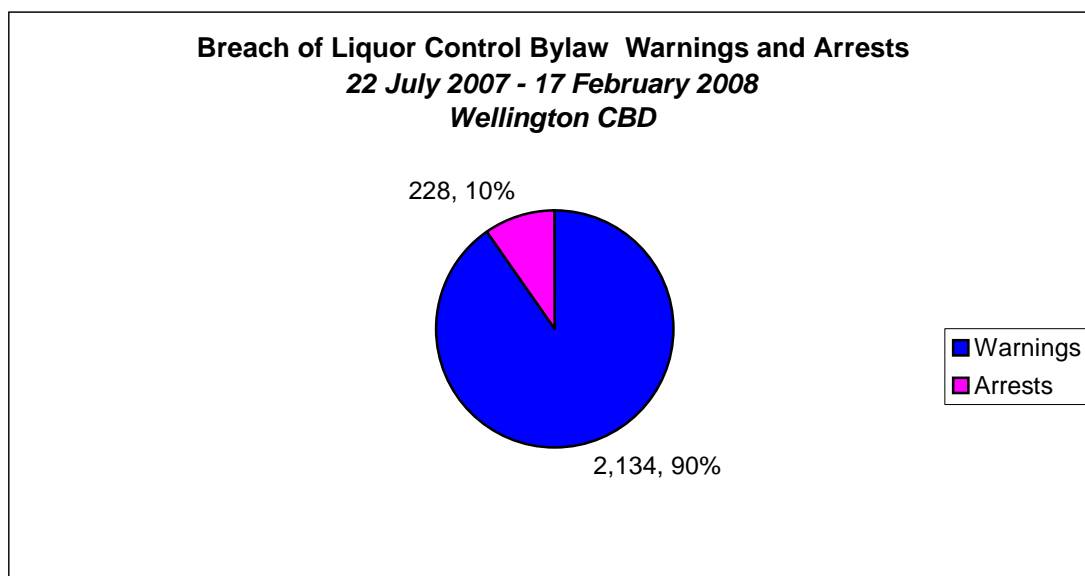
7.1 Enforcement

The Police advise that they would support and enforce a continuous 24/7 liquor control across the entire control area including Aro Valley. Furthermore, in response to Wellington's increasingly active inner city there will be more of a police presence in Wellington city. The Police are currently recruiting four new community constables who will work across a range of initiatives to reduce crime and enhance public safety in Wellington.

A 24/7 liquor control and increased resources will allow the Police to better manage the negative downstream effects of public place liquor consumption.

Reasonable use of discretion is a defining feature of New Zealand's style of policing for local liquor control by-laws. A continuous 24/7 liquor control will be used by the Police as an early intervention tool, in that people breaching the bylaw will be given ample opportunity to comply either by relinquishing the alcohol or by leaving the public place. Table 7 shows the percentage of breaches of the Liquor Control Bylaw warnings to arrests in the period July 2007 – February 2008; 10 percent of breaches have resulted in an arrest.

Table 7: Warnings versus Arrests



7.2 Effective Communication

The Bylaw implementation process will ensure that effective public communication and education will be disseminated, including public information about the control time and control area of the Bylaw.

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. In the past, money for signage following amendment of the Liquor Control Bylaw has been met from existing operating budgets. However, the amendment of the Bylaw to

a consistent and continuous liquor control provides Council with an opportunity to create signs which are less complex than the signs currently in operation.

Table 8: Liquor Control Bylaw - Signage and Flyer Costs

Component	Quantity	Price
Sign Design		\$1,125
Construction and Installation	72	\$23,000
Flyer Design		\$375
DL Size Flyer	20,000	\$2,000
10% Contingency		\$2,650
TOTAL		\$29150

Funding for signage associated with the Liquor Control Bylaw has already been approved in the 2008/09 Draft Annual Plan.

Funding for publicity about amendments to the Bylaw will be met from existing operating budgets.

7.3 Holistic Approach

It should be noted that a Liquor Control Bylaw prohibition is not a panacea, 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, for example methylated spirits, drugs or glue).

As discussed earlier, the importance of the local environment in shaping a city's drinking culture is highlighted in international research on alcohol-related harm and prevention strategies. Drinking patterns, risk behavior and health and safety outcomes can be influenced through strategies that combine national policy with community action.

Wellington City Council can act as a catalyst for effective community action and harm prevention in partnership with local groups and agencies. A partnership approach will raise awareness about the social and environmental impacts of alcohol, which affect the city's social and cultural wellbeing.

In response to specific issues associated with the Courtenay Place Precinct, an Alcohol Accord will be established comprising key stakeholders with an interest in minimising alcohol-related harm. Key Stakeholders will include the Council, ALAC, Police, and regional Public Health, ACC, HANZ, local licensees and

relevant community groups. The Accord will develop and implement strategies that address safety and alcohol-related issues in the Courtenay precinct, as identified in the Courtenay Place Project Report.

In addition to the above measures, a review of the Wellington City Council Liquor Licensing Policy is scheduled for 2008. As part of the review, Council officers will explore the development of an overarching Alcohol Management Strategy to address the range of issues associated with alcohol in Wellington city. Other Councils, including Manukau, Waitakere, Auckland, and Christchurch have developed similar strategies to manage alcohol in consultation with their communities.

8. Conclusion

Council officers recommend that the Strategy and Policy Committee agree to the Statement of Proposal amending the current Liquor Control Bylaw. Council officers also recommend that the Council initiates the Special Consultative Procedure so that there is a continuous control on the consumption and possession of liquor in public places at all times. Such a control would apply to the control areas shown in the map attached to the Statement of Proposal.

Contact Officer: *Bev Driscoll; Senior Policy Advisor*

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

The financial impact on the Long Term Council Community Plan is discussed in section 6 of this report.

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 Local Government Act 2002 will be initiated.

b) Consultation with Maori

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

6) Legal Implications

The legal implications of the proposal are discussed in the background section of this report. 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.

Appendix A

Appendix B

Appendix C