

 MAV Submission to Review of Liquor Control Reform Act

December 2016

The Municipal Association of Victoria is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879 and the *Municipal Association Act* 1907 appointed the MAV the official voice of local government in Victoria.

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**Executive Summary**

The MAV welcomes the review of the Liquor Control Reform Act 1988 and urges the State Government to develop a state-wide response to the key object of the Act to minimize harm from alcohol consumption. The current system of devolved policy development through various departments, and regulatory approaches responding to each individual licence application has led to the expansion in alcohol outlets and availability which is felt across all Victorian communities, not least those new communities in growth areas where a slab of beer is easier to obtain than a carton of milk. Local Government is a key stakeholder in both planning and in responding to referred liquor licence applications. Our contention is that the best available evidence points to the fact that increased affordability and availability of alcohol is contributing to alcohol harms including family violence. The adoption of state-wide Alcohol Strategy is required to target the promotion, outlet density and availability of alcohol and to establish a regulatory framework that can meet the object to minimise harm.

**Recommendations:**

* **That the Planning and Environment Act be reviewed in tandem with this review of the Liquor Reform Control Act to ensure that any amendments are consistent in both reducing regulatory burden on applicants and responsible authorities and in meeting the objects of the Acts**
* **That the licence system be amended with a view to reducing harm from abuse and misuse through**
	+ **responding to emerging technologies and**
	+ **clarifying and enforcing differential licence categories**
* **The liquor licence application process should include requiring the onus of proof to be provided by applicants to satisfy harm and public interest tests**
* **That there be no process changes to current processes pending the outcome of this review and that of the Planning and Environment Act (refer rec 1)**
* **That further research is undertaken into the local government costs of responding to cleaning and impacts of damage due to excessive alcohol consumption in high risk venue locations**
* **That a state-wide overview of licences be adopted to limit number and types of licence approvals.**
* **That the Liquor Control Reform Act be amended to include;**
	+ **Reversing the onus of proof in licence applications and require applicants to satisfy harm and public interest tests,**
	+ **Including clear and comprehensive definitions of harm, public interest and cumulative impact,**
	+ **Introducing broader, consistent grounds for objecting to licence applications, and**
	+ **Increasing the Commission’s discretion to refuse licences where licences will contribute to harm or are not in the public interest**
* **That Local Government be acknowledged as a key stakeholder in the liquor licensing regime and information shared with the sector to support collaboration in harm minimisation**
* **That the link between alcohol misuse and abuse as a contributing factor to family violence be acknowledged and harm mitigation measures reflected in the Liquor Control Reform Act**
* **That the current compliance and enforcement system be amended to include greater liaison with police and local government and remedies that prevent harm**
* **That the State Government continue to build the evidence base through data collection and evaluation on alcohol related harms and involve key stakeholders such as local government and police in responding to harms through reforms to the Act.**
* **A state-wide Alcohol Strategy is developed to target the promotion, outlet density and availability of alcohol and to establish a regulatory framework that can meet the object to minimise harm.**

**Background**

Local Government has both a legislated planning and VCGLR referral authority role in relation to the provision of alcohol. The timing of this review has not allowed for many councils to provide submissions as many are in the first meeting cycles since the local government elections in late October.

Consequently this submission has been developed drawing on the expertise of members of the Local Government Gambling Alcohol and Other Drugs Issues Forum (LGGAODIF) The LGGAODIF membership includes a range of professional local government officers from a variety of disciplines, some which include, Planning (Social, Strategic and Statutory), Public Health and Community Service areas. The network meets quarterly and aims to build the capacity of the local government sector by:

* encouraging best practice in alcohol and other drugs policy
* analysing key issues affecting local government
* coordinating policies, strategies and initiatives
* sharing information and trends
* planning joint work
* strengthening partnerships with government departments, non-government organisations and emergency services networks
* planning for advocacy on key issues

The increase in alcohol availability through all modes of outlets including big box packaged liquor has changed the urban, regional city and rural townships landscape.

The number of liquor licenses in Victoria has increased more than five-fold from fewer than 4000 in 1986[[1]](#endnote-2) to just fewer than 21,000 in 2016.[[2]](#endnote-3)

This has included a significant increase in the number of packaged liquor licences, and a shift to large format stores offering cheap alcohol and bulk discounts. Over the past 15 years, the number of packaged liquor outlets in Victoria has increased by 49.4% overall (from 1,354 in 2001 to 2,023 in 2016), and by 18.2% relative to population. The number of large format stores has increased from 3 to 68.[[3]](#endnote-4) Around 80% of all alcohol consumed in Australia is sourced from packaged liquor outlets,[[4]](#endnote-5) which are clustered in disadvantaged areas.[[5]](#endnote-6)

The proliferation is a particular concern given the link between packaged liquor outlet density and family violence. Research has found that higher density of outlets, particularly of packaged liquor outlets, was associated with increased rates of family violence.[[6]](#endnote-7).

Victoria’s current system of licence applications and determinations is heavily weighted towards granting licence applications, and is failing to give effect to the primary object of the Act of contributing to minimising harm arising from the misuse or abuse of alcohol.

# What opportunities are there for reducing the regulatory burden?

The regulatory burden falls on both applicants and the bodies that seek to regulate. Although councils theoretically have the ability to control the development of licensed premises within their municipality through i) the planning permit application process for licensed premises under the *Planning and Environment Act 1987* (the PEA), and ii) objecting to liquor licenses through the LCRA, in practice both of these processes provide very limited ability for local councils to control the development of licensed premises.

Councils are unable to prevent the development of liquor licenses though their planning role under the PEA largely because planning laws focus primarily on a narrow range of amenity issues and broader public health concerns do not fit within the concept of amenity.

***One of the fundamental difficulties that local government faces is that the planning legislation focuses its judgements on public amenity, not on public health and safety needs.[[7]](#endnote-8)***

Councils have difficulty preventing the development of licence premises by objecting to a licence application through the LCRA because of the high threshold of evidence required to satisfy the grounds for objecting to a liquor license. In practice, when objecting to a liquor licence, councils must prove a causal relationship between the prospective licensed premises and harm. It may be possible to demonstrate that an additional licensed premises within a local area will ‘generally’ contribute to increased alcohol-related harms, however it is impossible to prove a ‘clear causal link between a specific venue and harm’ prior to the licensed premises being built.

The regulatory burden and consistency with the Planning and Environment Act 1987 could be improved by undertaking concurrent amendments to both pieces of legislation, in addition to introducing a State wide Planning Policy, relevant Practice Notes and Ministerial Decision Making Guidelines to provide greater clarity for both regulators and applicants.

Making the Planning Permit the first requirement, and setting clear guidelines on what an application needs to consider including broader social factors, and amenity beyond local site specific factors will ensure a clear and coherent decision making process and areas of responsibility. In addition a relevant set of Decision Making Guidelines and a Practice Notes that address the range of locational criteria where alcohol is consumed, including off premise can be introduced to inform the complex social issues associated with alcohol that need to be considered across all councils. This approach would also assist to a reduction in appeals to the Victorian Civil and Administrative Tribunal (VCAT) and the VCGLR through its Panel Hearing process.

A comprehensive practice note or Ministerial Guideline based on the precautionary principle should be developed which clearly outlines what types of material would be required by an applicant to support their proposal, this material then forms part of the formal referral to council. There is often uncertainty as to what material should be provided, particularly acknowledging there are a range of reports that may be relied upon, such as, cumulative impact assessments, social and economic impact assessments and venue management plans.

Applications should only be referred to councils once all information and supporting material have been received by the VCGLR. This would reduce the need for further information or extension of time requests by councils which in turn delay the application process

**Recommendation:**

**That the Planning and Environment Act be reviewed in tandem with this review of the Liquor Reform Control Act to ensure that any amendments are consistent in both reducing regulatory burden on applicants and responsible authorities and in meeting the objects of the Acts.**

#  Does the current licence type regime work? How could it be improved?

The current licence categories do not include emerging disrupters such as on-line sales. Additional research needs to be undertaken around how to manage and reduce harm associated with on line liquor sales.

The advent of these new entrants into the on-line home delivery of alcohol service has concerning implications for the stemming the tide of alcohol misuse.

***‘Start-ups… are tapping into a thirsty market of consumers who want the convenience of home delivery or those who have drunk too much to drive to the local bottle-o.’[[8]](#endnote-9)***

An application for this type of licence does not afford the councils who may be within the delivery area the opportunity to object. At a minimum, an application should designate the delivery area in order to afford those councils and communities an opportunity to be notified in order to consider whether to object.

Home delivery times for alcohol should be restricted to those for packaged liquor. A significant level of research already exists regarding the harms that increase for every hour after midnight where alcohol is continued to be made available.

The current licence description categories do not accurately reflect what may be taking place at the licensed premise or event. For example a limited licence can be used for multiple purposes such as, festivals, home delivery, sporting events, and internet sales. The license type needs to be better defined to ensure councils and the community can give stronger consideration to any likely amenity impacts. In addition there is the need for different assessment criteria for some categories, home delivery will need to consider impacts very differently to that of a sporting club.

The licence categories should be developed in a way that the name reflects the potential harm. A risk matrix could analyse the harm level dependent on a range of factors and then this would be applied to the licence before being issued.

Packaged liquor licence types should reflect three distinct groups that reflect the risk and type such as; packaged liquor, packaged liquor late night and packaged liquor big box. It has been well researched that the floor area and size of an outlet indicates its likely retail trade catchment. The trade catchment for packaged liquor will then provide a distance where harms and the precautionary principle can be considered.[[9]](#endnote-10)

The licence categories create confusion where there is duplication in the name or meanings, such as a sporting club who could operate with a renewable limited licence, restricted club or full club licence.

There is a need for a clear description to what constitutes a limited licence. There have been many instances where applicants have suggested limited could be a café/restaurant that only wishes to trade for lunches or a number of days not totaling a full seven day week. Limited or Renewable Limited Licenses must be highly restrictive in nature so as to not be used in replacement of a full licence.

**Recommendations:**

**That the licence system be amended with a view to reducing harm from abuse and misuse through**

* **responding to emerging technologies and**
* **clarifying and enforcing differential licence categories**

# How could the liquor licence application and renewal process be improved?

“Councils’ ability to influence the liquor and hospitality industry on behalf of the communities they represent is restricted by shortcomings in the planning permit and liquor licence application processes. The grounds for objecting to a licence are narrow, and the evidentiary requirements and decision-making process for contested applications are unclear.”[[10]](#endnote-11)

Licence applicants are required to provide only relatively basic information to support applications and are not subject to any evidentiary requirements. Instead, in contested applications, the onus falls on objectors to satisfy the Victorian Commission for Gambling and Liquor Regulation (VCGLR) that objection grounds are met. The objection grounds available to members of the public, local councils and licensing inspectors are narrow and inconsistent.

Producing the requisite evidence to satisfy these grounds, particularly in relation to applications for new licensed premises, is extremely complex and resource intensive, and places a large burden on objectors, whose resources are typically constrained.

This is likely to deter objections. In 2014/15, objections were received in relation to only 2.3 per cent of finalised applications.[[11]](#endnote-12) This means that the Commission is unlikely to consider evidence related to harm in most licence applications, and may not be in a position to ensure that licence grants are consistent with the primary object of the Act.

In contested applications, the onus of proof and unrealistically high evidentiary threshold applied to objection and refusal grounds results in insufficient consideration and weighting of harm in VCGLR decision making.

The effect in practice is that the overwhelming majority of applications are granted, with continuing increases in new licences, including licences for new large format packaged liquor outlets. This has resulted in high densities of liquor outlets in Victoria, widespread availability of alcohol, and huge increases in associated harms.

For example, in 2014/15, of the 15,873 total licence applications finalised, 96 per cent were granted, three per cent were withdrawn and only one percent were refused.[[12]](#endnote-13) Only around 0.4% of finalised uncontested applications were refused.[[13]](#endnote-14) Of the 2.3% of finalised applications that were contested (365), 25% were refused (91).[[14]](#endnote-15)

The VCGLR recently granted a packaged liquor licence for a Dan Murphy’s outlet in East Cranbourne in the face of strong local council and police objections, and local evidence of increasing alcohol-related harm, and high incidence of family violence.[[15]](#endnote-16) This case exemplifies the difficulties for local councils and police in objecting to liquor licence applications, the limited extent to which evidence of harm is taken into account in decisions, and the undue weighting of the system towards granting applications. This case for the local Council was costly and required the participation of leading experts, academics and senior legal counsel.

The current licence application process is at odds with the fact that alcohol is an inherently risky and harmful product and not an ordinary retail commodity.

Licence renewals should be considered against the venue’s compliance history. Where a venue has breached or contributed to amenity impacts and the misuse and abuse of alcohol a new application should be made which is required to be re-referred to councils for comment in order for the VCGLR to determine whether additional conditions or restrictions should be placed on the licence.

A mechanism needs to exist, which reviews all licences, whether compliant or not, on a more frequent basis in order to ensure they are meeting community expectations and current best practice environments.

Applicants should be required to undertake a public interest test for applications that are likely to have a community impact based on local harm indicators. The public interest test would inform the Commission in the first instance whether or not the application requires any unique reports or referrals.

**Recommendation:**

**The liquor licence application process should include requiring the onus of proof to be provided by applicants to satisfy harm and public interest tests**

# Is there scope for streamlining the interaction between licensing and planning processes? What are the biggest opportunities?

Planning and Liquor Licensing are separate processes which each have their own merits in how they assess the suitability of a proposal. However, there is a need to review both in line with this review to ensure consistency and relevance for both processes. Councils have the ability at the local level to have a stronger awareness of likely issues and community views while having flexibility in a planning permit to employ conditions that can resolve potential site impacts. Planning engages more comprehensively with local communities through local notification, stakeholder meetings and community consultations.

The methodology in determining patron numbers should be standardised as there is opportunity for three different patron ratios to be applied Currently the VCGLR determine numbers from a floor space availability calculation while planning can often have an alternative restriction due to car parking requirements and under the Building Regulations restrictions can be imposed based on essential services, such as, fire exits, toilets and paths of travel.

Both the Liquor Control Reform Act and the Planning and Environment Act could provide consistent definitions when asking officers to consider amenity impacts and harm minimisation during an application process. An opportunity exists to align harm minimisation within both Acts and by applying the ‘precautionary principle’ which is an accepted public health mechanism which aims to reduce the incidence of harm from occurring in the first place. Often a social and economic impact assessment informs the application of the precautionary principle.

The VCGLR could also give a clearer indication to how it gives regard to decisions made under the Planning and Environment Act at VCAT. Often the Commissioners in a panel hearing will make mention of the interpretations and decisions of VCAT but there are no clear rules as such.

The VCGLR has written to the MAV seeking MAV’s opinion on the proposal of the VCGLR to cease its current practice of requiring licensees to provide a planning permit when applying to vary an existing liquor licence.

This approach has not been widely canvassed with local government however the indicative view is that although the proposal is not to apply to new licence applications or for relocation of existing licences, not requiring the provision of planning permit for variation of existing liquor licences could result in unnecessary confusion for applicants as well as authorities. The rationale for this position is below:

1. It has been practice that a planning permit would be required by the VCGLR as councils were in the better position to understand the local circumstances and any ‘amenity’ related issues that might have been occurring. With an applicant progressing a planning application through council first, it would allow for a more participatory and precautionary process at a local level where the merits of the proposal could be properly considered between council and the applicant and if issues did arise then measures could be taken, such as council applying particular conditions or restricting hours of operation etc.
2. The proposal to remove requirement for planning permit provision as part of an amendment application could provide greater confusion for the applicant in that councils will be more likely to object to proposals when referred by the VCGLR as they have had no prior knowledge or consideration of the matter, the additional time an objection then takes will only make it more frustrating for the applicant. Currently if council have issued a planning permit or considered an amendment and approved it they are unlikely to object during the VCGLR referral notification process.
3. The planning process is far more rigorous then the licence application process and allowing this to take place first would give more certainty to the applicant that it is likely to be supported when presented as an application to the VCGLR.
4. If the Commission issue approval ahead of a planning permit it may be the case where the ultimate council approved hours are not in line with the liquor licence hours, creating more confusion for the licensee and this more likely increasing the risks of an offence being committed with a planning permit and liquor licence both giving very different compliance directions to the venue operator.
5. The council as part of the planning process endorse ‘red line’ plans. It may be the case again that council would endorse a red line plan that may be different to what the VCGLR would endorse and this would only create further confusion for applicants. An example may be where council does not support an external red line area, however the VCGLR have approved it. The licensee then has two inconsistent approvals to which they have to abide. If the council supported an endorsed a red line plan which was then presented to the VCGLR it is likely they would also endorse the same document.
6. This approach would also mean that should Local Government have a concern over a licensing application ahead of a planning permit it would need to object, provide evidence and then attend a panel hearing. This process is not only lengthy but overly onerous on councils and can be expensive if that matter was to go to a panel hearing.
7. The VCGLR have noted that the current process imposes an unnecessary duplication on the industry. This however has and always will be the case where the industry in most instances will need a planning permit and liquor licence. It is appropriate for the licensee to understand which processes should take place to give them more certainty surrounding whether a proposal would be supported.
8. In most instances where an applicant amends their licence it will also be necessary to come back to council to amend their planning permit. Again for the reasons above it makes sense that the planning permit would be amended in the first instance to afford council with the full range of opportunities to consider issues, including car parking, zone restrictions, planning overlays etc. It would be a burden on the applicant if they paid a fee to amend their liquor licence and this was processed and approved with them being left to find out that council cannot support an amendment to the planning permit because of various planning restrictions. This approach has now cost the applicant money and time in engaging in a process where they would have never approached the VCGLR to seek an amendment if they knew it was not permitted under the planning regulations.
9. It is posited that the relationship between Local Government and the VCGLR could be enhanced by the each body better understanding the roles, responsibilities and approvals being granted. It is believed that the Commission could benefit from seeing a planning permit and better understanding local issues which have been addressed as conditions in the planning permit. This approach will also give a level of comfort to the Commission in knowing the responsible planning authority has considered and supported the proposal, which also was likely informed through targeted community consultation/notification (part of the planning process).

**Recommendation:**

**That there be no process changes to current processes pending the outcome of this review and that of the Planning and Environment Act (refer rec 1)**

# Are there opportunities to improve the risk based fee structure?

Councils are unaware of how the risk based fee structure benefits the sector when dealing with the after effects of excessive alcohol consumption. Significant resources are allocated towards addressing issues that arise as a result of alcohol fueled violence and anti-social behavior; such as graffiti, vandalism to public property and street cleaning.

Poor perception of safety and security of residents in public places is often an issue that councils attempt to address as a result of late night premise operations.

An estimation of local government costs in dealing with these issues is significant with no income received where high risk venues are operating. In many instances, councils bear a high proportion of the costs of the cleanup remedies.

**Recommendation:**

**That further research is undertaken into the local government costs of responding to cleaning and impacts of damage due to excessive alcohol consumption in high risk venue locations.**

# How can the LCRA better foster diversity and support small business?

Local government is generally in favour of creating a diverse range of licensed premises and supporting a night time economy. Currently many councils, particularly those in the outer ring growth areas are seeing in imbalance where there are more packaged liquor outlets being established and less on premise venues. It is posited that there needs to be a state-wide approach which can limit and control the number and type of licence approvals (similar to regional caps and municipal limits applying to electronic gambling machines).

**Recommendation:**

**That a state-wide overview of licences be adopted to limit number and types of licence approvals.**

# Could the current harm minimisation measures in the LCRA be improved? If so, how?

Research has consistently shown that the concentration of liquor outlets is predictive of alcohol-related problems and criminal behavior.[[16]](#endnote-17)

The Act should clearly articulate the definition and criteria used to measure and assess both existing harm and potential impact of increased harm (precautionary principle). Broader public health impacts for local communities need to also be included. There is considerable evidence that details the impact of alcohol consumption on local communities.

Whilst amenity is important, it is necessary to increase the focus on social harms and public health impacts of alcohol through the Liquor Control Reform Act. The longer-term whole of population effects of alcohol must be considered by ensuring that there is some control of alcohol outlet density, particularly in areas that show high levels of socioeconomic harm.

It is necessary to broaden the understanding of social harms beyond immediate vicinity. The assessment of packaged alcohol outlets must also include the assessment of locations and sensitive land uses in the immediate vicinity need to be included. For example packaged alcohol outlets should not neighbor schools and crisis support services.[[17]](#endnote-18)

In addition harms associated with ‘big box’ packaged liquor should be considered separately in the Act to reinforce that the retail catchment of such a premise will often extend to as far as 5km. A 2015 decision of the Commission acknowledged that there were current deficiencies in the Act to allow for the consideration of harms that occur beyond the specific site and into the home. It was acknowledged that packaged alcohol, its density in any given area and the floor space available had a related role with an increase in alcohol fueled violence occurring in the home.[[18]](#endnote-19)

The Act would benefit from the creation of a ‘public interest test’ similar to that which occurs in Western Australia under the Department of Racing, Gaming and Liquor. It would be important that a relevant community notification process took place where meaningful discussions occurred with the community for the proposed use and site. This would assist both the VCGLR and the licensee with a better understanding of issues so effective harm minimisation strategies and/or conditions could be developed.

**Recommendations:**

**That the Liquor Control Reform Act be amended to include;**

* **Reversing the onus of proof in licence applications and require applicants to satisfy harm and public interest tests,**
* **Including clear and comprehensive definitions of harm, public interest and cumulative impact,**
* **Introducing broader, consistent grounds for objecting to licence applications, and**
* **Increasing the Commission’s discretion to refuse licences where licences will contribute to harm or are not in the public interest.**

# How should harm be considered in the licence application process?

In 2012, the Victorian Auditor-General’s *Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm* Report examined the effectiveness of the Department of Justice, Victoria Police and the Victorian Commission for Gambling and Liquor Regulation (Commission) in preventing and reducing the impact of alcohol related harm on the community. This report and its findings are still relevant in understanding and considering harms in the licence application process.

The Auditor- General’s Report concluded that the “level of reported alcohol-relatedharm has increased significantly over the past 10 years” and that“[a] fundamental change in approach to strategy development, licensing and enforcement is required before any noticeable impacton reducing harm is likely”.[[19]](#endnote-20)

There is a clear need for fundamental reform of the Act to redress the current imbalance of the licensing objects, and to ensure the Act and liquor licensing regime is effective in preventing and reducing alcohol harms.

# How should the LCRA encourage best practice harm minimisation behaviour by licensees?

Local Government supports the existing measures including the use of the Star Rating, Demerit System and Venue Management Plans. The current evaluation of Accords should be shared with councils and further consultation undertaken in considering changes or extensions to the Accord system.

The sharing of compliance information by VCGLR to Local Government and Victoria Police would support a more comprehensive assessment of licence amendments and new applications.

Councils have mixed views about Accords and the sector would value greater involvement and more consistency in approaches across the state. Information regarding the recent evaluation of Accords should be released to councils and accord members.

Training must also be provided more frequently and contain a more comprehensive content in order to ensure staff engaged in the service of alcohol have a detailed knowledge of the Act and its requirements.

**Recommendation:**

**That Local Government be acknowledged as a key stakeholder in the liquor licensing regime and information shared with the sector to support collaboration in harm minimisation.**

# Could the current controls on patron behaviour in the LCRA be improved? If so, how?

The Act does not clearly define the areas that the duty of care extends to from a licensed premise. Patron behavior creates an issue when it transitions to an area the licensee considers is no longer their responsibility.

A more enhanced level of training should also be provided to licensed premise staff reinforcing the importance and expectations of maintaining acceptable crowd behavior.

The Act should recognise and consider patron behavior also from packaged liquor, where persons are consuming in near proximity to the packaged liquor outlet they purchased from.

# What opportunities are there to address family violence within the LCRA?

Victorian longitudinal research by Dr Michael Livingston examined the relationship between the density of alcohol outlets in a neighbourhood and the rates of family incidents reported to the police in Melbourne over a ten year period. The research found that higher density of outlets, particularly of packaged liquor outlets, was associated with increased rates of family violence17. A 10 per cent increase in the density of packaged liquor outlets was associated with an approximately 3.3 per cent increase in domestic assaults.

There is growing evidence specifically linking the increase in packaged liquor outlets in Victoria with increases in alcohol-related harm.[[20]](#endnote-21) Local level studies have shown that increases in outlet density are associated with increases in hospitalisations for assault, police records of family violence[[21]](#endnote-22) and rates of alcohol-specific chronic disease.[[22]](#endnote-23)

There is also increasing evidence that packaged liquor outlets, offering cheap alcohol, are clustered in disadvantaged areas, with likely impacts on health inequalities. Victorian research has shown that packaged liquor licences are disproportionately located in areas of socio-economic disadvantage.[[23]](#endnote-24) Research shows that the number of packaged liquor outlets in an area is associated with rates of alcohol-related harm,[[24]](#endnote-25) and that rates of alcohol-related harm in Victoria are higher among people who are socio-economically disadvantaged.[[25]](#endnote-26)

Venue Management plans and staff training should include response to violence, particularly family violence. City of Port Philip has undertaken a small study which found violence against intimate partners occurring in venues with staff ill-equipped to respond. There are currently limited mechanisms for venue operators to report family violence. In some cases customers/patrons report through discussion with their local hotelier or packaged liquor operator issues occurring in the home and there is no informal referral service, similar to that of Gambler Help which occurs in a gaming room.

The clear link between packaged alcohol and increased family violence needs to be acknowledged and appropriately recognised in the decision making process as to whether a licence should be issued.[[26]](#endnote-27)

The recording of the influence of alcohol in violence, particularly family violence, needs to be improved through Victoria Police. It is found that in some cases violent behaviour is recorded as ‘drunk and disorderly’.

Off premises alcohol in Australia represents up to 80% of the consumption taking place. The Act must acknowledge this statistic and provide mechanisms for applications to be refused in areas where family violence is critically high.

Whilst it is not the role of the VCGLR to set minimum pricing it is important to acknowledge that often alcohol is the most affordable in socially disadvantaged communities. This is often due to there being a high saturation of outlets cost competing against one another.

**Recommendation:**

**That the link between alcohol misuse and abuse as a contributing factor to family violence be acknowledged and harm mitigation measures reflected in the Liquor Control Reform Act.**

# Could the current compliance and enforcement provisions in the LCRA be improved? If so, how?

The current compliance model is focused heavily on financial penalties. Often operators will factor fines into their operating costs when holding specific events. This attitude defeats the purpose of the penalty based approach in that income based enforcement is less likely to succeed.

The Act should give further regard to reinforcing the introduction of a layer of restrictions through imposing additional conditions on a liquor licence per offence and over time. This may start with additional security or more frequent training to ultimately suspending the numbers of days or hours a venue is permitted to operate.

The Act must also allow for councils to recommend specific conditions when a breach is recorded, given the local knowledge it is likely a locally developed condition between council, Victoria Police and the VCGLR would have greater effect.

Additionally there would be benefit if licensed premises were required to keep self-auditing tools developed in conjunction with the VCGLR and industry to be used frequently and form part of the reporting procedures to be presented to a compliance officer if requested.

Persons trained in the Responsible Service of Alcohol would benefit from better understanding the risks associated with their actions. Staff should be required to wear a licence type similar to that of a gaming room attendant which outlines their responsibility and potential penalties should they fail to comply.

**Recommendation:**

**That the current compliance and enforcement system be amended to include greater liaison with police and local government and remedies that prevent harm.**

# Are there other measures that could reduce harm? What would be the costs and benefits in including them?

Reforms to the liquor application process would help to ensure that evidence of harm is given appropriate weight and consideration in licence determinations, and that licence applications are not granted unless they are consistent with the primary harm minimisation object of the Act and in the public interest. This would ensure that fewer high risk licences are granted, and would have a large impact in reducing harms associated with the high availability and risky supply of alcohol, including family violence.

The promotion of alcohol must be limited. Reasonable controls to liquor advertising need to be introduced which acknowledge public places and infrastructure where young people frequent, such as train stations, bus shelters and within proximity to schools and health service providers.

The reduction of trading hours would have a long term positive effect on reducing alcohol related harm. Ordinary trading hours of 9am (rather than 7am) need to be introduced. In addition trading hours should be considered based on the context of the existing premises operating in the area.

All licence types must prioritise the assessment of the misuse and abuse of alcohol and evidence of alcohol related harm in local communities.

It is often the case that the default in an application is approval, whereas the onus needs to be placed on the applicant to justify why the proposal would not add to or contribute to an increase in harm. Similar to the Office of Liquor, Gaming and Racing in New South Wales it would be of benefit if an applicant supplied social and economic impact assessment with certain applications which could then be reviewed by the VCGLR and its referral bodies. This also improves the consistency with the role of the VCGLR as the Gaming Authority, where these reports are already accepted.

Currently the Act allows the VCGLR to determine what limited licenses are to be referred to both council and Victoria Police. It should be amended to ensure that a council is able to receive a referral if requested.. Often limited licences have as many risks however councils are not informed of them being issued and are unable to object if there is an existing known amenity concern.[[27]](#endnote-28)

**Recommendations:**

**That the State Government continue to build the evidence base through data collection and evaluation on alcohol related harms and involve key stakeholders such as local government and police in responding to harms through reforms to the Act.**

**That a state-wide Alcohol Strategy is developed to target the promotion, outlet density and availability of alcohol and to establish a regulatory framework that can meet the object to minimise harm.**

1. Preventative Health Taskforce *Australia: the healthiest country by 2020. Technical Report No 3: Preventing alcohol–related harm in Australia: a window of opportunity* (Including addendum for October 2008 to June 2009), p. 21, Figure 8. [↑](#endnote-ref-2)
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