Review of the Liquor Control Reform Act 1998
Submission in response to Consultation Paper

City of Stonnington
December 2016
Summary

The City of Stonnington welcomes the opportunity to make a submission in response to the review of the *Liquor Control Reform Act 1998* (LCRA) consultation paper. Council also supports the Municipal Association of Victoria (MAV) submission and the recommendations detailed within.

Local Government is a key stakeholder in strategic and statutory planning, responding to liquor licence applications, administration of local laws, and supporting local businesses and economies. Given our comprehensive role, the City of Stonnington urges the Victorian Government to develop a state-wide response to achieve the key object of the Act of minimising harm from alcohol consumption.

The City of Stonnington is well known for its Entertainment Precincts. Across the municipality there currently are 741 active liquor licenses within 25.6km², which demonstrates a high density of liquor licenses. While these venues provide significant economic and cultural benefits it is also acknowledged that a high density of liquor outlets can also lead to high levels of alcohol related harm. Importantly, in Stonnington the proportion of the adult population with an increased lifetime risk of alcohol related harm is 76.7%. This is significantly higher than the Victorian average of 59.2%. Furthermore, alcohol related ambulance rates in Stonnington have also more than doubled between 2006-07 and 2013-14 (Vic AOD Stats, 2016). These ‘real life’ factors need to be taken into account during the application review process if the VLCGR is serious about minimising alcohol related harm. Furthermore, the clear link between alcohol outlet density and increased rates of family violence needs to be acknowledged and taken into consideration when reviewing new applications for liquor licenses.

For the City of Stonnington, Clause 22.10 Licensed Premises of the Planning Scheme aims to:

- Minimise the amenity impacts associated with licensed premises
- Identify preferred locations for licensed premises
- Ensure licensed premises do not adversely impact on activity centres

Clause 22.10 of the Planning Scheme requires an applicant to provide an assessment of the cumulative impacts of a proposed licensed premise or the extension of an existing licensed premise. Council also undertakes a Social Impact Assessment on these applications, looking at a range of public health and amenity impacts, including the cumulative impact to the area of where these applications have been within the Local Government Area (LGA). This Licensed Premises policy, along with Clause 52.27, is the policy framework that guides Council decision-making to address alcohol related harm in Stonnington.

These policies are effective in supporting Council to consider and reduce the issue of alcohol related harm, yet without further improvement of the LCRA, these harms will continue to increase. Specifically, the current system of liquor licensing policy development and licensing approvals needs an overhaul to reduce the regulatory burden (and complexity) and to provide clarity and consistency for Councils, applicants and community so that the harm minimisation objectives of the Act are achieved.
Council Planners have a justified role in considering social harms and have the ability at the local level to have a stronger awareness of likely issues and community views. The VCGLR must give greater regard to the planning permit conditions and Council report to assist in better understanding local circumstances that are not required to be mentioned as part of the licence application process.

Council’s submission focuses on:

- Consistency between definitions within the *Liquor Control Reform Act* and the *Planning and Environment Act*
- Requirement to renew licences and the ability to take into consideration compliance with license conditions.
- Increased training for Licensees and Management of venues
- More consideration of cumulative impact and level of alcohol related harm in local areas as part of application review
- Increased harm minimisation measures reflected in the LCRA and demonstrated by licensees
- Consideration of licensing requirements of on-line liquor delivery
- Consistency in definition of limited licence
- Stronger focus on reducing family violence by considering existing levels of alcohol related harm in area.
Submission Response

Reducing the regulatory burden

The liquor licensing process is complex, inconsistent and lacks transparency. The current system of approvals across the Liquor Control Reform Act 1998 and Planning and Environment Act 1987 can be confusing. This confusion could be avoided by delineating the roles of the licensing authority and Councils. In order to reduce the regulatory burden the following amendments should be considered:

- **A planning permit should be the first requirement of the licence application process.** Currently liquor licence applicants must provide a copy of a planning permit, copy of an application for a planning permit or evidence that planning permission is not required from the local Council. Instances in which a copy of a planning permit application is provided to the Victorian Commission for Gambling and Liquor Regulation (VCGLR), but the planning permit has not been granted creates delays in a liquor licence being granted if approval has not been provided or issues occur in the permit review process. An improved system would require an applicant to firstly obtain the planning permit before an application can be made to the VCGLR. The VCGLR would then consider the findings of the planning permit and associated conditions when considering its approval against the objects of the Act.

- Furthermore, **liquor licence applications referred to Council for the opportunity to submit an objection should only be done so once all the required information and supporting material has 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. Applicants should be provided with clear information from the VCGLR which outlines what types of materials (venue management plans, cumulative impact assessment, social and impact assessment) are required to support their application. This material then forms part of the formal referral to Council to complete their assessment.

Improving the Licence type regime

The current liquor licensing regime is still weighted in favour of the liquor and hospitality industry, with the default position being approval of applications. The grounds for Council objecting to a liquor licence are narrow; with objections only able to be submitted on either amenity or misuse or abuse of alcohol impacts¹.

The current licence categories do not accurately reflect what may be taking place at the licensed premise or event. Current licence types 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. The licence type needs to be better defined to ensure Council is able to sufficiently determine any potential amenity impacts.

¹ Objections for misuse or abuse of alcohol only available for packaged liquor or late night packaged liquor applications
The definition of a limited licence also needs to be improved to ensure Council can give closer regard to any likely amenity impacts. Due to the fact a planning permit is not required for a limited licence there are instances in which Council may not have had the opportunity to inform a liquor licence application.

Council is supportive of the risk based fee structure applied to licence types and believes the multiplier should be extended to also include packaged liquor. This risk based multiplier would be based on the square metre size of the shop and be targeted towards minimising the harm associated with big box liquor outlets.

The Act needs to give a clearer description to what a limited licence can be used for, as there have been many instances where applicants have requested a limited licence which could be categorised as a restaurant/café licence or additionally a venue applying for a restaurant/café licence to operate until 3am in which they begin operating as a bar after food has stopped being served earlier in the evening.

The increase of companies providing home delivery alcohol raises concern to the potential harms that can occur with alcohol being taken to a place of residence. As the licence can be applied for outside of the proposed delivery area, the application process does not provide Council with the opportunity to object. If the delivery area for each company falls within a Council LGA, Council should be referred the application for the opportunity to review. Additionally, there needs to be further consideration as to what type of licence is most appropriate for an online supplier which provides home delivery.

Furthermore, the application form for a limited licence should include different assessment criteria related to the type of category the applicant is requesting, i.e. home delivery will need to consider impacts very differently to that of a sporting club.

Application requirements to support decision making

It is considered essential that licence renewals should be considered against the venues compliance history. The demonstrated compliance of licensees and venue managers to act as responsible corporate citizens is a priority of the City of Stonnington. In instances where a venue has breached their licence or planning permit conditions or contributed negatively to amenity impacts, a new application should be made; which should be re-referred to Council in order to determine whether additional conditions should be placed on the licence or permit.

Reiterating, to ensure Council is able to sufficiently consider all aspects of applications, the VCGLR should only refer applications to Council once all the required information and supporting documentation has been received and reviewed. The provision of more detailed information as part of the referral would significantly improve the application process.

As part of the LCRA review there needs to be a process implemented in which existing licences which may have been granted by the VCGLR a number of years ago are reviewed in detail as part of the renewal process. This would ensure any permit conditions placed on the licence are still relevant and also enable Council to determine if additional harm
minimisation measures could be strengthened within each individual licence. There needs to be stronger alignment between definitions within the Liquor Control Reform Act and the Planning and Environment Act in relation to Council considering amenity impacts and harm minimisation.

For example, the methodology in determining patron numbers needs one consistent calculation. Maximum patron numbers are set to prevent overcrowding inside the venue and to reduce amenity impacts. However, there are three methods of calculating patron numbers, which produce different results. Venues may have different maximum patron numbers on the planning permit, occupancy permit and liquor licence.

The discrepancies between planning permit and liquor licence conditions, in many cases also include trading hours. Although these discrepancies can be minor, a licensee may inadvertently break the law if they do not understand that they are bound by the shorter trading hours and lower patron numbers. Details regarding trading hours and patron numbers need to be consistent between planning permit and liquor licence conditions to minimise confusion by licensees, Council inspectors and the community – especially neighbouring residents.

**Improvement of Harm Minimisation measures within LCRA**

The Act should more clearly articulate the definition and criteria to measure and assess harm minimisation. The assessment of amenity impacts is an important component of the planning and liquor licence application process, yet Council believes it is necessary that the Act increases the focus on social harms and public health impacts of licensed venues on the community beyond that of immediate vicinity amenity impacts.

The reduction of trading hours would contribute to minimising the long term effects of alcohol related harm. Standard trading hours associated with a number of licenses which commence at 10am instead of 7am need to be introduced.

A recent objection by the City of Stonnington to a proposal for an existing ice cream premises to sell alcoholic ice cream was not accepted as the VCGLR did not consider that grounds cited were local amenity issues or that the objection did not provide reasoning as to how Council believed the grant of the application would detract from, or be detrimental to the amenity of the area. In the objection, Council cited the objectives of the LCRA which aims to ensure the potential harms associated with alcohol are minimised and the provision of alcohol is limited to suitable venues. Council also considered the potential for the promotion of alcoholic ice cream to influence the way children perceive alcohol as a substance which does not cause harm. This objection was based on study findings which demonstrated that alcoholic advertising and promotion increases the likelihood that adolescents will start to use alcohol. A broader consideration by the VCGLR of public health harms, not limited to amenity impacts is required. This is due to the considerable amount of evidence that details the impact of alcohol consumption on local communities.

As outlined in the MAV submission response, the harm minimisation measures in the LCRA could be improved if applications satisfy the public interest test. To satisfy the public interest
test it would be important that a thorough community notification process is in place. Applicants need to proactively address harm minimisation issues and find solutions to material community impacts as a result of their licensed premises. Licensed premises such as hotels, nightclubs or packaged liquor must be required to supply supporting information that covers a detailed scope of public interest issues compared to a restaurant/café licence.

The Act also needs to increase control of alcohol outlet density, particularly in areas that show high levels of alcohol related harm. Cumulative impact of outlet density and its impact on levels of alcohol related harm needs to be strengthened in the application process. The existing level of alcohol related harm demonstrated in the community should be a key component for new or amended liquor licenses.

For example, broader consideration of the findings of the Victorian Population Health Survey (2014), should be a meaningful method of considering harm during the licence application process. Importantly, in Stonnington the proportion of the adult population with an increased lifetime risk of alcohol related harm is 76.7%. This is significantly higher than the Victorian average of 59.2%. Furthermore, alcohol related ambulance rates in Stonnington have also more than doubled between 2006-07 and 2013-14 (Vic AOD Stats, 2016). These ‘real life’ factors need to be taken into account during the application review process if the VLCGR is serious about minimising alcohol related harm.

Like the Planning & Environment Act, applicants that don’t sufficiently provide the full information to allow the VCLGR and Council to make an informed decision (i.e. demonstrate principles of harm minimisation) their application should not proceed to the assessment phase. VCLGR and Council should not assess an application if all the information is not provided. Cumulative impact assessments or broader potential public health harms provided in Council reports must be taken into considered, as these assessments and recommendations address harm minimisation as opposed to focusing solely on amenity impacts.

**Harm Minimisation behaviour by Licensees**

Applicants must provide explicit details in their licence application of harm minimisation measures that relate to the venue. The LCRA should aim to encourage best practice harm minimisation by licensees by ensuring that irresponsible advertising and promotion of alcohol within venues is minimised. The Act could be strengthened as per the Queensland Government *Liquor Act 1992*, which specifies that licensees are not permitted to:

- Engage in practices that may encourage the rapid or excessive intake of alcohol
- Advertise any promotion that is likely to indicate that liquor costs less than is usually charged
- Advertise outside of the premises the:
  - Sale price of liquor for consumption on the premises
  - Availability of free liquor or multiple quantities of liquor on the premises.
The promotion of “Happy Hours” could be limited to inside the venue only, as the broader promotion of happy hours and drink promotions may contribute to the excessive and rapid consumption of alcohol if not adequately controlled.

Council recommends that the LCRA consider implementing RSA training requirements not only for hotels, taverns and clubs but also for restaurant and café licence holders and security staff of other venues. Processes should also be put in place which require venue managers and licensees to complete additional training to the current requirement of the Advanced RSA, such as venue management, public safety and crowd control courses.

As part of the licence renewal process licensees should also have to provide audit records that all current staff have completed the required RSA training. Furthermore, requirements could also be put in place for licensees and Managers to participate in and promote community events that do not sell alcohol or providing support for services that prevent or respond to individual harms associated with alcohol.

Further mechanisms for the LCRA to encourage harm minimisation behaviour by licensees include the implementation of a harm minimisation accreditation process for licensees in order to maintain their licence. The accreditation assessment would form part of the licence renewal process and would require licensees to demonstrate they are abiding by the Act and their licence and planning permit conditions and specific harm minimisation measures as outlined in their application. Requirements for the accreditation process could include the following:

- Attend liquor accord as coordinated by Council
- Attend industry forums and events related to the minimisation of alcohol related harm
- Promotion of harm minimisation measures within venues
- Maintain up to date RSA records
- Management/licensee to complete higher level RSA, venue management training
- Completion of self-auditing tool related to harm minimisation
- Increased seating in venues to minimise vertical drinking
- Operating hours consistent with amenity of local area

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2 Tool to be developed by the VCGLR in collaboration with Councils and AOD services.
Opportunities to address Family Violence

The risks resulting from the misuse of alcohol extend beyond the individual to also impact the broader community. Recent research has found a strong correlation between family violence rates and the expanded availability of alcohol from packaged liquor outlets. A substantial body of research including cross-sectional and longitudinal studies suggests that alcohol outlet density in a neighbourhood directly correlates with rates of violence in that neighbourhood (Livingstone, 2010).

Previous saturation research conducted by the City of Stonnington (2010) of late night liquor licence trading in the Chapel Street Precinct identified that 50 venues defined as Source of Potential Harm Venues (SPH) is the saturation limit for this area. These findings have continued to inform Council responses in determining future planning applications for SPHs in the precinct to ensure the density of alcohol outlets which may contribute to family violence incidents is considered and applied.

Further research by Livingstone (2011) examined the relationship between domestic violence and three types of licensed venues (hotels/pubs; on-premises venues including restaurants and bars; and packaged liquor outlets) in Melbourne between 1996 and 2005. The findings of the research revealed a significant correlation between domestic violence and alcohol outlet density over time including a positive association between hotels (pubs) and packaged liquor outlets and domestic violence, and a negative association between on-premises venues (restaurants and bars) and domestic violence.

While many licensed venues demonstrate excellent practices in the responsible serving of alcohol and violence prevention there is some evidence that alcohol outlets can influence rates of intimate partner violence. For example, venues that encourage or poorly regulate male aggression can result in violent behaviour in a neighbourhood being more likely to occur (Cunradi, Mair & Todd 2005).

As such, the clear link between alcohol outlet density and increased rates of family violence needs to be acknowledged and taken into consideration when reviewing new applications for liquor licenses.

These findings demonstrate significant opportunities for family violence to be addressed within the LCRA. When reviewing applications for additional packaged liquor outlets and hotels/pubs, consideration of prevalence of family violence incidents and existing packaged alcohol outlet density in localities needs to be a factor in the decision making process. Additionally, licence conditions should require venues to display signage and resources for women to take who may be affected by family violence, such as links to community services, support groups or help lines.

Further education needs to be provided to venues to ensure there is greater awareness that family violence is not limited to the home and in numerous cases occurs in public spaces. As a responsible corporate citizen, licensees therefore have a role to identify and respond to

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3 Venues most likely to be associated with ‘alcohol related harms’, e.g. hotels, bars and nightclubs operating after 12am.
incidents where possible. As a result there needs to be improved mechanisms for venue operators to report family violence incidents. The implementation of a support program for venues, similar to that provided by Gambler’s Help would enable better responses to family violence. As outlined in the Responsible Gambling Codes of Conduct, gaming venues in Victoria have responsibilities to identify and respond to patrons showing signs of distress which may be related to problem gambling. The VCGLR needs to fund an initiative similar to the Gambler’s Help Venue Support Program for venues in areas which have high rates of family violence. The support provided would help venues to:

- Identify and respond to patrons who are distressed and who may disclose they have been subject to violence
- Raise awareness among venue staff about family violence
- Create and maintain responsible drinking environments

**Compliance Provisions and Patron Behaviour**

Council is supportive of existing measures undertaken by licensees including the Star Rating, Demerit Points and Venue Management Plans. A requirement for high risk venues to install ID scan systems would strengthen existing compliance provisions. Additionally, for venues with late night operating hours (other than restaurant/café) conditions should be placed on all licensees to install CCTV.

The sharing of compliance information and breaches by VCGLR to Council and Victoria Police would provide additional information for Council to consider if a licensee is looking to alter their existing licence or if they are planning on submitting a new application for another venue.

The Act should give further regard to instead of focusing solely on financial penalties as a result of a breach, the introduction of further restrictions or additional licence conditions could be considered. As a result of offences or breaches recorded, conditions could be placed requiring venues to recruit for more security staff, have reduced operating hours or require a licensee to close an outdoor section earlier. Furthermore, the Act should also allow for Councils to recommend specific conditions to the VCGLR after a breach is recorded.

As referenced in MAV submission, the Act needs to more clearly define the areas that the duty of care extends to for each licensed premise. Unruly patron behaviour when exiting premises creates issues when individuals transition from one venue to another and the licensee/crowd controller/security guard feels it is no longer their responsibility. Further clarification should be provided in the Act on whether the duty of care of licensees only extends to the designated area, i.e. any place within 100 metres of the licensed premises.
Fostering diversity and supporting small business

Fostering diversity in granted licenses is a priority for Council in supporting a vibrant entertainment precinct. A late night economy needs to balance activation with regulation and can promote a safe, and vibrant precinct that extends from the day into the night. Local governments are best placed to guide city-shaping strategic planning initiatives, including giving guidance on the mix of business activity that is suitable to the amenity and activation of a local precinct or area.