The PORT PHILLIP LICENSEES ASSOCIATION (PPLA) is a representative group of licensees and nominees who collaborate to improve business sustainability and improve safety and amenity in the City of Port Phillip. The Port Phillip Licensees Association is a consultative committee that has scope to:

- Share information on good licensing practice
- Promote initiatives that benefit business and improve safety and amenity
- Encourage the further development of good management and licensing practices
- Develop industry specific education programs
- Contribute to business sustainability for licensed premises
- Provide professional insight and advice into practice issues and public policy
- Work collaboratively with other licensees associations, forums and accords
- Provide advocacy for the members of Port Phillip Licensees Association

Background

The PPLA supports the review of the Liquor Control Reform Act (LCRA) and urges the State Government to develop an appropriate and up to date state-wide reform act. That not only acts to minimise harm from alcohol consumption but that lessens the burden on licensees from a regulatory and litigation point of view.

Endorsed response

1. **What opportunities are there for reducing the regulatory burden?**

The Victorian government made a pledge to reduce red tape and the PPLA believes that this should be applied to the LCRA. The main burdens to licensees include;

- Inconsistency between the LCRA and the planning act.
- Decision making guidelines for late night licences create assessment duplication ie: letter of support from local government

The application process and implementation of the LCRA act does not accurately reflect the legislation, i.e. online applications do not take into consideration all supporting documents required as stated in decision making guidelines. Applications should only be forwarded to Councils and Victoria Police (VicPOL) once an application has been fully completed. This would reduce the time and frustration around seeking further information or extension of times.

A comprehensive practice note 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 assessment, social and economic impact assessment, venue management plans etc.
2. Does the current licence type regime work? How could it be improved?

The PPLA suggests a reworking of license categories to reconcile planning scheme definitions and licensing definitions. There needs to be a more appropriate differentiation between restaurants, bars, cafes, online delivered packaged alcohol and packaged liquor outlets. The terms of reference for such businesses needs to be amended to reflect modern requirements.

Café Licence

A café is a business that trades during the day. The standard trading hours are 7am – 6pm which covers a breakfast and lunch service period. The predominant activity is the serving of food during this time period. In the event that these businesses want to serve liquor during these times they should be abiding by the same Responsible Service of Alcohol (RSA) guidelines as On Premise licences. That means all staff that serve alcohol must complete the mandatory RSA training and they should require a venue management plan. They should be able to extend their trading hours for pre booked functions and have live music to engage their patrons and create atmosphere. The low risk nature of this type of licence should be reflected in a less onerous application process.

Restaurant / Bar Licence

The standard trading hours for a restaurant/bar is between 7am-1am. These businesses serve food during the breakfast, lunch and dinner service periods. There needs to be a reworking around the concept of the service of food. “Food must be available at all times” rather than “the predominant activity should be the serving of food at all times” is a more appropriate definition. It should be noted at this point that the purchase of food is not a condition of entry to a licensed venue which should remain as such. Being that food is still a priority for these businesses, the provision for seating for 75% of patrons would still be appropriate. It needs to be considered that the wording of “predominant activity” is mostly unachievable after 10pm even though the majority of guests have already eaten within the venue. There has been a lot of contention around the new café/ restaurant licence as traders with this new type of license are unable to trade effectively and within the guidelines as the stipulated conditions do not appropriately reflect current industry business models. Live music should be allowed to be played during standard trading hours 7am – 1am. Where appropriate extra conditions such as security personal, CCTV, patron capacity, music limiters etc can be added as license conditions by the commission if required.

Bar License / Nightclub / Tavern / General Licenses

The application and assessment of such licenses should be based on a risk based matrix that considers location, patron capacity, trading hours, percentage of stand up drink space, and venue size.
Temporary Limited Licence / Renewable limited licence / Catering Licences

Designed for one off events these licence types need a major reworking as they are a flexible licence type that require short turn around and flexible conditions. These licences should also require the standard license conditions such as management plan and a requirement for RSA training. All licensees should be required to undertake the First Step Licensees course regardless of the event type. It should be noted that these events can be high risk due to the inexperience of applicants and they are an easy way for licensees to avoid the regulatory planning approvals and licence conditions such as trading times, patron numbers, and music restrictions that a permanent licences requires. They often blur the lines and trade on a day to day basis which is in direct conflict with the primary purpose of this licence type. This is a direct disadvantage for those applying or operating with permanent licences. The Act needs to give a clearer description as to what a limited licence can be used for, there have been many instances where applicants have used these limited licences to trade as a café/restaurant and use the justification that as they only trade for lunches or for a number of days, not totaling a full seven day week.

Packaged liquor licence types should represent three distinct groups being, packaged liquor, packaged liquor late night and packaged liquor big box. It has been well researched that the floor areas and size of an outlet indicates its likely retail trade catchment. The trade catchment for packaged liquor will then provide a distance where potential harms can be considered. Cite South East Melbourne Councils Alcohol (SEMCA) Density Research Project 2014 – 2016. In addition the delivery of alcohol needs to be considered, given the potential harms that can occur with alcohol being taken to a place of residence. An application for this type of licence does not afford the Councils who may be within the delivery area the opportunity to object.

The current licence categories do not accurately reflect what may be taking place at the licenced 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 licence type needs to be better defined to ensure Councils can give closer regard 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.

The 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 license or a restricted club or full club licence.
3. How could the liquor licence application and renewal process be improved?

The PPLA would like to recommend that the principle of the current ‘Star system’, should be applied to the licensee as a whole with the following rewards being offered to encourage licensees to strive for a 5 star rating:

- A graded discount should be applied after a period as a reward for having a “good track record”. The higher the star rating the higher the discount.
- Licensees should be rewarded for belonging to and participating in a Licensees Forum, Accord or Association
- Currently licensees with proven track records and existing industry experience are treated the same as a new applicants. Licensees with a good track record should be rewarded by having their new applications, renewals and amendments fast tracked. This principle is already applied informally for large major chains and corporations such Woolworths, Coles, Aldi, BWS and in fairness should be applied to all licensees with the appropriate star rating.

4. 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. 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.

The VCGLR could give more regard to the planning permit and delegated Council report, assisting them in the better understanding of any local circumstances that are not required to be mentioned as part of the licence application process.

The VCGLR would also benefit from its assessment officers having greater knowledge of the Council planning processes so they can understand the nature of the conditions being imposed on an applicant and perhaps reinforce these during the licensing process. Equally there is an opportunity for Council planning officers to better understand the VCGLR process so applicants can understand the stages that are required to go through in obtaining an approval.

The methodology in determining patron capacities would be better standardised with there being three opportunities for 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. An opportunity exists to align harm minimisation within both acts by applying the ‘precautionary principle’ which is an accepted public health term aiming 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 consideration to decisions made under the Planning and Environment Act and VCAT. Often the Commissioners in a panel hearing will make mention of interpretations and decisions of VCAT but there are no clear rules as such.

5. **Are there opportunities to improve the risk based fee structure?**

   The PPLA would like to recommend that the principle of the current ‘Star system” should be applied to the licensee as a whole with the following rewards being offered to encourage licensees to strive for a 5 star rating;
   - A graded discount should be applied after a period as a reward for having a “good track record”. The higher the star rating the higher the discount.
   - Licensees should be rewarded for belonging and participating to a Licensees Forum, Accord or Association
   - Currently licensees with proven track records and existing industry experience are treated the same as a new applicants. Licensees with a good track record should be rewarded by having their new applications, renewals and amendments fast tracked. This principle is already applied informally for large major chains and corporations such Woolworths, Coles, Aldi, BWS and in fairness should be applied to all licensees with the appropriate star rating.

   The PPLA believes that there is an opportunity to direct fines towards addressing issues that arise as a result of alcohol fuelled violence and anti-social behaviour; such as graffiti, vandalism to public property and street cleaning.

6. **How can the LCRA better foster diversity and support small business?**

   The PPLA believes that vibrant entertainment precincts provide a range of entertainment offerings which include different licenced types and business models.

7. **Could the current harm minimisation measures in the LCRA be improved? if so, how?**

   The Act should clearly articulate the definition and criteria to measure and assess both existing harm and potential harm. 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 socio-economic harm.

   The assessment of packaged alcohol outlets must also include the assessment of locations, both in the immediate vicinity and the surrounding area. For example packaged alcohol outlets should not neighbour schools and crisis support services.
The principle aim of Responsible Service of Alcohol training should be to have the training freely accessible to as many service people and suppliers as possible. All training should be free of charge and accessible online including RSA, Licensee First Step and RSA refreshers to be in line with other modern education delivery. RSA training should be a nationally recognised course not state based as it currently is. All universities and educational institutions allow students to complete comprehensible degrees and diploma’s online so there should be no reason that Liquor Licensing needs their training to be face to face.

The PPLA believes that there should be no “Low risk” suppliers and licensee exemptions to the standard training. All people involved in the sale and supply of liquor whether it is high or low risk should be required to do the standard training and be aware of the dangers and risks associated with the serving of liquor. The PPLA believes that to truly be effective in ensuring harm minimisation, that any person who is involved in the serving or supplying of liquor should be educated to the same standard.

8. How should harm be considered in the licence application process?

All licence applications should be required to provide a management plan that addresses potential harm. The applicant should be required to demonstrate, with the precautionary principle of harm minimisation, the social impact through licence applications.

Review is required of the online supply of packaged alcohol and home delivery services. Current licence types do not ensure appropriate consideration of the area for alcohol delivery. Current practices do not ensure appropriate control on the age and intoxication of those receiving delivered packaged alcohol. There is significant community concern regarding online purchase and home delivery of packaged alcohol.

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

The PPLA believes that to ensure that licensees and their staff are committed to harm minimisation, free education should be provided by the VCGLR. The VCGLR should be providing educational material that licensees can share with their staff. VCGLR should provide evaluated strategies collates and shares best practice information around supply of liquor.

Licensees should be rewarded for belonging to and participating in a Licensees Forum, Accord or Association.

10. 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 behaviour creates an issue when it transitions to an area the licensee no longer has control.
of or reasonable responsibility for such as whilst individuals are moving between venues and or making their way home.

It is the PPLA’s belief that there needs to be a reworking of the “failure to quit” legislation and “barring orders”. The current “Failure to quit” legislation and “Barring orders” are cumbersome for licensees and require reworking. The safety of patrons and employees is paramount and licensees need to feel empowered to protect their patrons and employees from unruly, disorderly and abusive patrons. Currently licensees feel that the “failure to quit” laws are not a deterrent for customers and that, unless the police are called, patrons are reluctant to leave without force.

It needs to be acknowledged that an individual’s behaviour is not the sole responsibility of licensees. Perpetrators of violent behavior should not be able to defer responsibility. Individuals retain responsibility for violence regardless of the setting, the consumption of alcohol and the relationship to the victim.

It is the expectation of the PPLA that the Liquor Reform Act protects all those involved in the sale, supply and consumption of liquor. Individuals need to be held responsible for their actions whether it is violence and abuse shown towards another patron, family member, stranger or a venue employee. This is all a part of the harm minimisation strategy that needs to be formed. Currently the licensees bare far more consequence than the patron. There needs to be a shift in mentality so patron understand that they are responsible for their action both in venues and public spaces, regardless of whether alcohol is involved.

As the act requires certified security it should therefore have direct responsibility of the regulation of the industry to ensure that the security at licenced premises is not in direct conflict with the objectives of harm minimisation. The fit and proper person test should be applied to security providers it is well documented that some security companies have direct links to organized crime which is a direct risk to the industry as a whole.

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

The PPLA acknowledges that the relationship between alcohol and violence is not a small proportion. It is not unreasonable that licensees should understand the appropriate responses to violence including family violence. Venue Management plans and staff training should include response to violence, particularly family violence.

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

The PPLA supports the current structure which includes education, working in partnership between VCGLR, council and VicPOL. The issuing of warnings and using fines as a last resort. Education is the key to ensure compliance. The aim should always be to have venues working within the law and following best practice guidelines so that the entire industry benefits.
13. Are there other measures that could reduce harm? What would be the costs and benefits in including them?

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

Alcohol sponsorship of major events watched and frequented by young people and minors should be limited e.g. The Brownlow, day time sporting events, and cultural festivals.

All licence types must prioritise the assessment of the misuse and abuse of alcohol and all suppliers of alcohol must be trained in the responsible service of alcohol and understand the dangers and consequences of the misuse of liquor.