



Alcohol Policy Coalition

# Victorian Alcohol Policy Roadmap



# CONTENTS

Executive Summary	2	SECTION 3: Focus areas	8
Introduction	2	Advertising	8
The Victorian Alcohol Policy Coalition (APC)	2	- Background	8
History and governance	2	- The impact of alcohol advertising	8
Members	2	- Types of advertising and promotion	8
Rationale for action – alcohol-related harms in Victoria	2	- Current Advertising Codes and Codes of Ethics	8
Recent statistics	3	- Outdoor advertising	9
The alcohol policy environment	3	- Community concerns: the problem with outdoor alcohol advertising	9
Reducing the alcohol and drug toll: Victoria’s plan 2013-2017	3	- Conclusion	9
SECTION 1: Significant developments in alcohol policy: 2009-2014	4	Planning	10
Risk-based licensing	4	- Background	10
Introduction of secondary supply laws	4	- Planning controls	10
Strengthened “harm-minimisation” objects for the Liquor Control Reform Act	4	- Examples from around Victoria	11
Integration of liquor and gambling regulation and the commencement of the Victorian Commission for Gambling and Liquor Regulation	4	- Opportunities for policy development and law reform	11
Limitations on late night licenses	5	- Particular issues with packaged liquor	12
Introduction of cumulative impact assessments into planning and licensing decisions	5	- Conclusions	12
Introduction of a requirement for planning permission for packaged liquor outlets	5	Secondary Supply and youth drinking	13
Packaged liquor licence decision-making guidelines	5	- Background	13
Freeze on late night licenses	5	- Levels and patterns of teenage drinking	13
Introduction of legislation to mandate the reporting of wholesale alcohol sales data	5	- Access to alcohol	13
		- Why is secondary supply a concern?	13
		- Current legal situation in Australia	13
		- Conclusion	14
		SECTION 4: Future directions	15
		Support and empower local governments	15
		Major report on alcohol advertising restrictions at a state level	15
		Advocating for the introduction of a responsibility requirement into Victorian Secondary Supply laws	15
		Advocating for cultural change at a national level	15
SECTION 2: Methodology	6	References	16
Overview of Roadmap framework	6		

# EXECUTIVE SUMMARY

Successive Victorian Governments have expressed concern at the level of escalating alcohol-related harms in the Victorian community. The Victorian Alcohol Policy Roadmap seeks to identify key areas for policy reform or further action that will contribute to the reduction of alcohol-related harms in Victoria.

The first phase of the project identified the areas of:

- state controls on alcohol advertising;
- planning laws to moderate the location, density and trading hours of licensed venues; and
- nationally consistent secondary supply laws that include a requirement for responsible service and/or supervision;

as areas where the Victorian Government could reform current law and policy to reduce alcohol-related harm, undertake further research and promote existing policies to ensure laws are being utilised as intended.

The Victorian Alcohol Policy Roadmap provides a description of current laws and policies in the identified focus areas, an overview of alcohol laws and policies in this State, as well as analysis of areas where the law may be improved, or policies developed to support existing laws.

## INTRODUCTION

In 2014, Cancer Council Victoria, on behalf of the Alcohol Policy Coalition (APC) commenced work on an alcohol policy roadmap project, examining the current state of alcohol law and policy in Victoria, and looking at areas for law reform and policy development, with the overall goal of reducing alcohol-related harm.

A desktop literature review culminated in the development of an alcohol policy framework (see Section 2). Key areas for policy development and intervention were identified for more detailed consideration.

In the first phase of this project, the APC are examining state powers to limit children and young peoples' exposure to alcohol advertising; the impact of planning laws on alcohol policy including the ways in which planning laws can be improved to reduce alcohol-related harm; and national model laws on secondary supply.

The aim of the project is to identify and report on policy gaps as well as areas where more work is needed to either understand the policy gaps, to promote the utilisation of existing powers, or, where appropriate, to advocate for law and policy reform.

As part of this project, a series of podcasts were produced on the three current focus areas, namely: advertising, planning law and secondary supply:

- Podcast 1: Alcohol marketing and young people: David Jernigan, PhD, Director of The Centre on Alcohol Marketing and Youth, Johns Hopkins Bloomberg School of Public Health.
- Podcast 2: The role of planning in managing alcohol-related harms: Bonnie Rosen, Principal, Symplan
- Podcast 3: Secondary supply laws in Victoria – what's next?: Geoff Munro, National Policy Manager, Australian Drug Foundation.

Those working in the area are invited to listen and share thoughts on these issues.

## THE VICTORIAN ALCOHOL POLICY COALITION (APC)

### History and governance

The APC was formed in 2008 by the Australian Drug Foundation (ADF), Cancer Council Victoria, Turning Point Alcohol and Drug Centre, and VicHealth. The APC came together as a coalition because of a shared concern about the level of alcohol-related harm in the Victorian community and a commitment to advocating for stronger, evidenced-based alcohol policy responses.

The APC's long-term goal is to promote a safer drinking culture in the community. The APC believes that finding a solution to the problems caused by alcohol requires governments, the community, individuals and the alcohol industry to all play a part.

### Members

The APC now consists of the Australian Drug Foundation (ADF), Cancer Council Victoria, Public Health Association of Australia (Victoria), the Royal Australasian College of Surgeons, Turning Point, the Uniting Church and the Victorian Alcohol and Drug Association. The APC has also recently welcomed the Jewish Community Council of Victoria, the Foundation for Alcohol Research and Education and the Australasian College of Emergency Medicine (ACEM).

## RATIONALE FOR ACTION – ALCOHOL-RELATED HARMS IN VICTORIA

In 2012, the Victorian Auditor-General released a report *Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm*. The Report concluded that the "level of reported alcohol-related harm 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 impact on reducing harm is likely".

The negative health and social consequences of alcohol in Victoria are enormous, and are increasing. In this environment, the rationale for action remains stronger than ever. It is critical that the Victorian Government develop a consolidated and coordinated whole of government approach that works together with leading independent agencies, to implement policies and programs to reduce alcohol-related harm in Victoria. This must involve commitment from many ministerial portfolios including planning, tourism and major events, regional cities, employment and trade, local government, public transport and youth affairs, as well as the more traditional involvement of the portfolios covering Liquor and Gaming Regulation and Community Services.

### Recent statistics

- Alcohol-related ambulance attendances in metropolitan Melbourne more than tripled between 2000-01 and 2010-11, and alcohol-related assaults in Victoria increased by 49%.<sup>1</sup>
- Data released in 2014 shows that alcohol-related ambulance attendances in metropolitan Melbourne rose by 27% in just 12 months from 2011/12 to 2012/13 (see Figure 1, below).<sup>2</sup>
- Admission rates for alcohol-related conditions including intoxication have climbed for more than a decade.<sup>3</sup>
- Alcohol-related harm costs our economy more than \$4 billion every year.<sup>4</sup>
- In 2013/14, Victorians were taken into police custody over 10,000 times for being drunk, and over 10,000 on-the-spot fines were issued for being drunk, or drunk and disorderly in public.<sup>5</sup>

These figures paint a picture of significant alcohol-associated harm that may be prevented or reduced through legal and policy intervention, as well as a consolidated effort to change the alcohol consumption culture in this state. The most recent Burden of Disease and Injury in Australia report, published in 2003 found alcohol use was responsible for 2.3%(net) of the burden of disease and injury in Australia.<sup>7</sup> Work is currently underway to update the burden of disease data for Australia and the results are expected in 2015.

Research based on 2010 data, which specifically assessed alcohol's burden of disease in Australia, estimates that there were over 5500 deaths and 150,000 hospitalisations attributable to alcohol in 2010.<sup>8</sup> Of those, over 1200 deaths were in Victoria and 304 of these were alcohol-attributable injury deaths.<sup>9</sup>

Alcohol is associated with violence, injury, car accidents, chronic diseases, crime and harm to developing fetuses and breastfeeding babies. Excessive alcohol consumption is a major risk factor for a variety of health problems such as stroke, coronary heart disease and high blood pressure. Alcohol is also a risk factor for cancer of the mouth, pharynx, larynx, oesophagus, bowel and breast.

The APC's view is that the harmful drinking culture in Victoria is driven by a combination of excessive availability of alcohol, increasing affordability and irresponsible discounting of alcohol, relentless marketing of alcohol with few restrictions to protect young people, and inadequate interventions to raise public awareness of the health risks of alcohol. The burden of illness associated with drinking alcohol underpins the need for a comprehensive approach to tackle alcohol-related harms, including more stringent regulations to moderate the availability, promotion and supply of alcohol.

## THE ALCOHOL POLICY ENVIRONMENT

### Reducing the alcohol and drug toll: Victoria's plan 2013-2017

'Reducing the alcohol and drug toll: Victoria's plan 2013-2017' is the Coalition Government's guiding document on alcohol and drug policy. This plan was released in late 2012 and sets out the case for change in Victoria. The Alcohol Policy Roadmap document takes the next step to look at how the next Victorian Government can continue to improve alcohol policies in Victoria to minimise the harm caused by alcohol.

### Alcohol-related attendances by year – 2003/04 to 2012/13

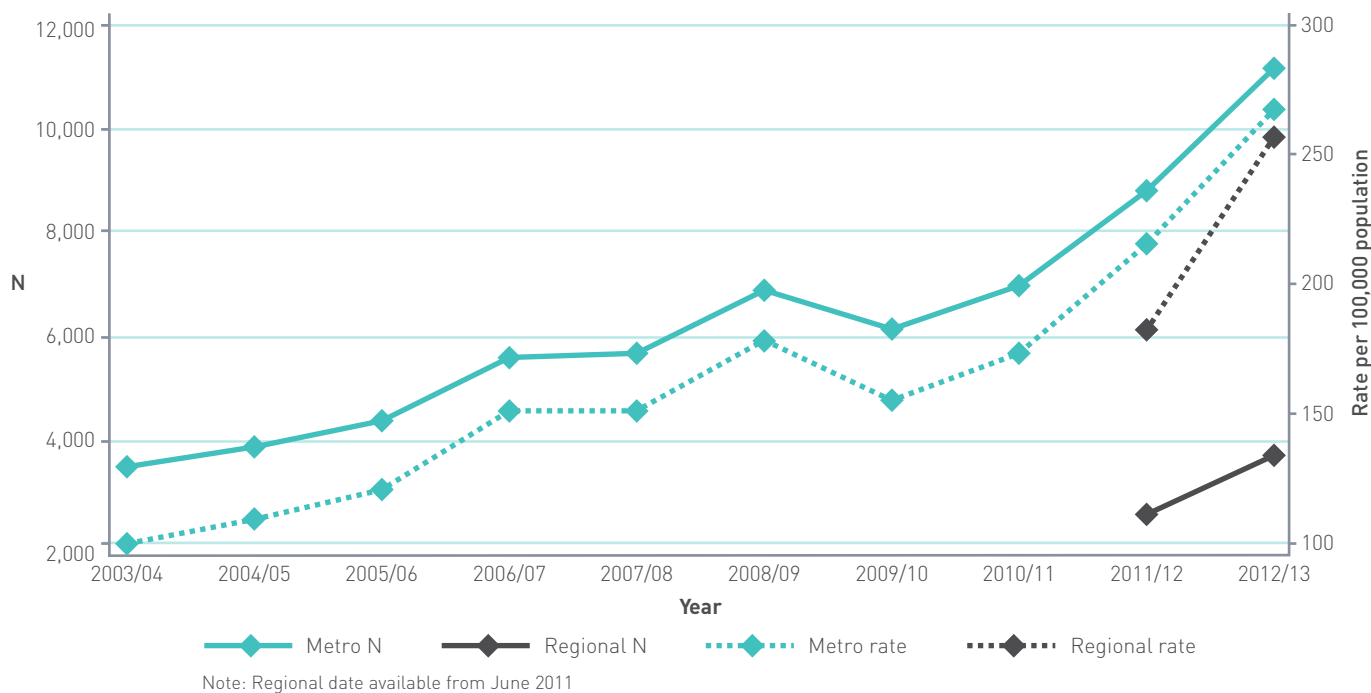


Figure 1: Reproduced with the permission of Turning Point<sup>6</sup>

## SECTION 1: SIGNIFICANT DEVELOPMENTS IN ALCOHOL POLICY: 2009-2014

Since 2009, there have been a number of significant milestones in Victorian alcohol laws and policies. Some key developments relevant to the focus areas of the APC are set out below.

### Risk-based licensing

In 2009, the Liquor Control Reform Regulations introduced a risk-based fee model for Victorian liquor licensing. In a risk-based fee structure the characteristics of licensed premises are used to calculate the risk of alcohol-related harm being associated with those premises. Risky characteristics include extended trading hours, high venue capacity and poor compliance history. The risk profile derived from these measures is then used to calculate a venue's annual license fee. Venues identified as more risky are charged a higher licensing fee.

One of the proposed benefits of risk-based regulation is that it incentivises venues to reduce their licensing fee by implementing measures that would reduce their risk of alcohol-related harm, such as reducing venue size or trading hours and ensuring compliance with liquor regulations.

The APC supported the introduction of risk-based licensing in a response to the Department of Justice's Regulatory Impact Statement—Review of Liquor Licensing Fees, September 2009.

### Introduction of secondary supply laws

While there have always been laws about alcohol and minors such as prohibiting the sale or supply of alcohol to minors in most circumstances, changes to the law in Victoria in 2011 banned the supply of alcohol to minors in a private residence without parental/guardian consent. This new law brought Victoria into line with New South Wales, Queensland and Tasmanian legislation on the supply of alcohol to a minor. Prior to this, it was not an offence for a person to supply liquor to another person under the age of 18 in a residence.

The new law made it an offence for a person to supply liquor to a person under the age of 18 years, unless that person is;

- (i) a parent, guardian or spouse of the person (if the spouse is of or over the age of 18 years); or
- (ii) someone who is authorised by a parent, guardian or spouse of the person (if the spouse is of or over the age of 18 years) to supply liquor to the person.

A person who supplies alcohol to a person under the age of 18 years without a parent's consent can be subject to the equivalent penalty faced by licensees who supply alcohol to minors in licensed venues—and may soon be fined more than \$17,000.<sup>10</sup>

This law intends to deter adults from supplying alcohol to children other than their own without parental consent. Anyone who plans to supply alcohol to a minor in their home must be authorised to do so by the young person's parent or legal guardian.

The new law was introduced amid concerns about the level of risky drinking by young Victorians in private homes. The law was a key advocacy and policy priority for the Australian Drug Foundation over a significant period of time, and its introduction was actively supported by the APC.

### Strengthened "harm-minimisation" objects for the Liquor Control Reform Act

In 1998, a new liquor licensing act, the Liquor Control Reform Act was introduced, with the following objects in Section 4(1):

- (a) to contribute to minimising harm arising from the misuse and abuse of alcohol, including by—

- (i) providing adequate controls over the supply and consumption of liquor; and
  - (ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and
- (b) to facilitate the development of a diversity of licensed facilities reflecting community expectations; and
  - (c) to contribute to the responsible development of the liquor and licensed hospitality industries.

Since then, amendments have strengthened the harm minimisation objects of the Act, including the introduction of s 4(1)(a)(iii) which restricts the supply of certain other alcoholic products, (this was a response to the death of a Victorian teen after consuming an excessive amount of an alcohol-based food essence); and sections 4(1)(a)(iv), and 4(2), introduced in 2009, which strengthened the harm minimisation objects of the Act more broadly.

At the time of writing, the objects of the Act are:

- (1) (a) to contribute to minimising harm arising from the misuse and abuse of alcohol, including by—
  - (i) providing adequate controls over the supply and consumption of liquor; and
  - (ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and,
  - (iii) *restricting the supply of certain other alcoholic products; and*
  - (iv) *encouraging a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community; and*
- (b) to facilitate the development of a diversity of licensed facilities reflecting community expectations; and
- (c) to contribute to the responsible development of the liquor, licensed hospitality and live music industries; and
- (d) to regulate licensed premises that provide sexually explicit entertainment.

- (2) *It is the intention of Parliament that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm minimisation and the risks associated with the misuse and abuse of alcohol. (emphasis added)*

These changes have been significant in shifting the approach to licensing decisions in Victoria, and together with the shift to risk-based licensing in 2009, have created a framework to address alcohol-related harm in both a broad and targeted fashion.

These changes were supported by the APC in a number of submissions, including submissions to:

- VCAT President's Review
- respond to the Victorian Department of Justice's Regulatory Impact Statement – Liquor Control Reform Regulations 2009 (September 2009)
- respond to the Ministerial Council on Drug Strategy's Draft National Drug Strategy
- the Whole of Government, Victorian Alcohol and Drug Strategy.

### Integration of liquor and gambling regulation and the commencement of the Victorian Commission for Gambling and Liquor Regulation

In 2011 the Victorian Commission for Gambling and Liquor Regulation (VCGLR) was established, combining the Director of Liquor Licensing, Liquor Licensing Panel, the Civilian Compliance Directorate and the monitoring/enforcement functions within Consumer Affairs Victoria, and the Victorian Commission for Gambling Regulation.

In addition to creating a new statutory authority to regulate gambling and liquor, the new Act clarified the evidence requirements in relation to liquor licensing objections on the basis of detriment to, or detriment to, the amenity of the area in which a licensed premise is situated; and removed the right to appeal licensing decision to VCAT. Following this Act, a person affected by a decision of the Commission may only appeal to the Victorian Supreme Court on a question of law.

### Limitations on late night licenses

In 2009, new "late-night" licence categories were included in the Liquor Control Reform Act. These new licence categories were:

- (a) a late night (general) licence; or
- (b) a late night (on premises) licence; or
- (c) a late night (packaged liquor) licence.

According to the Second Reading speech for the enacting legislation, "the creation of the new late-night licence will enable general, on-premises and packaged liquor licences trading during this high-risk period to be grouped into a single category, enabling them to be better regulated and monitored"; acknowledging the evidence that a higher proportion of alcohol-related violence and antisocial behaviour occurred after 1 am.<sup>11</sup>

The APC supported the introduction of the special late-night licence categories, with the exception of the late-night, packaged-liquor licence category, and highlighted to the Government some of the adverse effects of late-night packaged-liquor premises, including the greater likelihood that young people would purchase and consume alcohol off licensed premises, either to engage in 'pre-loading',<sup>12</sup> or to access or return to liquor stores late at night when they are already intoxicated.<sup>13</sup>

### Introduction of cumulative impact assessments into planning and licensing decisions

Amendment VC74, to Clause 52.27 of the Victorian Planning Provisions, sought to clarify that the cumulative impact of both existing and proposed licensed premises is a valid amenity consideration for planning permit applications and further that councils are permitted to consider amenity factors associated with licensed premises including hours of operation and patron numbers when making decisions about whether to grant a planning permit for a licensed premises.

In March 2011, Practice Note 61 was issued by the Department of Planning and Community Development<sup>14</sup> which explains cumulative impact in relation to licensed premises and provides guidelines for assessing cumulative impact when considering planning permit applications. The practice note defines "cumulative impact" as the "positive and negative impacts that can result from clustering a particular land use or type of land use".

Practice Note 61 was subsequently followed in June 2012 by decision-making guidelines issued by Minister O'Brien, the then Minister for Consumer Affairs which confirmed the ability of the VCGLR to assess cumulative impacts.<sup>15</sup> Both sets of guidelines emphasized the importance of cumulative impact assessments including the need to consider situational contexts such as proximity to sensitive land uses, the existing activity mix, and the availability of public amenities including public transport among other relevant considerations.

### Introduction of a requirement for planning permission for packaged liquor outlets

In 2011, the Victorian Government approved changes to Victorian Planning Provisions requiring packaged liquor outlets to apply for planning approval.

State-wide studies have shown packaged liquor density is linked with:

- rates of violence
- high-risk drinking
- alcohol-related chronic disease.<sup>16</sup>

Prior to the introduction of this law, premises licensed to sell only packaged liquor (for e.g. bottle shops) were exempt from the need to obtain a planning permit. This made it impossible for councils to assess the contribution to amenity or safety issues of these premises at the planning stage and councils' rights to control outlet density and hours of operation were limited.

The APC's 2009 position statement on the physical availability of alcohol included a call to remove this exemption, and the APC made a number of submissions to government to remove this exemption.

### Packaged liquor licence decision-making guidelines

In June 2012 the Government gazetted new decision making guidelines<sup>17</sup> in relation to the grant of licenses for packaged liquor, making it clear that:

- The provision of packaged liquor from licensed premises on a 24-hour basis is contrary to the aim of minimisation of harm
- A packaged liquor licence that allows trading outside the ordinary trading hours should only be granted in exceptional circumstances
- In all circumstances a packaged liquor licence should not extend past 12 midnight.

While this is a positive move, the decision guidelines do not affect existing license holders. In its 2014 election platform, the APC has called on the Victorian Government to follow the lead of New South Wales and introduce 10pm as the latest time for packaged liquor sales.

In the lead up to the Victorian election, the Minister for Health announced that new guidelines will be developed to support Councils to assess the cumulative impact of bottle shops in local communities.<sup>18</sup>

### Freeze on late night licenses

In June 2013, again through the publication of gazetted decision making guidelines, the freeze on issuing late-night licenses in the inner Melbourne area was extended until 30 June 2015.<sup>19</sup> The decision guidelines make it clear that no new or varied liquor licenses that allow trading after 1 am will be issued in the inner Melbourne municipalities (Melbourne, Port Phillip, Stonington and Yarra) unless the applicant can show exceptional circumstances.

### Introduction of legislation to mandate the reporting of wholesale alcohol sales data

In 2014, legislation was passed requiring specified licensees to report wholesale alcohol sales data.<sup>20</sup> Until the first report is submitted in 2016, Victoria will remain one of a number of states in Australia that do not collect alcohol sales data.

There is a substantial body of evidence that shows an association between population-based per capita alcohol consumption and adverse health effects of alcohol use.<sup>21</sup> This relationship emphasises the importance of policy changes that reduce per capita consumption. Alcohol sales data is a more reliable measure of per capita consumption at a state level than existing methods, such as survey and tax data and it is a critical tool for designing and evaluating liquor policies, targeting services and initiatives to support the liquor licensing framework in Victoria. The collection of alcohol sales data was one of the key recommendations made by the Victorian Auditor General in 2012.<sup>22</sup>

The APC campaigned for the collection of alcohol sales data over a number of years.

## SECTION 2: METHODOLOGY

As part of the Victorian Alcohol Policy Roadmap project a policy literature review has been undertaken to identify the breadth of policy interventions that have or are being implemented in Australia and other international jurisdictions.

Given that Cancer Council Victoria's expertise is in legal policy, following this review a policy framework was developed and reviewed to enable the identification of the most relevant legal/regulatory policy interventions for Victoria.

The following table sets out the identified alcohol policy interventions with a brief commentary on the relevance and appropriateness for deployment in Victoria at this time.

### Overview of Roadmap framework

POLICY / INTERVENTION / LEGAL REVIEW	TYPE	COMMENTS
<b>AVAILABILITY</b>		
<b>Licensing:</b>	Legal/regulatory	Recently reformed
<ul style="list-style-type: none"> <li>- Time restrictions (including alcohol sales and strength restrictions late at night)</li> <li>- Venues</li> <li>- Density restrictions on particular venue types</li> <li>- Enforcement, penalties and proactive policing</li> <li>- Lockouts</li> <li>- Increased license fees</li> <li>- Liquor accords (including price and supply controls and on premises drink promotions)</li> <li>- Licensing controls such as ID scanners, CCTV, late-night responsible service of alcohol training and marshals etc.</li> </ul>		Consider review and analysis once evaluation of New South Wales reforms and new VCGLR model has been completed.
<b>Planning:</b>	Legal/regulatory	<b>Progress review</b>
<ul style="list-style-type: none"> <li>- Practice Note 61</li> <li>- Council structural plans</li> <li>- Planning Act objectives</li> <li>- Precautionary principle</li> <li>- Time/density restrictions</li> </ul>		Consider avenues for amendment/ policy adjustments that will empower councils to have more control over their streetscapes including alcohol outlet density and late night trading.
<b>Minimum purchase age</b>	Legal/regulatory	National issue
<ul style="list-style-type: none"> <li>- Raise the minimum purchase age</li> <li>- Differentiate between packaged and on premises liquor sales</li> </ul>		Reform is more appropriately dealt with at a national level.
<b>Secondary supply laws</b>	Legal/regulatory	<b>Progress review</b>
<ul style="list-style-type: none"> <li>- Penalties and enforcement</li> <li>- Responsible service requirement</li> </ul>		Review and produce recommendations to ensure Victoria meets best practice.
<b>Social availability and alcohol free activities</b>	Legal/regulatory	Local government issue
<b>Bans on public drinking</b>	Legal/regulatory	Local government issue



POLICY / INTERVENTION / LEGAL REVIEW	TYPE	COMMENTS
<b>PROMOTION</b>		
<b>Advertising and marketing</b>	Legal/regulatory	<b>Progress review</b>
<ul style="list-style-type: none"> <li>- Point of sale advertising</li> <li>- Outdoor advertising</li> <li>- Merchandise and branded give-aways</li> </ul>	Legal/regulatory	Important component of reducing exposure of children to alcohol marketing and supports VicHealth's current alcohol cultural change programme. Review will be limited to legal and regulatory matters within state control [work undertaken will overlap and complement agreed deliverable for the alcohol legal policy project, funded by VicHealth]
<b>Sponsorship</b>	Legal/regulatory	National issue
<b>CULTURE</b>		
<b>Counter-advertising</b>	Non-legal	Not within the scope of legal/regulatory review, but should be considered by Government as part of a comprehensive alcohol harm minimisation strategy and cultural change programme.
<b>Education campaigns</b>	Non-legal	
<b>Altering the drinking context</b>	Non-legal	
<b>PRICE CONTROLS</b>		
<b>State levy</b>	Legal/regulatory	Postpone review, potential constitutional difficulties, pricing more easily dealt with through federal taxation including Wine Equalisation Tax (WET) reform.
<b>Minimum pricing (prohibition on discounting)</b>	Legal/regulatory	Postpone review, policy not recommended by ANPHA.
Prohibition on multi-buy discounts	Legal/regulatory	Postpone review, should be considered as part of minimum pricing.
<b>HEALTH INTERVENTIONS</b>		
<b>Health promotion through primary health interventions</b>	Non-legal	Not within the scope of legal/regulatory review, but should be considered by Government as part of a comprehensive alcohol harm minimisation strategy.
<b>HARM MINIMISATION</b>		
<b>Glass restrictions</b>	Non-legal	Not within the scope of legal/regulatory review, but should be considered by Government as part of a comprehensive alcohol harm minimisation strategy.
<b>Safe sober centres</b>	Non-legal	
<b>DRINKING-DRIVING</b>		
<b>Mandatory treatment for drink-driving repeat offenders</b>	Legal/regulatory	Postpone review, but should be considered by Government as part of a comprehensive alcohol harm minimisation strategy.
<b>TREATMENT</b>		
<b>Medical and social detoxification (sober tanks)</b>	Non-legal	Not within the scope of legal/regulatory review, but should be considered by Government as part of a comprehensive alcohol harm minimisation strategy.

## SECTION 3: FOCUS AREAS

Following the policy literature review and framework development, and in consultation with the APC and VicHealth, the areas of advertising, planning and secondary supply have been identified for further and more detailed consideration. The following analysis does not represent a comprehensive review of each of the three focus areas. Rather, the purpose of the analysis is to set-out the background information for each area with a view to scoping the potential for and desirability of a more detailed review and analysis as part of future projects.

### Advertising

#### Background

The regulation of alcohol advertising and marketing in Australia is currently governed by a mixture of quasi-regulatory and self-regulatory regimes with limited or no government involvement. As communities have become increasingly aware of the risks of alcohol consumption for both long and short term health outcomes, the calls for more stringent control on alcohol advertising and marketing have increased.

In 2009, the National Preventative Health Taskforce made a number of recommendations in relation to alcohol advertising including recommending:

- That a staged approach be adopted to phase out alcohol promotions from times and placements which have high exposure to young people aged up to 25 years.<sup>23</sup>
- The development and implementation of a comprehensive and sustained social marketing and public education strategy.<sup>24</sup>
- The introduction of a requirement for counter-advertising (health advisory information) that is prescribed content within all advertising.<sup>25</sup>

While many forms of advertising may be regulated more efficiently through Commonwealth legislation, (relying on the Commonwealth's broad powers to regulate in relation to corporations and television broadcasts),<sup>26</sup> the Commonwealth's Constitutional mandate to regulate advertising is not exhaustive, and the states retain control over some media forms, and are, in some cases, better placed than the Commonwealth to regulate some advertising.

The powers to regulate advertising, marketing and brand promotions have been widely and successfully used by both state and federal governments to prohibit the promotion of tobacco products across Australia. The broad coverage of the tobacco regime suggests that a similar approach will be required to effectively limit alcohol advertising in all media. The legal and practical impediments to state restrictions on advertising will be addressed more thoroughly in the major research report currently being prepared on Victorian state and local government powers to limit alcohol advertising, promotion and sponsorship.

It is uncontroversial that state governments as well as local government have significant capacity to control what happens in public spaces, in particular on state owned assets such as public transport and council land. They have both the capacity, and the public expectation to demonstrate leadership on alcohol policy matters. This can be done without always resorting to broad regulation, for example, by ensuring that state governments do not profit from alcohol advertising and that it does not appear on state owned assets, in particular those, such as public transport hubs, that are regularly frequented by children and young people.

#### The impact of alcohol advertising

Much of the current research around the effects of alcohol marketing assesses the impact on children and young people. This is because, in general, marketing is particularly important for recruiting new consumers. Further, in relation to alcohol consumption, the harm experienced by young people is more acute as young brains are not fully developed and are therefore more sensitive to alcohol-induced damage.<sup>27</sup> Additionally, research into lifelong alcohol consumption habits demonstrates that early initiation of alcohol drinking and heavy drinking in adolescence and young adulthood can have long-term adverse health impacts, including increased risks for a range of diseases.<sup>28</sup>

While the alcohol industry maintains that they do not deliberately set out to target the youth market, the market is highly susceptible to advertising messages, which are frequently effective.<sup>29</sup> Exposure to alcohol advertising shapes young people's beliefs, attitudes, brand awareness and drinking behaviours; indeed, several studies show that youth, even 10 – 12 year olds, interpret the messages, images and targeting of alcohol advertisements in the same way as adults.<sup>30</sup>

The work of the Centre on Alcohol Marketing and Youth in the United States of America, based at the Johns Hopkins Bloomberg School of Population Health, has consistently shown that alcohol advertisements frequently (as often as 1 in 3) appear on television programs where the viewing audiences is composed of >30% of persons who are under the legal drinking age. This is despite the industries own commitment not to advertise during programs with such an audience.<sup>31</sup>

#### Types of advertising and promotion

The marketing and promotion of alcoholic beverages is a global industry dominated by large, trans-national companies with immense resources and budgets.

Traditionally, alcohol beverages have been marketed and promoted through a mix of television, radio and print advertisements and point of sale marketing. Increasingly marketing strategies are more sophisticated and involve campaigns that combine multiple technologies, across many platforms, including social media channels, user generated and interactive content. For example, research conducted by the University of Queensland revealed that by the end of 2012:

*"the top 20 alcohol brands (brands) in Australia had more than 2.5 million followers on their Facebook pages. During 2012 they posted more than 4500 items of content. Their followers interacted with that content by liking, sharing or commenting on it more than 2.3 million times."*<sup>32</sup>

#### Current Advertising Codes and Codes of Ethics

Alcohol advertising in Australia is subject to general and specific regulation and self-regulation, through both legislation and self-regulated codes. Like all advertising and marketing, alcohol advertising must comply with the Australian Consumer Law and state-based fair trading legislation. It is also subject to general advertising codes (such as the Australian Association of National Advertisers' (AANA) Code of Ethics) which are administered through the Advertising Standards Bureau and media-specific codes of practice, prescribed by the Broadcasting Services Act 1992.

There is a limited legislative backing for some alcohol advertising regulation; however, despite this, the regulation of alcohol advertising in Australia is best characterised as being self-regulated through industry codes of practice.

The following specific codes/provisions are relevant to alcohol advertising in particular:

1. Alcohol Beverages Advertising Code (ABAC) Scheme (a self-regulated voluntary scheme that sets standards for the content of alcohol marketing and advertising but does not regulate the placement of advertising).<sup>33</sup>
2. Commercial Television Industry Code of Practice (which restricts when and in which program classifications alcohol advertising can appear on commercial television; Note there is an exemption for advertising which appears during the broadcast of national live sports broadcasts, this exemption is strongly opposed by the APC).<sup>34</sup>
3. Commercial Radio Codes of Practice (prohibits the broadcast of a program which presents the misuse of alcoholic liquor as desirable).<sup>35</sup>
4. AANA Code for Advertising & Marketing Communication to Children (which provides that "Advertising or Marketing Communications to Children must not be for, or relate in any way to, Alcohol Products or draw any association with companies that supply Alcohol Products").<sup>36</sup>
5. Outdoor Media Association (OMA) Code of Ethics and the OMA Alcohol Advertising Guidelines (requires members to "limit the advertising of "alcohol products" on fixed signs that are located within a 150 metre sight line of a primary or secondary school". Note this this does not apply where the school is in the vicinity of a club, pub or bottle shop or where the advertising appears on transit vehicles such as buses and taxis)<sup>37</sup>
6. Australian Subscription Television & Radio Association Codes of Practice 2013: Subscription Broadcast Television.<sup>38</sup>

The state also exerts some control over alcohol advertising and promotions through the VCGLR which has the power to ban promotions and advertising conducted by a licensee that are likely to encourage irresponsible consumption of alcohol or are otherwise not in the public interest.<sup>39</sup> The VCGLR has banned promotions including the offer of free unlimited alcohol, drinking games such as beer pong, and the provision of bottles of spirits for consumption inside licensed premises.

There are a number of deficiencies in this patch-work of quasi-regulation and self-regulation. Practically speaking, youth exposure to outdoor advertising is virtually unlimited and there is very limited control or oversight of new forms of media such as internet advertising and brand promotion on social media platforms such as Facebook, Instagram and Twitter<sup>40</sup>. Marketing activities through social media are particularly difficult to monitor because of the sophisticated content targeting capabilities of social networks such as Facebook. Ads and other user generated content on Facebook are targeted to specific demographics which means that researchers, policy makers and the public have limited, if any, ability to observe and monitor this activity.<sup>41</sup>

### Outdoor advertising

Outdoor advertising (sometimes referred to as out-of-home advertising to account for both outdoor and indoor billboards such as those that appear in shopping centres) is a form of advertising that is particularly pervasive. As noted by the Commonwealth House of Representatives Standing Committee in its inquiry report into outdoor advertising "No one can avoid outdoor advertising. This is what makes outdoor advertising appealing to advertisers – it cannot be turned off or put away if a consumer wishes to ignore it".<sup>42</sup>

In 2013, Australian alcohol advertisers spent \$102 million on advertising across traditional forms of media.<sup>43</sup> This included over \$37 million on outdoor advertising but does not include other forms of marketing such as sponsorship and non-traditional marketing platforms such as social media. The amount spent on outdoor advertising has been growing significantly as a proportion of the total spend on alcohol advertising. In 2005, 21% of total alcohol beverage advertising spend was spent on outdoor advertising, this has been steadily increasing and in 2013, this proportion was 36.3%.<sup>44</sup>

There is increasing evidence to suggest that the exposure of young people to outdoor alcohol advertising is linked to consumption patterns. The Victorian Monitoring of Alcohol Advertising Committee noted that "[a] 2008 systematic review of international evidence found consistent evidence that exposure to outdoor advertising, or advertisements in magazines and newspapers may increase the likelihood of young people starting to drink, the amount they drink, and the amount they drink on any one occasion".<sup>45</sup> A US study found that exposure to outdoor alcohol advertising around schools is associated with subsequent youth intentions to use alcohol.<sup>46</sup>

While outdoor advertising is the most pervasive form of advertising it is also an area in which state and local governments have significant capacity to moderate what happens in and on public space.

States have successfully used this power to regulate tobacco advertising. Even without regulation, states and local governments have the capacity to demonstrate leadership in this area including by:

- preventing the display of alcohol advertising on publicly owned assets such as public transport,
- offering rates/rental discounts to sporting clubs who use public assets such as sporting fields if they do not have alcohol sponsorship or promote the consumption of alcohol,
- monitoring the exposure of children and young people to alcohol advertising, such as that done historically by the Department of Human Services through the Monitoring of Alcohol Advertising Committee.<sup>47</sup>

### Community concerns: the problem with outdoor alcohol advertising

A VicHealth Community Attitudes to Alcohol Policy survey found that 82% of respondents agreed that alcohol advertisements should be restricted so that they are less likely to be seen by people under 18 years of age.<sup>48</sup> In relation to outdoor advertising, 77% of respondents from the same survey agreed that alcohol advertising on billboards should be banned within one kilometre of schools.<sup>49</sup>

Community attitude surveys like the VicHealth survey consistently show strong support for the restriction of alcohol advertising from times and in places where it is likely to reach a significant number of children and young people. The rationale that children should not be exposed to alcohol advertising is reflected in a number of the self-regulatory codes of practice, but these codes do not include any or adequate restrictions to prevent young people's exposure to alcohol advertising.

### Conclusion

The current alcohol advertising self-regulatory scheme—including an industry specific outdoor advertising code—does not adequately address community concerns about the amount of alcohol advertising that children and young people are exposed to. As noted above, the Outdoor Media Association's policy in relation to alcohol advertising near schools does not apply where the school is in the vicinity of a licensed venue, nor does the policy apply to transit advertising on buses or taxis – these exceptions render this attempt at self-regulation meaningless.<sup>50</sup>

## SECTION 3: continued

Further there are no limitations on alcohol advertising in all other public areas, including places that have high exposure rates for young people such as public transport hubs.<sup>51</sup>

The APC considers that the placement of alcohol advertising outdoors should take into account the level of children and young people who are likely to be exposed to the advertising. A restriction on the location of alcohol advertising to places where children and young people are less likely to congregate, would be consistent with recommended action [3.1] of the National Preventative Health Taskforce Strategy 2009.

The APC recommends that the Victorian Government act to reduce young people's exposure to alcohol advertising. This could be done through regulation which prohibits the placement of alcohol advertising in areas which have high exposure to children and young people, such as on public transport vehicles and stations. Even without regulation the Government can show it is serious about reducing youth exposure to alcohol advertising by removing alcohol advertising from all State-owned assets.

### Planning

#### Background

The Planning and Environment Act 1987 provides the framework for the use, development and protection of land in Victoria. The objectives of the act include 'to provide for the fair, orderly, economic and sustainable use and development of land' and to 'secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria'.<sup>52</sup>

State and local planning laws and policies may be designed to reduce local levels of alcohol-related harm, especially if those laws and policies reduce alcohol consumption. Planning policies both at a state and local government level may act as determinants of alcohol-related harm when they are used, either positively or negatively, to alter:

- the availability of alcohol, through the location and permitted trading hours of licensed premises
- the licence mix, type and concentration of licensed premises in a particular area
- the venue design and management
- the design of the public realm in and around licensed premises
- the location of licensed premises in relation to vulnerable groups, e.g. schools or treatment centres.

In 2009, the National Preventative Health Taskforce made a number of recommendations in relation to alcohol, including recommending that the system be changed to "ensure local communities and their local governments can manage existing and proposed alcohol outlets through land use planning controls".<sup>53</sup>

Since this recommendation was made there have been some notable amendments to the planning laws in Victoria (detailed above), including the introduction of a requirement to obtain planning permission for new packaged liquor outlets.<sup>54</sup> Cumulative Impact assessments have also been introduced to guide the consideration of a broader range of factors when considering licence and planning applications. This change is an acknowledgment that the cumulative impact of licensed premises can be greater than the sum of the harms that can be attributed to individual venues.

While these changes represent progress towards planning policies targeted at reducing alcohol-related harm, more can be done to ensure that the current planning regime is being used to its fullest potential by both state and local government, in particular to encourage and support appropriate licensed premises development and management.

There is also room for improvement and amendment to the current planning regime to improve public health and safety and to reduce the levels of alcohol-related harms currently being experienced in Victoria. It should be noted that the new Plan Melbourne has recently been released<sup>55</sup> and the State's Planning Policy Framework (SPPF) is currently under review.<sup>56</sup> In May 2014, the APC contributed a submission to the SPPF Review Advisory Committee, specifically in relation to the proposal to re-classify licensed premises as "cultural facilities".<sup>57</sup>

The Victorian State Planning Policy Framework has been amended to incorporate an increased emphasis on the importance of planning for "health" of the community and create "healthy and active neighbourhoods".<sup>58</sup> The APC considers that objectives of the Planning and Environment Act should be updated to reflect the increased public awareness and concern for ensuring that the planned environment supports and fosters healthy communities.

#### Planning controls

Currently in Victoria a planning permit for licensed premises must be obtained from local councils in order to establish new licensed premises or extend the size or trading hours of existing licensed premises. Accordingly planning can be used in a number of ways to control the environments in which alcohol is purchased and consumed. Generally, VCGLR is only required to determine a liquor licence application after a planning permit, which permits the development of a licensed premise, has been granted. In other words a liquor license cannot be obtained without Council's first providing planning permission for the licensed premises.

Statutory Planning (Victoria Planning Provisions cl 52.27), provides that a planning permit is required to use new land to sell or consume liquor or for existing licensed premises, where a new license type, extended trading or increased capacity is proposed. Clause 52.27 requires that the general decision making guidelines be followed, in addition the responsible authority must consider:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement<sup>59</sup> and local planning policies.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

This allows council to give consideration to whether or not the proposed site is an appropriate location for the proposed licensed premises before a liquor licence can be issued and gives a wide ambit for Municipal and Local Planning policies to be shaped to affect where, when and how licensed premises can operate. Strategic planning can also be used to guide the mix, type, concentration and management of licensed premises and entertainment precincts through:

- Structure plans
- Precinct structure plans
- Local planning policies
- Alcohol management plans.

More work is needed in Victoria to provide support and guidance for local governments and planners to ensure that all local government areas have a clear local policy direction to guide consideration of applications for licensed premises planning permits.

At a minimum these policies should include policy guidance on:

- the preferred location and operating hours for licensed premises (for example proximity to sensitive uses and provision of public transport);
- the information that is required to be submitted with a planning application for a licensed premises, for example requiring the submission of plans that clearly identify safe design elements such as:
  - security lighting
  - security cameras
  - emergency exits
  - passive surveillance opportunities (e.g. through street windows)
  - internal seating arrangements
  - allocation of patron numbers for specific areas.
- venue and area patron numbers, i.e. maximum patrons numbers in particular venues as well as gross patron numbers for all licensed premises in an entertainment precinct
- the closing times and operation of outdoor areas
- the consideration that must be given to the street impacts of licensed premises, particularly where venues do not have onsite smoking areas or where late night venues will present bare street frontage during day trading hours
- the appropriate and safe design of licensed premises
- licensed premises which operate in different ways at different times of the day, for example restaurants that morph into late night bars at the completion of meal service
- how to conduct impact assessments.

### Examples from around Victoria

Many local governments in Victoria are already utilising their considerable planning powers to shape the development and evolution of the drinking environments in local areas. For example, in 2010 the City of Stonington undertook an assessment of late night liquor license trading in the Chapel Street Precinct and determined that the density of high risk venues (licensed venues trading past 1 am, with a capacity of 200+ patrons) was past saturation point. Accordingly, it was concluded that:

- there be no more planning permits issued for premises operating after 1am
- no more planning permits be issued to new premises where the patron number is more than 200 patrons
- there be no additional planning permits issued increasing the patron numbers to more than 200 patrons
- planning permit applications must address relevant elements outlined in the Guidelines for Licensed Venues.<sup>60</sup>

The City of Moonee Valley has also undertaken research and prepared a Background Paper, analysing the ways in which the planning process can be improved to minimise the negative impacts associated with late night licensed premises.<sup>61</sup> This resulted in the inclusion of a Licensed Premises Policy in the Moonee Valley Planning Scheme in 2013.<sup>62</sup>

### Opportunities for policy development and law reform

Many Local Planning Policies do not directly address the planning issues associated with licensed premises. This represents a gap in policy and an opportunity for councils to develop such policies to provide clearer guidance around the issues of appropriate licensed premises development, including introducing requirements for impact assessments to be done before planning permits can be issued.

There is the potential for alcohol policy in Victoria to be improved and harmonised by supporting local councils to undertake research to understand the particular alcohol problems in their area and to develop targeted policies to address these issues. A focus on alcohol policy could be incorporated into the work already done by most councils in the development of Community Health and Wellbeing plans, which at present, rarely deal specifically with alcohol harm reduction measures.

This type of research and evaluation could also support and improve council decision making in relation to licensed premises by providing a strong, robust and defensible evidence base to guide decision making and will assist councils to identify appropriate mitigation measures and conditions that should be included in planning permits at the time of grant. For example, the City of Moonee Valley has incorporated additional application requirements into the local planning policy that will enable the council to make better informed decisions about licensed premises applications.<sup>63</sup>

The revised application procedures require applicants for the establishment of new or expanded licensed premises to provide detailed information about the proposed licensed premises including:

- a site context plan showing:
  - the nature and location of uses surrounding the proposed licensed premises and their hours of operation
  - the location of footpaths, laneways, parks, public spaces and any other known congregation points
  - the location of all licensed venues within 500 metres of the subject site
  - the location and layout of all on and off street car parking including details of any restrictions
  - the proximity of the premises to residential properties, including details of doors, windows, and open space areas of all residential, uses and accommodation in close proximity to the site.
- Site floor plans showing:
  - the existing and proposed floor plans of all levels of the building site
  - the proposed use and capacity of all areas within the building and site including outdoor areas and areas adjacent to the boundaries of the site used in association with the licensed premise (i.e. kerbside dining, car parking)
  - Identification of 'active areas' (i.e. loud parts of the room, queuing area, location of music performance areas, dance floor and speakers)
  - The proposed maximum number of patrons allocated to all identified areas, including outdoor areas
  - The location of waste storage areas.
- A written submission including the following information:
  - A description of the proposed uses on the site including type of uses, type of liquor license, hours of operation, provision and hours of food service and type of music/entertainment.
  - A written description of the site context.
  - A detailed assessment of all potential off-site impacts including identification of ways in which such impacts will be managed and mitigated.
- All applications for a tavern, hotel, nightclub and/or any application involving a licensed premise operating after 11 pm should also include a Noise and Amenity Action Plan, with additional detailed information.

## SECTION 3: continued

Obtaining this kind of detailed information at the time of permit application, will allow for detailed consideration to be given to the appropriateness of the development. It also empowers councils to impose conditions on the planning permit that may be effective to prevent licensed venues morphing into different, higher risk venues (for example without adequate seating) than was envisioned at the time of the impact assessment. In this regard, councils have significant capacity to incorporate harm reduction requirements with good venue design, by focusing on the venue type rather than simply on the liquor licence type that will be issued by the VCGLR.

### Particular issues with packaged liquor

The above discussion has focused primarily on licensed premises for on-premise consumption of alcohol. While councils have significant capacity to utilise their planning powers to shape the on-premise drinking environment, to date, they have had limited success in their attempts to control the proliferation of packaged liquor outlets which supply the vast majority of liquor in Australia.<sup>64</sup> Between 1993 and 2008, the number of packaged liquor outlets in Victoria has increased by more than 80%.<sup>65</sup> Despite community concerns about the increasing density of packaged liquor outlets, at present, councils have limited capacity to control this proliferation, especially outside of existing entertainment precincts.

Traditionally, planning law has focused primarily on a narrow range of amenity issues (noise, litter, light pollution etc.), but has not incorporated broader public health concerns into the concept of 'amenity'. There is debate about the role of planning law in this area. For example in the *Hunt Club Commercial Pty Ltd v Casey CC [2013] VCAT 725*, the tribunal held that:

*"...the scope of relevant considerations under clause 52.27 of the Casey Planning Scheme is not restricted solely to impacts which manifest themselves into an amenity impact on the surrounding area. However, as a matter of general principle, a broad concern about the social harm caused by alcohol, the accessibility of alcohol in the community generally, or the potential for the abuse or misuse of alcohol, will rarely (if ever) be a relevant planning consideration in the exercise of discretion for a particular licensed premises under clause 52.27"*<sup>66</sup>

Notwithstanding this finding the tribunal also held that:

*"the combination of the existing discretionary consideration in s 60(1A) to consider significant social effects if the circumstances appear to so require, combined with the existing objectives of the planning framework in s 4 of the Act, and clause 10 of the State Planning Policy Framework, provide a sufficient basis for considering a significant social effect of a planning decision in appropriate circumstances."* (emphasis added).<sup>67</sup>

The difficulties faced by Casey City Council arose because it is generally very difficult to tie packaged liquor sales to amenity issues in the area of the liquor sales. This is because the alcohol is consumed away from the licensed premises, which means the causal link between the licensed premises and any amenity issues which arise because of the consumption of alcohol are difficult to establish. In this case the Tribunal did not think the evidence supported an argument that significant social harms would arise because of the proposed bottle shop.

A further difficulty faced by the City of Casey in the *Hunt Club* case was that the Tribunal held that the Council had sought to introduce new policy about licensed premises through a development plan, rather than through the Casey Planning Scheme (which would have required Ministerial approval to amend).<sup>68</sup>

It is clear from VCAT's ruling in this case that Council's will be on stronger ground if they pursue strategic objectives in relation to licensed premises through strategic planning and through approved amendments to local planning schemes (such as that which has been incorporated into the City of Moonee Valley Planning Scheme, discussed above).

The current objectives of the Planning Act are not adequately equipped to handle broader public health concerns associated with alcohol misuse. The incorporation of "health" as an objective of the Act into planning in Victoria, for example by amending the current objectives: "To secure a pleasant, efficient, *healthy and safe working, living and recreational environment for all Victorians and visitors to Victoria*", may provide responsible planning authorities with scope to take broader account of factors such as high levels of alcohol misuse, or alcohol-related- domestic violence in a particular area, in making decisions around licensed premises. Experience in the field of liquor licensing provides a good example to demonstrate that amendments to objects of an act can significantly influence decision making.<sup>69</sup>

### Conclusions

Councils, who are responsible for planning both as responsible authorities that undertake strategic planning and through their administration of the planning system, have significant capacity to shape the environment in which alcohol is purchased and consumed. In order to make full use of these existing powers councils should be supported to undertake area specific research which will support decision making in relation to their local area. Further and critically this research can be used to underpin Planning Scheme amendments and policy directions such as the work done by the Cities of Stonington and Moonee Valley, to provide councils with greater scope to control the location and operation of licensed premises by introducing application requirements to allow for detailed impact assessments as well as providing a sound basis for councils to impose appropriate planning conditions.

The recent publications produced by VicHealth provide useful guidance to councils around the planning process. This work could be built-on by specifically supporting councils to undertake local area research and to develop individual licensed premises policies in order to support decision making.

The concept of 'Health' is not currently listed as an objective in the *Planning and Environment Act 1987* (Vic). In contrast, the new State Planning Policy Framework<sup>70</sup> talks about the importance of planning contributing to "health" and the creation of "healthy and active neighbourhoods" and "healthy lifestyles". The APC recommends that consideration be given to amending the objects of the Act to reflect the acknowledgment that planning can play a significant role in creating healthy environments. This may give councils greater capacity to moderate the proliferation of packaged liquor outlets, by allowing reference to health concerns and greater social impacts in a particular area when making decisions in relation to planning applications.

Similarly, Practice Note 61, which guides the assessment of the cumulative impact of licensed premises, is not adequately tailored to assess the cumulative impact of packaged liquor outlets, whose cumulative effect are likely to be much broader than the 500m radius currently used and which is more relevant to clusters of liquor licenses for the consumption of alcohol on premises. The APC recommends that further guidance be developed to assist councils and the VCGLR to assess the cumulative impacts of packaged liquor outlets with a view to developing packaged liquor specific, cumulative impact guidelines, which have the capacity to take account of floorspace.

## Secondary Supply and youth drinking

### Background

“Secondary supply” of alcohol refers to the sale or supply of alcohol to people under the age of 18 years by adults and by other minors. It is illegal under licensing law in all Australian jurisdictions for staff of licensed premises to serve minors and for adults to purchase alcohol on behalf of minors, although there are exceptions in certain circumstances (e.g. if a meal is consumed). However, the supply of alcohol to under 18-year-olds in private residences is less clear as the law differs between different states and territories. Some Australian states currently prohibit supply of alcohol to adolescents without the approval of a parent or equivalent responsible adult; however these laws are not all consistent and in some jurisdictions private supply and consumption remains unregulated.

### Levels and patterns of teenage drinking

While there have been some positive declines in alcohol consumption, alcohol use among young Australians is still widespread. In 2011 the Victorian secondary school students’ use of licit and illicit substances report, (taken from the results of the 2011 Australian Secondary Students’ Alcohol and Drug Survey) found that 70% and 89% of 12-15, and 16-17 year olds respectively, had tried alcohol in their lifetime.<sup>71</sup> Among 16 and 17-year-olds, 13% and 19% respectively had consumed alcohol at a level that put them at risk of short term harm in the past seven days.<sup>72</sup> In 2010 the National Drug Strategy Household Survey found that approximately one in five 16 to 17-year-olds put themselves at risk of short-term alcohol-related harm at least once a month, and the proportion was higher among males (21.6%) than females (17.4%).<sup>73</sup>

Alcohol use by young people is of concern for a number of reasons. Both the Preventative Health Taskforce<sup>74</sup> and the National Health & Medical Research Council (NHMRC) in its 2009 Australian Guidelines to Reduce Health Risks from Drinking Alcohol<sup>75</sup> recognised the particular risk to young people of consuming alcohol. The NHMRC guidelines summarise the risks and supporting evidence, these risks include:

- Initiation of alcohol use at a young age may increase the likelihood of negative physical and mental health conditions, social problems and alcohol dependence.
- The brain is more sensitive to damage from alcohol in childhood and adolescence as it is still developing, leading to learning difficulties, memory problems and reduced performance on attention-based testing.
- Drinking contributes to the three leading causes of death among adolescents – unintentional injuries, homicide and suicide – along with risk taking behaviour, unsafe sex choices, non-consensual sexual behaviour, and alcoholic overdose.

In the latest iteration of its ‘Alcohol Guidelines’ the NHMRC states “for children and young people under 18 years of age, not drinking alcohol is the safest option”.<sup>76</sup> The guidelines advise that children under 15 years of age are at the greatest risk of harm from drinking and for this age group not drinking alcohol is especially important. The guidelines advise older teenagers aged 15-17 to avoid alcohol, and to delay drinking for as long as possible.

An Australian study, tracking young people and their drinking patterns from 14-21 years, shows drinking in teenage years is linked to higher risks of alcohol dependence problems in young adulthood, even when drinking was at ‘low-risk’ levels.<sup>77</sup> These results confirm earlier Australian research that found the drinking patterns of adolescents in the final years of secondary schooling (low, moderate and high level) is predictive of their drinking level in the early years of adulthood.<sup>78</sup>

### Access to alcohol

Studies on how and where young drinkers acquire alcohol reveal young people find it easy to obtain. Parents are the most common source of alcohol for secondary school students, with 41% of 12-17-year-olds indicating their parents gave them their last drink.<sup>79</sup> The proportion of students whose parents supplied them with alcohol was significantly greater among younger students (63% of 12 year olds) than older students (34% of 17 year olds). The three main locations in which current student drinkers consumed alcohol were at a party (35%), the family home (31%), or a friend’s home (16%).<sup>80</sup>

Research has found that adolescent underage drinkers are twice as likely to indulge in risky drinking and display alcohol-related problem behavior when they obtain alcohol from sources other than their parents. The research finds that among adolescents who drink, parental supply is associated with moderate drinking and less drinking-related problems.<sup>81</sup>

Parenting style, parental attitudes to alcohol use and parents’ own drinking patterns all influence youth drinking.<sup>82</sup> Parental disapproval of adolescent alcohol use correlated with a lower incidence of later adolescent drinking and reduced influence from the drinking patterns of peers.

### Why is secondary supply a concern?

Secondary supply has grown as a community issue over the last decade. It has coincided with the rise in concern about high risk drinking by adolescents, its potential impact on immediate and longer term health and safety, and realisation of the role adults play in providing comparatively large amounts of alcohol to children, or enabling them to drink in risky circumstances.

The issue arises most commonly at teenage parties when alcohol is supplied by the party hosts, often with inadequate adult supervision. Some parents are concerned that their child is being supplied with alcohol, or has access to it, and is thereby vulnerable to alcohol-related risk, particularly without their knowledge or consent. Parents sometimes supply young people with alcohol (i.e. for parties) in the hope that that will control the amount their children will drink, on the assumption that their children won’t source an additional amount elsewhere.<sup>83</sup> Parents may want their children to avoid the “wet paint syndrome” where a forbidden behaviour becomes particularly attractive.

Risky drinking by young people is closely associated with unsupervised drinking but parents often supply the alcohol consumed by adolescents in unsupervised situations.<sup>84</sup> Problems associated with the behaviour of intoxicated underage teenagers at events such as Schoolies and youth parties held at private residences recently led the Queensland Government to introduce rigorous legislation to limit the supply of alcohol to adolescents and to control the circumstances in which adolescents drink.<sup>85</sup>

### Current legal situation in Australia

In several states and territories the supply and consumption of liquor in and on private property, including domestic premises, is not regulated by law. In South Australia, for example, the lack of formal regulation means that any person can provide any amount of alcohol to any child of any age in a private residence.

Four states, New South Wales, Queensland, Victoria and Tasmania, and the Northern Territory have legislated to restrict secondary supply to underage persons in private premises.

## SECTION 3: continued

### New South Wales

In New South Wales, under Section 117 of the *Liquor Act 2007* (NSW), a person cannot sell or supply liquor to a person under the age of 18 unless they are a parent or guardian or they are authorised by the parent or guardian of the minor. The *Liquor Act 2007* (NSW) has been in force for some years and it is unclear whether the public is well informed of the restriction. A person convicted of the offence is liable for a penalty of up to \$11,000, or 12 months imprisonment (or both) or an on-the-spot fine of \$1100. Legislation is currently before the New South Wales parliament to introduce a responsible supervision requirement to the supply of alcohol to minors.

### Queensland

In 2009 Queensland legislated to impose restrictions on the supply of alcohol to minors. Section 156A of the *Liquor Act 1992* (Qld) provides that '*[a]n adult must not supply alcohol to a minor at private place unless the adult is a responsible adult for the minor.*' A responsible person is a parent, step-parent, guardian, or an adult who has parental rights and responsibilities for the minor.<sup>86</sup>

A second offence of 'irresponsible supply' occurs when the adult who supplies a minor with alcohol does not supervise the minor's consumption of that alcohol to ensure it is consumed safely. Thus in Queensland any person (including the minor's own parent or equivalent) may be charged with supplying an excessive amount or not providing adequate supervision. A person convicted of either offence is liable for a penalty of up to \$8800.

### Tasmania

In Tasmania a 2009 amendment to the *Police Offences Act 1935* (Tas) regulates the private supply of alcohol to persons under the age of 18 years.<sup>87</sup> If a person supplies a minor with alcohol on private property, and is not the responsible adult (i.e. a parent or adult with parental rights and responsibilities), does not have the permission of the responsible adult, or does not supply alcohol in a responsible manner, they may be fined up to \$13,000 or face imprisonment of up to 12 months.<sup>88</sup>

### Victoria

In Victoria the *Liquor Control Reform Act 1998* (Vic) makes it an offence for a person to supply alcohol to a minor in a private home without parental consent.<sup>89</sup> A person who supplies alcohol to a minor without a parent's consent will be subject to the same penalty faced by licensees who supply alcohol to minors in licensed venues – a maximum fine of 60 penalty units, (currently more than \$8800). Legislation was recently passed by the Victorian Parliament that will increase the maximum penalty to 120 penalty units, currently over \$17,000.<sup>90</sup> Since the introduction of the laws in 2011, there have been almost 100 infringement notices issued by Victoria Police.<sup>91</sup> Currently the law in Victoria permits supply with parental consent as the only stipulation, and does not require that the supply be responsible or accompanied by supervision.

### Northern Territory

The Northern Territory Government introduced an offence, similar to that in Queensland that makes it illegal for a person to supply liquor to a child unless, that person is a "responsible adult" for that child" and "the sale or supply is consistent with the responsible supervision of the child". The offences come with a maximum penalty of up to \$14,900.<sup>92</sup>

### Western Australia

In 2013 Western Australia released the Report of the Independent Review Committee of the *Liquor Control Act 1988* recommended that secondary supply laws be introduced which would make it an offence to supply liquor to a juvenile on unlicensed premises without the authorisation of the parent or guardian of that juvenile.<sup>93</sup> It also recommended that any authorised supply must be consistent with responsible supervision of the juvenile (by reference to a non-exclusive list of specified factors). As at November 2014, the legislation to enact this recommendation has been announced.

### Federal Government

Nationally, the Australian Government has referred the issue of secondary supply to the Council of Australian Governments (COAG) which has asked the Ministerial Council on Drug Strategy to report on options to reduce binge drinking including reckless secondary supply.<sup>94</sup> COAG noted the Ministerial Council on Drug Strategy finalised its report on binge drinking in late November 2009, and that this has been submitted for future COAG consideration.<sup>95</sup> No further action has been taken since 2009.<sup>96</sup>

### Conclusion

Alcohol, while a legal substance widely used in the community, is a psychoactive substance which carries significant risk for the users and others when used inappropriately; the use of alcohol by children and teenagers carries particular risks and negative impacts.

The role that parents play in providing a supportive and safe environment for their children is an important one in regard to alcohol. The introduction of nationally consistent and appropriate secondary supply legislation will clarify, reinforce and support this role.

Action on secondary supply legislation has strong community support. In 2009 a community attitude survey conducted in Victoria found that 88% of respondents supported or strongly supported the introduction of secondary supply laws.<sup>97</sup>

Appropriate legislation prohibiting the irresponsible supply of alcohol to minors would provide the following benefits to the community by:

- setting a community standard around the supply of alcohol to minors
- influencing societal norms on underage drinking
- contributing to educating the community that allowing minors to drink alcohol requires care and supervision
- providing support to parents and other adults who do not want to give alcohol to minors or encourage drinking
- placing pressure on adults to cease providing minors with a supply of alcohol
- not interfering with parents who wish to serve their own children alcohol, in a responsible manner
- being likely to contribute to reducing the prevalence and incidence of underage drinking.

Secondary supply legislation can be viewed as one important component of a comprehensive response to reducing alcohol harm in the community.

The APC has been calling for the introduction of nationally consistent legislation in each Australian state and territory to protect children. In particular, in Victoria, the APC has been advocating for the introduction of a requirement that any supply of alcohol to minors be responsible. This would bring Victoria into line with similar obligations that are already in place in Queensland and the Northern Territory, and would give parents peace of mind that when they give permission to another adult to supply their children with alcohol, that supply must be responsible and is not without limits.



The APC believes that the introduction of any new legislation should adopt primarily an educative approach, backed up by the use of infringement notices. The focus should be on changing behaviour and creating cultural change. A comprehensive communication and education campaign targeting parents and teenagers should accompany the introduction of the legislation.

The impact of the legislation should be closely evaluated and monitored. If we are serious about reducing alcohol-related harm in young people, it should not be permissible in this State for an adult to supply a minor with an unlimited amount of alcohol and to not also have an obligation to supervise their consumption. In Victoria, our secondary supply laws allow this to happen.

---

## SECTION 4: FUTURE DIRECTIONS

This policy Roadmap has identified areas where gaps need to be addressed in the development of alcohol policy in Victoria. The APC would support the following further work:

### **Support and empower local governments**

Following on from the community and council resources recently developed by VicHealth,<sup>98</sup> further work can be undertaken to help councils develop and implement licensed premises policy. One avenue that such work could take is the development of a tool kit for councils to assist this process, share learning and ensuring that policies are as comprehensive as possible. Once implemented such policies will benefit decision making and may assist council's ability to provide greater weight to particular considerations which will be beneficial in challenges to planning decisions in VCAT.

### **Major report on alcohol advertising restrictions at a state level**

As part of the Victorian alcohol policy project, Cancer Council Victoria is preparing a major report on alcohol advertising restrictions at a state level. This work will build on the discussion set out above and will set out in greater detail some of the regulatory powers and complications around state based controls for alcohol advertising.

### **Advocating for the introduction of a responsibility requirement into Victorian Secondary Supply laws**

An adult in Victoria, who has been given permission to supply a minor with alcohol in a private residence, is currently permitted to supply that minor an unlimited amount of alcohol. Victoria is now lagging behind other states and territories in the introduction of a responsible supervision requirement for the provision of alcohol to minors in private residences. Further advocacy is needed both at a state and federal level to ensure that there are nationally consistent laws across all states and territories which regulate the supply of alcohol to minors in private residences.

### **Advocating for cultural change at a national level**

Australia has a drinking culture which tolerates drunkenness and glamorises binge drinking. VicHealth is working to change this, particularly for young people. This work should be supported by a national campaign to change the drinking culture in Australia to help reduce the harmful consumption of alcohol and reduce the burden of alcohol-related harms on the community.

## REFERENCES

- 1 Victorian Auditor-General's Report, *Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm* (2012) p vii, 46. Available at: [http://www.audit.vic.gov.au/reports\\_and\\_publications/reports\\_published\\_in\\_2012-13/2011-12/20120620-alcohol.aspx](http://www.audit.vic.gov.au/reports_and_publications/reports_published_in_2012-13/2011-12/20120620-alcohol.aspx)
- 2 Lloyd B., Matthews S., Gao X.C. (2014). *Report Summary: Trends in alcohol and drug related ambulance attendances in Victoria: 2012/13*. Fitzroy, Victoria: Turning Point, p 1. Available at <http://www.turningpoint.org.au/site/DefaultSite/filesystem/documents/TP.ambocallout.reportssummary.080514.pdf>
- 3 Victorian Auditor-General's Report, *Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm* (2012) p vii, 46. Available at: [http://www.audit.vic.gov.au/reports\\_and\\_publications/reports\\_published\\_in\\_2012-13/2011-12/20120620-alcohol.aspx](http://www.audit.vic.gov.au/reports_and_publications/reports_published_in_2012-13/2011-12/20120620-alcohol.aspx), p 12, 46.
- 4 Victorian Auditor-General's Report, *Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm* (2012) p vii, 46. Available at: [http://www.audit.vic.gov.au/reports\\_and\\_publications/reports\\_published\\_in\\_2012-13/2011-12/20120620-alcohol.aspx](http://www.audit.vic.gov.au/reports_and_publications/reports_published_in_2012-13/2011-12/20120620-alcohol.aspx), p vii.
- 5 Victoria Police, *Crime Statistics 2013/2014*. All figures were extracted from the LEAP database on 18 July 2014, p 54, available at: [http://www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media\\_ID=72176](http://www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media_ID=72176)
- 6 Lloyd B., Matthews S., Gao X.C. (2014). *Trends in alcohol and drug related ambulance attendances in Victoria: 2012/13*. Fitzroy, Victoria: Turning Point, p21. Available at <http://www.turningpoint.org.au/site/DefaultSite/filesystem/documents/TP.ambocallout.fullreport.080514.pdf>.
- 7 Begg S, et al, 2007. *The burden of disease and injury in Australia 2003*, Canberra: AIHW available at: <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=6442459747>, p 5. Note: the burden of disease figure included is the net burden of disease for alcohol consumption; this takes account of the combined harmful and beneficial effects of alcohol consumption.
- 8 Gao, C, Ogeil, R.P, & Lloyd, B. (2014). *Alcohol's burden of disease in Australia*. Canberra: FARE and VicHealth in collaboration with Turning Point, p vii.
- 9 Gao, C, Ogeil, R.P, & Lloyd, B. (2014). *Alcohol's burden of disease in Australia*. Canberra: FARE and VicHealth in collaboration with Turning Point, p 20, 52.
- 10 Recently passed legislation, doubled the maximum penalty for supply of alcohol to minors; *Gambling and Liquor Legislation Amendment (Modernisation) Act 2014* (Vic) s 57.
- 11 Victoria, *Parliamentary Debates* Legislative Assembly, 12 August 2009, 2658 (Tony Robinson, Minister for Gambling)
- 12 The practice of drinking heavily discounted alcohol generally at home or on the streets, before going to pubs and clubs.
- 13 New Zealand Law Commission *Alcohol In Our Lives*, NZLC IP15 Wellington (2009) para. 9.166
- 14 Available at [http://www.dpcd.vic.gov.au/\\_\\_data/assets/pdf\\_file/0003/140448/PN61-Licensed-premises\\_Assessing-cumulative-impact.pdf](http://www.dpcd.vic.gov.au/__data/assets/pdf_file/0003/140448/PN61-Licensed-premises_Assessing-cumulative-impact.pdf)
- 15 Liquor Control Reform Act 1998, Decision-making guidelines, Pursuant to Section 5 of the Victorian Commission for Gambling and Liquor Regulation Act 2011: Assessment of the Cumulative Impact of Licensed Premises. Available at <http://assets.justice.vic.gov.au/vcglr/resources/af4633d9-7651-46c7-af2e-d96391841e7d/decisionmakingguidelinescumulativeimpact.pdf>
- 16 See, for e.g. Michael Livingston, 'To reduce alcohol-related harm we need to look beyond pubs and nightclubs', (2013) 32 *Drug and Alcohol Review*, 113; Michael Livingston 'Alcohol outlet density and harm: comparing the impacts on violence and chronic harms' (2011) 30 *Drug and Alcohol Review* 515; Michael Livingston, Anne-Marie Laslett and Paul Dietze 'Individual and community correlates of young people's high-risk drinking in Victoria, Australia' (2008) 98 *Drug and Alcohol Dependence* 241.
- 17 Liquor Control Reform Act 1998, Decision-making guidelines, Pursuant to Section 5 of the Victorian Commission for Gambling and Liquor Regulation Act 2011: Grant of Licenses for the Sale of Packaged Liquor available at: <http://assets.justice.vic.gov.au/vcglr/resources/90ac7167-8076-40c3-934c-27e1aac588f4/decisionmakingguidelinespackagedliquor.pdf>
- 18 Response to the Royal Australasian College of Surgeons, Victorian State Election 2014 document, Minister Davis, p 6 [https://surgeons.org/media/20990309/ltr\\_2014-09-30\\_vic\\_election\\_coalition\\_response.pdf](https://surgeons.org/media/20990309/ltr_2014-09-30_vic_election_coalition_response.pdf).
- 19 Available at: [http://assets.justice.vic.gov.au/vcglr/resources/f1f110e14-e8cc-45ea-8616-03e51034f486/decision\\_making\\_guidelines\\_latenightliquor\\_freeze.pdf](http://assets.justice.vic.gov.au/vcglr/resources/f1f110e14-e8cc-45ea-8616-03e51034f486/decision_making_guidelines_latenightliquor_freeze.pdf)
- 20 *Gambling and Liquor Legislation Further Amendment Bill 2014* (Vic).
- 21 David Nelson et al. 'US state alcohol sales compared to survey data, 1993-2006' (2010) 105 *Addiction* 1589, 1589
- 22 Victorian Auditor-General's Report, *Effectiveness of Justice Strategies in Preventing and Reducing Alcohol-Related Harm* (2012) p xiii. Available at: [http://www.audit.vic.gov.au/reports\\_and\\_publications/reports\\_published\\_in\\_2012-13/2011-12/20120620-alcohol.aspx](http://www.audit.vic.gov.au/reports_and_publications/reports_published_in_2012-13/2011-12/20120620-alcohol.aspx)
- 23 National Preventative Health Taskforce, *Australia: The Healthiest Country by 2020* (2009) p 251.
- 24 National Preventative Health Taskforce, *Australia: The Healthiest Country by 2020* (2009) p 246.
- 25 National Preventative Health Taskforce, *Australia: The Healthiest Country by 2020* (2009) p 252.
- 26 Commonwealth of Australia Constitution Act s 51(v), (xx).
- 27 Alcohol Working Group (for the National Preventative Health Taskforce), *Australia: The Healthiest Country by 2020. Technical Report 3 Preventing alcohol-related harm in Australia* (2009), 16
- 28 Amy Z. Fan, et al 'Association of Lifetime Alcohol Drinking Trajectories with Cardiometabolic Risk' (2008) 93 (1) *Journal of Clinical Endocrinology and Metabolism*, 154; Wendy Loxley, et al. *The prevention of substance use, risk and harm in Australia: a review of the evidence*, (2004) Commonwealth Department of Health and Ageing.
- 29 Alcohol Concern. *Not in front of the Children - Child Protection and Advertising*. [2007] [http://www.alcoholconcern.org.uk/files/20070829\\_113042\\_Not%20in%20front%20of%20the%20children%20published%20version.pdf](http://www.alcoholconcern.org.uk/files/20070829_113042_Not%20in%20front%20of%20the%20children%20published%20version.pdf) at 25 November 2009, 4.
- 30 See generally, the collection of reports and fact sheets prepared by the Centre on Alcohol Marketing and Youth, based at the Johns Hopkins Bloomberg School of Public Health, <http://www.camy.org/>, as at 7 October 2014; See also Kenneth Fleming, Esther Thorson and Charles K. Atkin 'Alcohol advertising exposure and perceptions: Links with alcohol expectancies and intentions to drink or drinking in undergrad youth and young adults' (2004) 9 *Journal of Health and Communication*, 3 and Alcohol Concern. *Not in front of the Children - Child Protection and Advertising*. [2007] [http://www.alcoholconcern.org.uk/files/20070829\\_113042\\_Not%20in%20front%20of%20the%20children%20published%20version.pdf](http://www.alcoholconcern.org.uk/files/20070829_113042_Not%20in%20front%20of%20the%20children%20published%20version.pdf) at 25 November 2009, 4.
- 31 Centre for Disease Control and Prevention, *Youth Exposure to Alcohol Advertising on Television - 25 Markets, United States, 2010-2012*, 62 *Morbidity and Mortality Weekly Report* 44, November 2013, available at [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6244a3.htm?s\\_cid=mm6244a3\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6244a3.htm?s_cid=mm6244a3_w)
- 32 Nicholas Carah, *Like, Comment, Share - Alcohol brand activity on Facebook*, University of Queensland, May 2014, p 5.
- 33 Available at <http://www.abac.org.au/publications/thecode/>
- 34 Commercial Television Industry Code of Practice, Cl 6.7 available <http://www.acma.gov.au/~media/Broadcasting%20Investigations/Regulation/pdf/Commercial%20Television%20Industry%20Code%20of%20Practice%202010.pdf>
- 35 Commercial Radio Codes of Practice, available at [http://www.acma.gov.au/webwr/aba/contentreg/codes/radio/documents/commercial\\_radio\\_codes\\_and\\_guidelines\\_5sept2011.pdf](http://www.acma.gov.au/webwr/aba/contentreg/codes/radio/documents/commercial_radio_codes_and_guidelines_5sept2011.pdf)
- 36 AANA Code for Advertising & Marketing Communication to Children, Cl 2.12, available at <http://aana.com.au/content/uploads/2014/05/AANA-Code-For-Marketing-Advertising-Communications-To-Children.pdf>.
- 37 Outdoor Media Association (OMA) Code of Ethics and the OMA Alcohol Advertising Guidelines, Available at [http://oma.org.au/\\_\\_data/assets/pdf\\_file/0019/2458/OMA\\_Code\\_of\\_Ethics\\_May\\_2012.pdf](http://oma.org.au/__data/assets/pdf_file/0019/2458/OMA_Code_of_Ethics_May_2012.pdf) and [http://oma.org.au/\\_\\_data/assets/pdf\\_file/0019/6094/OMA\\_Alcohol\\_Guidelines\\_2013.pdf](http://oma.org.au/__data/assets/pdf_file/0019/6094/OMA_Alcohol_Guidelines_2013.pdf)
- 38 Australian Subscription Television & Radio Association Codes of Practice 2013: Subscription Broadcast Television, Available at <http://www.astra.org.au/policy/codes-of-practice>
- 39 *Liquor Control Reform Act 1998* (Vic) s 115A.
- 40 Australian Medical Association, *Alcohol marketing and young people: Time for a new Policy Agenda* (2012), available at [https://ama.com.au/system/files/alcohol\\_marketing\\_young\\_people.pdf](https://ama.com.au/system/files/alcohol_marketing_young_people.pdf)
- 41 Nicholas Carah, *Like, Comment, Share - Alcohol brand activity on Facebook*, University of Queensland, May 2014, p 6, 69.
- 42 Commonwealth House of Representatives Standing Committee on Social Policy and Legal Affairs Report, *Reclaiming Public Space, Inquiry into the regulation of billboard and outdoor advertising*, July 2011, foreword.
- 43 Outdoor Media Authority Annual Report 2013, available <http://oma.org.au/about-us/annual-reports>, p 39.
- 44 Monitoring of Alcohol Advertising Committee, Victorian Department of Human Services 'Alcohol beverage advertising in mainstream Australian media 2005 to 2007: Expenditure and Exposure' (2009) 10; Outdoor Media Authority Annual Report 2013, available <http://oma.org.au/about-us/annual-reports>, p 39.
- 45 Monitoring of Alcohol Advertising Committee, Victorian Department of Human Services 'Alcohol beverage advertising in mainstream Australian media 2005 to 2007: Expenditure and Exposure' (2009) 10; Outdoor Media Authority Annual Report 2013, available <http://oma.org.au/about-us/annual-reports>, p 19.

- <sup>46</sup> Keryn E. Pasch et al. 'Outdoor Alcohol Advertising Near Schools: What Does It Advertise and How Is It Related to Intentions and Use of Alcohol Among Young Adolescents?' (2007) 68 (4) *Journal of Studies on Alcohol and Drugs* 587-596
- <sup>47</sup> *Alcohol beverage advertising in mainstream Australia media 2005 to 2007: Expenditure and Exposure*, Report undertaken by the Victorian department of Human Services for the Monitoring of Alcohol Advertising Committee, April 2009, available at [http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/0D0A9D5EC99A25E4CA2575D6000CB37C/\\$File/alcadv.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/0D0A9D5EC99A25E4CA2575D6000CB37C/$File/alcadv.pdf)
- <sup>48</sup> Victorian Health Promotion Foundation, *Community Attitudes to Alcohol Policy – Survey Results 2010* Unpublished
- <sup>49</sup> Victorian Health Promotion Foundation, *Community Attitudes to Alcohol Policy – Survey Results 2010* Unpublished
- <sup>50</sup> Outdoor Media Association Inc. *OMA Alcohol Advertising Guidelines (2009)* <[http://oma.org.au/media/Pdf/Alcoholadvertisingguidelines\\_Mar2009.pdf](http://oma.org.au/media/Pdf/Alcoholadvertisingguidelines_Mar2009.pdf)>
- <sup>51</sup> Victorian Council of Social Service *Mind the Gap – An assessment of transport needs and issues for young people in Melbourne's urban fringes* 2010
- <sup>52</sup> *Planning and Environment Act 1987* (Vic) s 4 (1)(a) and 4(1)(c).
- <sup>53</sup> National Preventative Health Taskforce, *Australia: The Healthiest Country by 2020* (2009) p 244.
- <sup>54</sup> Victorian Particular Planning Provisions Cl 52.27.
- <sup>55</sup> See <http://www.planmelbourne.vic.gov.au/Plan-Melbourne>
- <sup>56</sup> See <http://www.dpcd.vic.gov.au/planning/panelsandcommittees/current/state-planning-policy-framework-sppf>
- <sup>57</sup> The APC submission can be viewed at [http://www.alcoholpolicycoalition.org.au/downloads/Alcohol\\_Policy\\_Coalition\\_-\\_Submission\\_on\\_PPF\\_May\\_2014.pdf](http://www.alcoholpolicycoalition.org.au/downloads/Alcohol_Policy_Coalition_-_Submission_on_PPF_May_2014.pdf)
- <sup>58</sup> Victorian State Planning Policy Framework, see for example cl 11, available at [http://planningschemes.dpcd.vic.gov.au/schemes/combined-ordinances/VPPs\\_All\\_Classes.pdf](http://planningschemes.dpcd.vic.gov.au/schemes/combined-ordinances/VPPs_All_Classes.pdf)
- <sup>59</sup> Municipal Strategic Statements provide strategic direction to guide and support growth and development in a particular municipalities.
- <sup>60</sup> Corporate and Community Planning, City of Stonington, "Late night liquor licence trading in the Chapel Street Precinct – Measuring the saturation levels Research Paper", April 2010, p 3, available at <http://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB0QFJA A&url=http%3A%2F%2Fwww.stonington.vic.gov.au%2FdownloadDocument.ashx%3FDocumentID%3D3059&ei=CXM7VJ7GDlr88QX84JQ&usq=AFQjCNG7QWv0Gv0eajd5XbzhlI--5Ah4sg&bvm=bv.77161500,d.dGc>
- <sup>61</sup> Available at <http://www.mvcc.vic.gov.au/about-the-council/~media/5207A217203D4C8FA6DE60F6AF012B43.ashx>
- <sup>62</sup> Moonee Valley Planning Scheme, Economic Development, Cl 21.07 and Licensed Premises Policy 22.04.
- <sup>63</sup> Moonee Valley Planning Scheme, Local Planning Policies Cl 22.04, Licensed Premises Policy, available at [http://www.mvcc.vic.gov.au/~media/Files/Planning%20and%20Building/strategic%20planning/Planning%20Scheme%20Amendments/C131/12417061Moonee\\_Valley\\_C131\\_22\\_04\\_moon\\_Exhibition.pdf](http://www.mvcc.vic.gov.au/~media/Files/Planning%20and%20Building/strategic%20planning/Planning%20Scheme%20Amendments/C131/12417061Moonee_Valley_C131_22_04_moon_Exhibition.pdf).
- <sup>64</sup> See for example *Hunt Club Commercial v Casey CC* [2013] VCAT 726
- <sup>65</sup> M Livingston, T Chikritzhs and R Room, 'Changing the Density of Alcohol Outlets to Reduce Alcohol Related Problems, (2007) 26 *Drug and Alcohol Review* 557-566; M Livingston, 'A longitudinal analysis of alcohol outlet density and assault' (2008) 32 *Alcoholism: Clinical and Experimental Research* 1074-1079.
- <sup>66</sup> *Hunt Club Commercial v Casey CC* [2013] VCAT 725, Order 1.
- <sup>67</sup> *Hunt Club Commercial v Casey CC* [2013] VCAT 725, [11]. (Hunt Club Merits decision)
- <sup>68</sup> *Hunt Club* [28-30]. Merits decision
- <sup>69</sup> As set out above the objects of the Liquor Control Reform Act have been amended to ensure that "harm minimisation" is considered the primary objective in all licensing decisions.
- <sup>70</sup> Victorian State Planning Policy Framework, Cl 11, 11.04-4 available at [http://planningschemes.dpcd.vic.gov.au/schemes/combined-ordinances/VPPs\\_All\\_Classes.pdf](http://planningschemes.dpcd.vic.gov.au/schemes/combined-ordinances/VPPs_All_Classes.pdf)
- <sup>71</sup> *Key results of the Victorian secondary school students' use of licit and illicit substances in 2011, Results from the 2011 Australian Secondary Students' Alcohol and Drug Survey*, Victorian Government Department of Health, 2010, p 4. <http://www.health.vic.gov.au/aod/pubs/vsss.htm>. As in previous survey years, the percentage of students drinking at levels that could result in short-term harm if based on consumption of more than four standard drinks on at least one day in the past seven. The NHMRC guidelines were updated in 2009, and now recommend that adolescents should try to avoid drinking alcohol altogether and that adults should consume no more than 4 standard drinks on a single occasion to reduce the risk of injury on a single occasion of drinking. However, for comparison with previous survey years in this study, the drinking guidelines for adults have been used.
- <sup>72</sup> *Key results of the Victorian secondary school students' use of licit and illicit substances in 2011, Results from the 2011 Australian Secondary Students' Alcohol and Drug Survey*, Victorian Government Department of Health, 2010, p7. <http://www.health.vic.gov.au/aod/pubs/vsss.htm>
- <sup>73</sup> Australian Institute of Health & Welfare (2011) *2010 National Drug Strategy Household Survey Report*,. Australian Institute of Health & Welfare. Canberra, p 55-57, available at <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=10737421314>
- <sup>74</sup> Preventative Health Taskforce (2008) *Australia: the healthiest country by 2020*. Australian Government: Canberra
- <sup>75</sup> National Health and Medical Research Council (2009) *Australian Guidelines to Reduce Health Risks from Drinking Alcohol*. Commonwealth of Australia: Canberra. [http://www.nhmrc.gov.au/\\_files\\_nhmrc/publications/attachments/ds10-alcohol.pdf](http://www.nhmrc.gov.au/_files_nhmrc/publications/attachments/ds10-alcohol.pdf)
- <sup>76</sup> *Ibid.*
- <sup>77</sup> Moore E, Coffey C, Carlin JB, Alati R, Patton GC (2009) Assessing alcohol guidelines in teenagers: results from a 10-year prospective study. *Australian and New Zealand Journal of Public Health* 33:2, pp. 154-159
- <sup>78</sup> Tomborou JW, Williams IR, White VM, Snow PC, Munro GD & Schofield PE. (2004) Prediction of alcohol-related harm from controlled drinking strategies and alcohol consumption trajectories, *Addiction* 99 (4) 498-508.
- <sup>79</sup> 'Victorian secondary school students' use of licit and illicit substances in 2011, Results from the 2011 Australian Secondary Students' Alcohol and Drug Survey'. Victorian Government Department of Health, 2010, p 222.
- <sup>80</sup> 'Victorian secondary school students' use of licit and illicit substances in 2011, Results from the 2011 Australian Secondary Students' Alcohol and Drug Survey'. Victorian Government Department of Health, 2010, p 223.
- <sup>81</sup> Dietze PM & Livingston M (2010). The relationship between alcohol supply source and young people's risky drinking and alcohol-related problem behaviours in Victoria, Australia. *Australian and New Zealand Journal of Public Health* 34(4):364-7.
- <sup>82</sup> Ward, B & Snow, P. ( 2008) The role of parents in preventing alcohol-related harm among young people [www.druginfo.adf.org.au/downloads/Prevention\\_Research\\_Quarterly/IP\\_08Jun\\_youngpeople.pdf](http://www.druginfo.adf.org.au/downloads/Prevention_Research_Quarterly/IP_08Jun_youngpeople.pdf)
- <sup>83</sup> Ward B, Snow P, Munro G, Graham M & Dickson-Swift V 2006 "It starts with the parents and ends with the parents' The attitudes, knowledge and practices of metropolitan parents in relation to teenage alcohol use", *Australasian College of Road Safety Journal*, 17:3, pp. 20-8
- <sup>84</sup> Cagney P, Palmer S (2008) The sale and supply of alcohol to under 18 year olds in New Zealand: a systematic overview of international and New Zealand literature (final report), Research New Zealand [http://www.alac.org.nz/DBTextworks/PDF/Alcohol\\_to\\_minors.pdf](http://www.alac.org.nz/DBTextworks/PDF/Alcohol_to_minors.pdf)
- <sup>85</sup> Office of Liquor, Gaming and Racing, Queensland. Factsheet: Secondary Supply. <http://www.olgr.qld.gov.au/resources/liquorDocs/secondarySupply.pdf>
- <sup>86</sup> *Liquor Act 1992* (Qld), s 5.
- <sup>87</sup> *Police Offences Act 1935* (Tas), Div V.
- <sup>88</sup> *Police Offences Act 1935* (Tas), Div V.
- <sup>89</sup> *Liquor Control Reform Act 1998* (Vic) s 119.
- <sup>90</sup> *Gambling and Liquor Legislation Amendment (Modernisation) Act 2014* (Vic) s 57.
- <sup>91</sup> Victorian Legislative Assembly Hansard, 20 August 2011, Debate in relation to the Gambling and Liquor Legislation Amendment (Modernisation) Bill 2014 and the Gambling and Liquor Legislation Further Amendment Bill 2014, The Hon. Mary Wooldridge (Minister for Community Services, p 2861.
- <sup>92</sup> *Liquor Act* (NT)s 106C .
- <sup>93</sup> 2013 Review of the Liquor Control Act 1988, pg 56-57, available at <http://www.rgl.wa.gov.au/ResourceFiles/Publications/23-12-2013%20-%20Liquor%20Control%20Act%201988%20%E2%80%93%20Review%20Report.pdf>
- <sup>94</sup> COAG Meeting Communiqué, 2 October 2008 [http://archive.coag.gov.au/coag\\_meeting\\_outcomes/2008-10-02/index.cfm](http://archive.coag.gov.au/coag_meeting_outcomes/2008-10-02/index.cfm)
- <sup>95</sup> COAG Meeting Communiqué, 7 December 2009 [http://archive.coag.gov.au/coag\\_meeting\\_outcomes/2009-12-07/index.cfm](http://archive.coag.gov.au/coag_meeting_outcomes/2009-12-07/index.cfm)
- <sup>96</sup> [http://archive.coag.gov.au/coag\\_meeting\\_outcomes/issues\\_by\\_subject.cfm](http://archive.coag.gov.au/coag_meeting_outcomes/issues_by_subject.cfm)
- <sup>97</sup> Preliminary findings, VicHealth Community Attitude Survey to Alcohol Policies, 2009.
- <sup>98</sup> Available at <http://www.vichealth.vic.gov.au/Publications/Alcohol-Misuse/Unlocking-Liquor-Licensing.aspx>.

## About the Alcohol Policy Coalition

The Alcohol Policy Coalition is a collaboration of health and social agencies with shared concern relating to the misuse of alcohol and its health and social impacts on the community. The Alcohol Policy Coalition's long-term goal is to promote a safer, healthier community drinking culture.

Prepared by Cancer Council Victoria,  
with funding from VicHealth

[www.alcoholpolicycoalition.org.au](http://www.alcoholpolicycoalition.org.au)



Alcohol Policy Coalition