



# ANZSOG Case Program

## Melbourne's 2am lockout

2016-93.1

Sue Maclellan was on hostile turf. It was May [2008] and the liquor licensing chief was standing in Chapel Street's Chasers nightclub, facing a room full of furious bar owners. 'I don't have to consult with you', she shouted over the throng, according to several who attended. 'I could have brought this in tomorrow, but I've given you a month's notice.'<sup>1</sup>

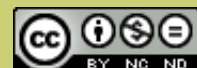
Liquor Licensing Director Sue Maclellan was referring to the Victorian Labor Government's recently announced plans for a three-month lockout applying to almost 500 bars, pubs and nightclubs across the City of Melbourne and three additional inner-suburban municipalities. During the lockout, patrons would no longer be able to enter licensed premises after 2am, though they could stay until closing if already inside. Prompted by strong community concern about alcohol-fuelled violence, the lockout was designed to prevent late-night venue hopping. Although lockouts had been used elsewhere in Victoria, recent changes to the 1998 *Liquor Control Reform Act* gave Maclellan additional powers, including the authority to impose temporary lockouts without notice.

Many welcomed the plan but the move incensed bar owners and patrons. They argued that the lockout would not only punish responsible people unfairly but would also exacerbate the issue whilst threatening the city's vibrant hospitality scene. Owners were further aggrieved by what they viewed as a lack of consultation. The lockout was scheduled to run from June to September 2008 but before its commencement, some 25% of affected venues were granted exemptions at the Victorian Civil and Administrative Tribunal (VCAT).<sup>2</sup> Less than halfway through the trial, the lockout was delivered another blow when media reports revealed that members of the Government's own alcohol taskforce had labelled the policy an 'unmitigated failure'.<sup>3</sup>

This case was revised by Marinella Padula for Professor Mark Moore, Harvard Kennedy School. It supersedes and should replace the previous version written by her for Professor John Alford, Australia and New Zealand School of Government (case number 2009-93.1). It has been prepared from publicly available records, as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation.

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<sup>1</sup> Bachelard, M. 'The woman in the eye of the lockout storm' *The Age*, 10 August 2008.

<sup>2</sup> VCAT was a judicial tribunal established in 1998 to hear a wide range of civil and administrative matters, including disputes in relation to liquor licensing. VCAT decisions were legally binding but could be reviewed in the Supreme Court.

<sup>3</sup> Stark, J. & Houston, C. 'Experts call lockout a failure' *The Age*, 9 July 2008.

## Victoria's drinking problem

Alcohol abuse had long been a concern to local, state and federal governments. In 2004-2005, approximately 13.4% of Australians drank at risky or high-risk levels<sup>4</sup> and the cost of excessive consumption to Australia was estimated to be in the region of \$15 billion per annum.<sup>5</sup> In recent years, increased attention had been devoted to binge drinking – episodes where large quantities of alcohol are consumed in a single sitting. Although the definition of 'binge' was contested, studies indicated that almost a third of young people aged 14-29 had drunk alcohol to the point of blacking out.<sup>6</sup> Alcohol was responsible for more deaths than any other drug for people under 35<sup>7</sup> and in Victoria, alcohol-related hospital admissions had risen by almost 70% in the last decade to 2007.<sup>8</sup> National Drug Research Institute researcher Dr Tanya Chikritzhs warned of a situation steadily escalating out of control: 'If Victoria's alcohol-attributable hospital admissions continue to increase at this rate it will soon be outstripping most of the states and territories in Australia, despite the fact that it started from a really low level a decade ago.'<sup>9</sup>

In Australia, excessive alcohol consumption was a contributing factor in one third of road deaths; half of all domestic, physical and sexual violence cases; and 80% of night-time assaults.<sup>10</sup> Victoria Police data from June 2006 to June 2007 revealed that there had been more than 2000 reported assaults on city streets – a 17% jump from the previous year and a 24% rise since 2003-04.<sup>11</sup> More than half of all public assaults in Victoria occurred on the street or footpath; just over 10% occurred in licenced premises.<sup>12</sup> Cases typically involved a single perpetrator and victim (both most frequently male) and estimates suggested that more than 40% were intoxicated, though not necessarily both parties at the same time.<sup>13</sup> According to intensive-care paramedic Lindsay Bent, ambulances attended an average of 15 assaults in the city centre each Friday and Saturday night, 'It's happening more and more in the streets,' he said, 'and it is getting more violent.'<sup>14</sup> Colleagues described head injuries so severe that they had to induce comas on the spot.

Victoria was the only state in Australia where just being drunk in a public place was an offence. In practice, however, police did not lay charges unless the offender was also engaged in other illegal acts. The total number of anti-social behaviour offences (which included being drunk and disorderly and behaving in a riotous manner while drunk) in public spaces increased from 7,026 in 2001 to 7,874 in 2008 (a rise of 12%) even though crime in the City of Melbourne was decreasing overall.<sup>15</sup> Yet it was likely that the role of alcohol was seriously underestimated. Police were not obliged to note whether alcohol was a factor in a public assault, nor were there established protocols for doing so. Systems for capturing crime data were inefficient and not used consistently. Moreover, police didn't necessarily record details of every attendance, especially where there were no arrests. This also made it difficult to link antisocial behaviour to specific venues or outlets.

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<sup>4</sup> ADCA 'Drug Action Week Factsheet: Alcohol' [www.drugactionweek.org.au](http://www.drugactionweek.org.au) Accessed July 2008.

<sup>5</sup> ADCA 'National peak strongly supports Alcohol Reduction Bill' 15 February 2008 [www.adca.org.au](http://www.adca.org.au)

<sup>6</sup> ADCA 'Drug Action Week Factsheet: Young People' [www.drugactionweek.org.au](http://www.drugactionweek.org.au) Accessed July 2008.

<sup>7</sup> Ibid.

<sup>8</sup> Stark, J. 'Alcohol-related hospital admissions rising' *The Age* 26 November 2007.

<sup>9</sup> Ibid.

<sup>10</sup> ADCA 'Drug Action Week Factsheet : Alcohol' [www.drugactionweek.org.au](http://www.drugactionweek.org.au) Accessed July 2008.

<sup>11</sup> Houston, C. et al 'This is Melbourne at night: 'anarchy'' *The Age* 23 February 2008.

<sup>12</sup> 'Inquiry into strategies to reduce assaults in public places in Victoria – Final Report' DCPC, Parliament of Victoria, August 2010, p.13.

<sup>13</sup> 'Effectiveness of justice strategies in preventing and reducing alcohol-related harm' Victorian Auditor-General's Report, June 2012, p.37.

<sup>14</sup> Johnston, C. & Houston, C. 'Mean streets of Melbourne' *The Age* 23 February 2008.

<sup>15</sup> 'City of Melbourne's Policy for the 24 Hour City: A framework for action' City of Melbourne, April 2010, p.5.

Nonetheless, Melbourne did have distinct trouble spots. The central business district and Southbank (*Exhibit A*) were particularly problematic for the City of Melbourne<sup>16</sup>, especially King and Queen Streets, along with the Crown Casino precinct. Further afield, Brunswick St in Fitzroy (City of Yarra), Chapel St in Prahran/South Yarra (City of Stonnington) and Fitzroy St in St Kilda (City of Port Phillip) were also well-known for issues with public intoxication and anti-social behaviour (*Exhibit B*). Like the city, these destinations, and adjoining streets, had a high concentration of licenced late-night premises within easy walking distance of one other and were a magnet for young revellers. The early hours of Saturday and Sunday morning were the busiest times for public assaults; violence also tended to peak during the warmer months and before public holidays.<sup>17</sup>

Though King Street had traditionally been one of Melbourne's most notorious sites, Queen Street was quickly gaining a similar reputation. The street had been the site of a recent riot attended by some 60 police. One senior officer described the area as 'bloody feral' and conceded that the use of capsicum spray was all too commonplace. Another described it as 'alcohol-fuelled anarchy'.<sup>18</sup> Inspector Stephen Mutton agreed, adding that the drinking culture had changed. 'The new generation is different,' he noted. 'Amphetamine-based drugs are more and more in the mix. It used to be that pubs closed at 10pm and maybe a few at 1am. Now people are coming into the city late at night. They catch the last train in, and then the first one home.'<sup>19</sup> Many were also drinking prior to going out in order to save money and consume more alcohol, a phenomenon known as 'pre-loading'.

A recent spate of seemingly unprovoked or random attacks had attracted further media attention. One notable case was that of Shannon McCormack who was attempting to defuse a confrontation outside a Southbank nightclub in 2007 when he was struck from behind and killed. His parents and the media called for the Victorian government to act before more lives were lost.<sup>20</sup> The city's growing residential population had significant concerns too. Many feared being accosted by inebriated thugs and were sick of the unsavoury detritus drinkers left behind. A February 2008 Age-Nielsen poll revealed that almost three-quarters of Melburnians felt that the city was becoming more violent, although more than half of respondents believed that Melbourne was a better place to live than five years ago.<sup>21</sup>

## Liquor Licensing in Victoria

Over the past decade, there had been marked growth in the number of licensed premises in Victoria, up from just over 8,000 to more than 17,500 (*Exhibit C*). This was due, in part, to an overhaul of the state's liquor licensing laws in the late 1980s which made it much easier for non-hotel venues to serve alcohol.<sup>22</sup> By 2008, Victoria had the most liberal liquor licensing laws in the country and Melbourne in particular had witnessed a nightlife boom. There were now more than 1,400 active liquor licences<sup>23</sup> in the City of Melbourne, the heaviest concentration in the central business district (*Exhibit D*). Between 2000 and 2008, the number of licensed venues in the CBD grew from 579 to 934, an increase of 61%.<sup>24</sup>

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<sup>16</sup> The City of Melbourne included central Melbourne as well as several inner-city suburbs such as Carlton, Southbank, Port Melbourne and part of South Yarra.

<sup>17</sup> 'Drinking cultures and social occasions – public holidays' Victorian Health Promotion Foundation, January 2012, p.1.

<sup>18</sup> Johnston, C. & Houston, C. 'Mean streets of Melbourne' *The Age* 23 February 2008.

<sup>19</sup> *Ibid.*

<sup>20</sup> Cunningham, M. 'Lives lost on brutal streets' *The Herald-Sun* 8 August 2007.

<sup>21</sup> Houston, C. et al 'This is Melbourne at night: 'anarchy'' *The Age* 23 February 2008.

<sup>22</sup> Despite the proliferation of bars, pubs and nightclubs, most alcohol sold in Australia was from packaged-liquor outlets for off-premises consumption. The number of packaged-liquor outlets had also risen steadily in the past decade, especially high-volume discount retailers such as Dan Murphy's which had put substantial downward pressure on packaged alcohol prices.

<sup>23</sup> The number of active liquor licences exceeds the number of licensed premises as some venues have multiple licences to cover different activities, e.g. a bar that also operates a restaurant.

<sup>24</sup> 'City of Melbourne's Policy for the 24 Hour City: A framework for action' City of Melbourne, April 2010, p.5.

The Melbourne City Council supported these reforms which paved the way for many hospitality businesses to open. The idea was to change Melbourne from a 9-to-5 commuter capital to a modern, cosmopolitan city with vibrant nightlife and it had been extremely successful. Between 2001 and 2007, the City of Melbourne's residential population swelled by 60%, from 50,673 to 81,144.<sup>25</sup> It also became much more popular with visitors; an average weekend saw more than 300,000 people visit the CBD at night.<sup>26</sup> By 2007, Melbourne's bars had become a key tourist drawcard and were marketed alongside the city's other cultural assets. It was a strategy that had seemingly paid off: in 2008, Melbourne's share of the domestic tourism market exceeded Sydney's.<sup>27</sup> Now Sydney was seeking to emulate Melbourne's success by relaxing its own licensing laws.

But not everyone was caught up in the party spirit. Melbourne academic Professor John Nieuwenhuysen authored the report which led the then Cain government to reform licensing laws. However, he was keen to point out that the current situation was, '...definitely not what I had in mind. I was looking to promote a more European, civilised style of drinking, but we seem to have been swept away by a wave of binge drinking. These places that disgorge thousands of people onto the streets are inherently dangerous.'<sup>28</sup> He had envisioned lots of intimate wine-bar style venues, and numerous such venues had appeared. But the changes had also paved the way for 'super-clubs' such as QBH in Southbank with a 3,500 patron capacity.

Research indicated that large, overcrowded, understaffed venues that were loud, poorly lit, and badly laid out were more prone to violent incidents (*Exhibit E*). Other factors included gender ratios and cheap alcohol promotions. For her part, researcher Tanya Chikritzhs was in no doubt that licensing reform and negative health impacts were intrinsically linked; '[Over the past decade] there's been a rapid proliferation of licensed premises and extended trading hours, and we know these things influence consumption, and consumption influences harm. It should serve as a warning about pulling back the reins of (liquor licensing) deregulation because it's been too long assumed that all is well in Victoria.'<sup>29</sup>

Victoria's liquor licensing regime was handled by Liquor Licensing (LL), a statutory office located within Consumer Affairs Victoria.<sup>30</sup> Established to provide effective licensing for the sale and distribution of alcohol and training of licensed hospitality industry staff, LL administered the *Liquor Control Reform Act 1998*. Any business wishing to serve and/or sell alcohol in Victoria was required to apply for a liquor licence (*Exhibit F*) and needed to supply LL with appropriate documentation which (in most instances) included a council permit (*Exhibit G*). Liquor Licensing processed applications in conjunction with Victoria Police and local councils who shared responsibilities with regard to licensing (*Exhibit H*). Under Section 41 of the *Act*, an inspector could object to a new or existing licence on any of the following grounds:

- that the licensee or proposed licensee is not a suitable person to hold the licence;
- that the licence would detract from or be detrimental to the amenity of the area in which the licensed premises or proposed licensed premises are situated; or
- that the licence would be conducive to or encourage the misuse or abuse of alcohol.

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<sup>25</sup> Ibid.

<sup>26</sup> Johnston, C. & Houston, C. 'Mean streets of Melbourne' *The Age* 23 February 2008.

<sup>27</sup> Voisey, L. 'Melbourne named top tourism spot in Oz' [www.homesworldwide.co.uk](http://www.homesworldwide.co.uk) Accessed July 2009

<sup>28</sup> Houston, C. et al 'This is Melbourne at night: 'anarchy'' *The Age* 23 February 2008.

<sup>29</sup> Ibid.

<sup>30</sup> Consumer Affairs Victoria was a branch of the Department of Justice and had over 400 employees. CAV's role was to promote and protect the interests of consumers across a broad range of domains. Although part of the Department of Justice, as a statutory authority, LL operated in a semi-autonomous fashion, with its own separate internal structures and processes. In 2008, CAV offices and authorities reported to Tony Robinson, Minister for Consumer Affairs and Minister for Gaming.

Councils and any residents or businesses likely be adversely affected by the licence or amendments to the licensee's conditions could lodge an objection with LL. Applicants or objectors unhappy with LL's decision could appeal to the Victorian Civil and Administrative Tribunal (VCAT). Historically, however, commercial interests tended to trump community and public health concerns, for example, outlets selling pre-packaged liquor for customers to take away did not require prior council approval. Councils also tended not to oppose licence applications, partly due to ambiguous guidelines and the onus of proving that a licence would cause harm. They were also put off by the cost of mounting legal challenges. Other issues included inadequate communication and data-sharing between LL, local councils, the police and other relevant agencies.<sup>31</sup>

Once a licence was issued, LL had a variety of investigatory and enforcement powers, including the power to enter premises at any time, conduct searches, seize alcohol, suspend licences and issue fines (with warrants in some instances). These tasks could be carried out by LL inspectors and/or police officers. Past enforcement efforts however had been somewhat disjointed, reactive and localised. There was a longstanding need for centrally coordinated, intelligence-led interventions targeting serious breaches such as serving underage or intoxicated patrons. However, there was no common database to drive investigations and policy development, nor evaluate outcomes. Moreover, the government did not collect retail or wholesale alcohol sales figures from outlets.

## Sue Maclellan - Director, Liquor Licensing

Sue Maclellan was appointed Director of Liquor Licensing in May 2005 for a 5-year term. Previously Acting Director, she had worked in a wide range of positions in the public sector over 30 years, starting her career as a town planner. More recently, Maclellan served as Assistant Director (Consumer Services and Compliance) at Consumer Affairs Victoria with responsibilities as diverse as investigating corporate scams and regulating legal brothels. Along the way she acquired a reputation for discharging her duties with considerable purpose: 'If you're perceived as tough, that's a measure that you're doing what you're supposed to be doing, which is protecting people,' she said.<sup>32</sup>

Regarding the proliferation of licensed venues, Maclellan saw the situation (in the City of Melbourne at least) primarily as a local planning issue driven by the desire for economic development: 'The council wants to have entertainment and a whole lot of offerings in the city and that's what the planning controls reflect, a 24-hour city. I don't just rubber stamp what the council has done, but I can only work within the parameters the council has given me.'<sup>33</sup> She would soon get an expanded set of parameters courtesy of the state government.

## The Alcohol and Public Safety Taskforce

Concerned about the growing level of public drunkenness and violence, along with the media reaction, the Victorian Government launched Operation SafeStreets in October 2007. This increased police patrols of trouble-prone areas between 8pm and 6am on Friday and Saturday nights in Melbourne's CBD and surrounding suburbs.<sup>34</sup> The Government also passed a number of amendments to the *Liquor Control Reform Act 1998 (Exhibit I)* in December 2007 which gave the Liquor Licensing

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<sup>31</sup> Another complicating factor for local and state governments was the 1995 National Competition Policy which required all state and territory governments to implement reforms to increase competition and to reduce regulation. In the case of alcohol, that meant a more consumer-driven approach to trading hours and the number of licences. Pre-packaged liquor retailers had particularly benefited from the changes and in the past few years the proliferation of large discount retailers had accelerated, exerting downward pressure on alcohol prices. Any moves to limit the availability of alcohol were resisted robustly by well-funded industry groups.

<sup>32</sup> Bachelard, M. 'The woman in the eye of the lockout storm' *The Age*, 10 August 2008.

<sup>33</sup> Houston, C. et al 'This is Melbourne at night: 'anarchy'' *The Age* 23 February 2008.

<sup>34</sup> 'Effectiveness of justice strategies in preventing and reducing alcohol-related harm' Victorian Auditor-General's Report, June 2012, p.48.

Director enhanced powers to influence how, when and where Melburnians could drink. Under the new amendments, police could also ban troublemakers from designated areas and suspend liquor licenses for 24 hour periods. The changes also included a provision that allowed Maclellan to:

make a temporary late hour entry declaration [i.e. lockout] without giving the 21 day notice period. The Director of Liquor Licensing must consult with the Chief Commissioner of Police, and must give written notice to each licensee in the area or locality to which the declaration applies...the declaration lapses after three months, when it is revoked by the Director or when a permanent late night entry declaration is made, whichever happens sooner.<sup>35</sup>

Just before these amendments were passed, Victorian Premier John Brumby announced a broader policy initiative centred on the establishment of a Ministerial Taskforce on Alcohol and Public Safety which featured an advisory group of experts from government and non-government sectors (*Exhibit J*). Discussions with industry were scheduled. Some six months later, in May 2008, the Taskforce delivered its report. Entitled: *Restoring the balance – Victoria’s alcohol action plan 2008-2013*<sup>36</sup> (aka VAAP) it outlined the government’s three key objectives which were to:

- reduce risky drinking and its impact on families and young people;
- reduce the consequences of risky drinking on health, productivity and public safety;
- reduce the impact of alcohol-fuelled violence and anti-social behaviour on public safety.<sup>37</sup>

The report noted that alcohol-related problems were complex and required short, medium and long-term strategies. These included: boosting health services (such as prevention and treatment programs); launching community awareness campaigns to promote responsible drinking; and reviewing the sale and marketing of alcohol. The Plan also announced the creation of a specific police licensing taskforce (Taskforce RAZON). Meanwhile, Liquor Licensing would gain 30 additional compliance inspectors to liaise with the Taskforce and share some of the police workload in monitoring venues.

In fact Taskforce RAZON was already underway, having launched in April 2008. RAZON – a squad of plain-clothes officers – targeted the service of intoxicated persons, irresponsible promotions, crowd controller performance and general compliance with licence conditions. Activities were focused on ‘high-risk’ venues as determined by Victoria Police.<sup>38</sup> Other VAAP reforms included a review of liquor-licensing fees and conditions and the introduction of a 12-month moratorium on late-night liquor licences (after 1am). High-risk venues, for example, would have to pay more for licences and hire extra security staff.

The Action Plan referred to findings from a 2003 Commonwealth-funded study on Australian licensed premises which found that: ‘A small number of licensed venues account for a large number of alcohol-related incidents, particularly assaults involving young men as either the victim or offender. Hotels are a major contributor to alcohol-related assaults, especially where there is late closing or

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<sup>35</sup> Liquor Licensing Factsheet ‘Changes to the Liquor Control Reform Act 1998’ Consumer Affairs Victoria, February 2008.

<sup>36</sup> *Victoria’s Alcohol Action Plan (VAAP)* followed the 2002 ‘whole-of-government’ *Victorian Alcohol Strategy: Stage One* which was devised by the Department of Human Services and focussed on alcohol misuse and harm. In 2005, the Department of Justice began developing and implementing a range of localised initiatives to target alcohol misuse within Melbourne, Port Phillip, Stonnington and Yarra council areas. Not long thereafter, the Commonwealth Government released its *National Alcohol Strategy 2006–2009* which was developed to combat high risk alcohol consumption in Australia and mitigate the downstream social, personal and economic effects. Like previous national policies since 1989, it was based on the principles of harm minimisation.

<sup>37</sup> ‘Restoring the balance – Victoria’s alcohol action plan 2008–2013’ Victorian Government, May 2008, p.15.

<sup>38</sup> As Taskforce RAZON hit the streets, the Federal Government announced plans to increase the tax on spirit-based pre-mix drinks or ‘alcopops’ by 70% in the hope of reducing alcohol consumption amongst adolescents.

close proximity to other licensed venues.<sup>39</sup> The same research suggested that ‘pub-hopping’ or ‘bar crawls’ i.e. moving from one venue to the next was associated with antisocial behaviour. Action Item 3.7 signalled the Government’s intention to impose a lockout on Melbourne venues:

Given that late-hour entry restrictions have proven to be an effective measure in reducing violence and antisocial behaviour in public places in regional Victoria and other jurisdictions, the Minister for Consumer Affairs will request the Director of Liquor Licensing to consider utilising existing powers under the Act to introduce a three month trial of late-hour entry restrictions.<sup>40</sup>

## The 2am lockout

On Friday 2 May, the government announced that patrons would be ‘locked-out’ of venues after 2am on a trial basis from 3 June. Patrons already inside the venue would be permitted to stay until the venue closed but pass-outs, even for smoking, would not be permitted. The policy would apply to almost 500 late-night venues within the Cities of Melbourne, Yarra, Port Phillip and Stonnington (*Exhibit B*) which had a total reported capacity close to 150,000 patrons.<sup>41</sup> Almost 60% of affected venues were located within the City of Melbourne.<sup>42</sup> Licensees who admitted patrons after 2am would face fines of up to \$6,800. Only restaurants, the Crown Casino floor and licensees with full club licenses, such as RSLs, (*Exhibit F*) would be exempt.<sup>43</sup> Said Premier Brumby:

Victoria currently has the lowest prevalence of crime against the person in Australia and we need to ensure we act to ensure this remains the case. This is an enforcement issue, a preventative health issue and a treatment issue. Due to Victoria’s great bars and restaurants we have the best nightlife in the country but we need to get the balance right. The challenge is to preserve our famous 24-hour city as the safest in Australia while addressing the misuse of alcohol.<sup>44</sup>

Victoria Police was perhaps the strongest supporter of the policy. Chief Commissioner Christine Nixon described it as a ‘very significant step forward for Victoria’ while Deputy Police Commissioner Kieran Walshe said: ‘I’ve seen the lockout work in Bendigo. People at 2 o’clock, when the lockout becomes effective, just go home. Yes, Melbourne is bigger than Bendigo...but we have a belief that a 2 o’clock lockout is going to go a long way towards providing a safer environment.’<sup>45</sup> Proponents also claimed that a 2am lockout would enable police to focus resources on this key part of the evening. Referring to the Ballarat curfew, Brumby stated that, ‘Since [it was introduced in 2003], police statistics show assaults are down by 48%. Hospital admissions are down by 45%. The (Ballarat) community has worked together, the nightclub owners have worked together. They’ve done it in a co-operative fashion and it’s been better for all concerned.’<sup>46</sup> Sue Maclellan had overseen the regional lockouts and believed that they had helped reduce anti-social conduct.

Media outlets, which had long decried the level of violence, were less enthused. ‘There is nothing magic about 2am,’ said a *Herald-Sun* editorial, ‘and booze-fuelled violence is not limited to one street or to bar-hopping drinkers. That said, the lockout attempts to make the city safer. The three-month trial should at least be given a chance to work.’<sup>47</sup> An *Age* newspaper editorial also offered qualified support.<sup>48</sup>

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<sup>39</sup> Doherty, S. and Roche, H. *Alcohol and licensed premises: Best practice in policing* Australasian Centre for Policing Research, April 2003, p. xii.

<sup>40</sup> ‘Restoring the balance – Victoria’s alcohol action plan 2008–2013’ Victorian Government, May 2008, p.34.

<sup>41</sup> ‘Evaluation of the Temporary Late Night Entry Declaration - Final Report’, KPMG for the Department of Justice, November 2008, pp.48-49.

<sup>42</sup> *Ibid*, p.48.

<sup>43</sup> Media Release: ‘Victoria’s Alcohol Action Plan to restore the balance.’ The Premier of Victoria, 2 May 2008.

<sup>44</sup> *ibid*.

<sup>45</sup> Haywood, B. ‘Trouble on the streets’ *The Age* 16 June 2008.

<sup>46</sup> Ross, N. et al ‘Police 2am lockout anger for Melbourne bars’ *Herald-Sun* 4 June 2008.

<sup>47</sup> Editorial ‘Tackling the Fight Clubs’ *Herald-Sun* 2 June 2008.

<sup>48</sup> Haywood, B. Trouble on the streets *The Age* 16 June 2008.

Australian Hotels Association Victoria CEO Brian Kearney was tentatively in favour, provided 'low-risk' venues weren't included: 'The success or otherwise of these lock-outs is very much dependent on the terms and conditions that apply to them,' he said 'and we would be hoping that the Director of Liquor Licensing has some flexibility in the way she intends to apply them... overwhelmingly these issues of late night violence, anti-social behaviour, are related to late night clubs and nightclubs... Pubs are concerned to the extent that they might be unreasonably targeted in some situations and that's why we'd be looking for low-risk venues to be excluded from the lockout.'<sup>49</sup>

The public, meanwhile, broadly endorsed measures to combat public drunkenness and violence, though the level of support varied according to age (older people being more in favour of lockouts) and the type of intervention. An Australian National Drug Strategy Household Survey (ANDSHS) found that support for restricting late-night trading of alcohol had risen from almost 52% in 2004 to 58% in 2007.<sup>50</sup> However, more than 80% of Australians consumed alcohol and although most wanted to see more done to mitigate alcohol-related harm, very few people worried about their own drinking.<sup>51</sup> The ANDSHS study also noted that the harm-reduction methods most popular with the public (tougher sanctions for law breakers) were empirically less effective than the least popular methods (limiting supply) (*Exhibit K*).

## Blocking the lockout

By contrast, bar and club owners were almost uniformly against the proposal and mobilised swiftly to oppose it. Cherry Bar owner James Young summed up the sentiments of many operators: 'We welcome the chance to address anti-social behaviour but we don't think this is the right course of action. We don't think there has been the right level of consultation and dialogue between licensees and Liquor Licensing. I think we should be honest and say that in the large group of licensees in Melbourne there are some bad eggs. But all bars are being tarred with the same brush. We need to see a greater onus on the responsible serving of alcohol,<sup>52</sup> greater security and more police involved.'<sup>53</sup>

Licensees believed that targeting 'problem' clubs, enforcing existing legislation and more proactive policing would be far more effective than a blanket lockout. Melbourne Locked Out (the main protest group representing owners, workers and patrons opposed to the lockout) claimed that the policy would threaten venues' survival and Melbourne's enviable reputation as a nightlife capital. It was also unrealistic in an era when people worked long hours and socialised much later than in the past. The group predicted a lockout would force large numbers of patrons on to the streets to beat the curfew which would then create tension as people queued outside venues or tried to get home in a city with few early-morning public transport options. Lockout opponents also warned that public drinking or unsupervised private functions might become the preferred choice of young party-goers.

Musicians, DJs and other performers were also opposed to the lockout and any other measure that might impact venues negatively. Meanwhile, councils neighbouring the lockout zone worried that the policy would simply push the problem into their municipalities and possibly encourage drink driving. Opponents also felt that the Casino's automatic exemption from the lockout was inherently unfair, pointing out that it was regularly associated with violent altercations.<sup>54</sup> Some accused the government

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<sup>49</sup> Burgess, M. 'Melbourne venues set for 2am lockout' *The Age* 2 May 2008

<sup>50</sup> 'Inquiry into strategies to reduce assaults in public places in Victoria – Final Report' DCPC, Parliament of Victoria, August 2010, p.115.

<sup>51</sup> 'Effectiveness of justice strategies in preventing and reducing alcohol-related harm' Victorian Auditor-General's Report, June 2012, p.11.

<sup>52</sup> Responsible Service of Alcohol regulations required, amongst other things, that staff in licensed premises refuse to serve alcohol to inebriated patrons.

<sup>53</sup> Ross, N. 'Lockout to destroy central Melbourne nightlife - Cherry Bar boss' *Herald-Sun* 2 June 2008

<sup>54</sup> Statements from Licensees and Venue Managers [www.2amlockout.com.au](http://www.2amlockout.com.au) Accessed July 2008.



of further hypocrisy in using Melbourne's bars to promote tourism without providing adequate infrastructure or support.

Former Premier John Cain, like many lockout critics, believed that culture was an underestimated influence: 'The current problems relate to the enormous pressures on people of all ages to drink...You go to the Spring Racing Carnival and you can't get near the place because it's a drunken party.'<sup>55</sup> They pointed to other parts of the world where alcohol was a regular feature of social life but public drunkenness or violence was not. Critics also observed that while alcohol lowered inhibitions and social awareness, the relationship between consumption and violence was not perfectly linear. Indeed, the Commonwealth study cited in VAAP noted that:

grossly intoxicated people are less likely to initiate violence but are more likely to become the victim of alcohol-related aggression in the licensed drinking environment and on leaving, and are more likely to suffer harms from injuries such as falls...Mild and moderate levels of intoxication also impair cognitive functioning and can increase the likelihood of aggressive and violent responses to irritation. However, intoxication laws (per liquor legislation) do not target these individuals.<sup>56</sup>

Although lockouts had already been used elsewhere in Victoria and interstate, evaluation of their efficacy had been patchy. It was also difficult to make comparisons. Some lockouts applied to a few venues or a few streets; some to an entire suburb, town, or city. Some lockouts were voluntary; others compulsory. In Brisbane there had been a reported drop in alcohol-related disturbances since the introduction of the city's 3am lockout in 2005 but as one of 17 concurrent measures designed to prevent alcohol abuse and violence, it was hard to determine its impact. Opponents, meanwhile, pointed to London which repealed its 11pm lockout laws in 2005 in an effort to curb binge drinking.

## Fighting words

Though most venues opposed lockout on policy grounds, many were equally upset by the process and, more specifically, by Sue Maclellan's personal style. They claimed she had been unnecessarily abrasive and dismissive. She responded by declaring 'I don't think I've been rude at all to them...I do call a spade a spade. I'd be the first to admit that.'<sup>57</sup> On 13 May 2008, 300 nightclub owners and promoters voted to establish a legal fund and industry association to fight the plan at the Victorian Civil and Administrative Tribunal (VCAT).

Just over two weeks later, on the eve of the policy's introduction, VCAT found that Liquor Licensing (LL) had not adequately consulted industry and ordered it to mediate with more than 40 club owners. LL responded with a compromise deal which would allow the clubs to admit patrons after 2am on the condition that they provided extra security staff, did not use footpaths and did not advertise their exemptions.<sup>58</sup> The same day, an estimated 3,000 protesters gathered in Treasury Gardens to participate in the Melbourne Locked Out rally. The website provided listings of all the exempt venues which included the city's largest nightclubs. Said organiser Andrew Ranger:

Well we don't have a Harbour Bridge, we don't have a Bondi Beach, we don't have all these things that other cities take for granted. We have a culture that is a nightlife culture in Melbourne, that people thrive on, that people come to Melbourne to see.<sup>59</sup>

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<sup>55</sup> Johnston, C. & Houston, C. 'Mean streets of Melbourne' *The Age* 23 February 2008.

<sup>56</sup> Doherty, S. and Roche, H. *Alcohol and licensed premises: Best practice in policing* Australasian Centre for Policing Research, April 2003, p. xii.

<sup>57</sup> Bachelard, M. 'The woman in the eye of the lockout storm' *The Age*, 10 August 2008.

<sup>58</sup> Nolan, K. 'Nightclub owners win 2am lockout battle' *The Age* 30 May 2008

<sup>59</sup> Cowan, J. 'Nightclub lock-out plan hits a snag' *The World Today*, ABC Radio Broadcast: 2 June 2008.

## Lockout fallout

On the morning of 3 June, the lockout was introduced amidst some confusion amongst police and patrons. By 4 June, the number of venues with exemptions had grown to 112, with a further 16 applications pending.<sup>60</sup> This represented roughly 25% of all affected venues. Venues in Stonnington had been the most successful with more than a third gaining exclusion from the trial. Brumby expressed his frustration, as well as his determination to forge ahead:

I heard one of the nightclub operators on the radio this morning [saying] 'Oh it's not my fault, they were drunk by the time they got to my venue'. Well, of course, they all say that: they all say it's someone else's fault; they all say it's the bouncer's fault; it's young kids abusing alcohol. The fact is everybody has a responsibility here to work together to solve, I believe, what is a solvable problem, but a problem which is damaging Melbourne's reputation and, most importantly, is damaging the lives of young Victorians.<sup>61</sup>

Maclellan insisted that the trial could still work but announced that she was going to launch a test case against five venues at VCAT to prove that she was legally entitled to enforce the lockout. Publicly the Government, including Police Minister Bob Cameron, supported Maclellan. However, there were press reports that senior members of government were privately displeased at the way the lockout had been managed. Asked if she believed she had the Government's backing, Ms Maclellan said: 'I do at the moment. I am sure they would tell me if I didn't have that.'<sup>62</sup>

The lockout plan was dealt another blow in mid-June when VCAT tribunal president Justice Kevin Bell rejected LL's request for a review of the exemptions, 'The stay orders issued by the tribunal in these five applications ... completely dealt with the controversy between the director and the five applicants. I would need more than the director's desire to re-open that controversy to warrant a grant of leave,' he said.<sup>63</sup> Venues exempted from the trial would still have to comply with additional conditions, including no promotions to encourage patronage after 2am.

## An 'unmitigated failure'

A week into the trial, the government declared it was 'very pleased' with its implementation even though newspapers reported several violent incidents and a number of clubs flouting their restrictions.<sup>64</sup> In July 2008, an *Age* article revealed that several government taskforce advisors claimed their advice had been ignored and that the 2am lockout had hardly been discussed. 'I don't remember this being raised at any meeting,' said Professor Robin Room of the Turning Point Alcohol and Drug Centre. 'I had not pushed for a lockout policy ... there's very little literature to prove that this works.'<sup>65</sup> An anonymous taskforce member said: 'I think we can safely say it's been a pretty unmitigated failure. I don't think it was anything other than something that came out of the Director of Liquor Licensing [Sue Maclellan]. She seemed to be the one that came up with the idea and the one that rightly is taking all the heat for it. Seemingly, one person's opinion is all that mattered, more than the public's view, the industry's view, the police or people in the health sector.'<sup>66</sup> Another member added: 'My concern, right at the start when they invited me on the panel, was: Are we going to get used in some process that we don't have any control in? ... They've [the Government] got a high

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<sup>60</sup> Ross, N et al 'Police 2am lockout anger for Melbourne bars' *Herald-Sun* 4 June 2008.

<sup>61</sup> Media Release: Premier Discusses 2am Lockout The Premier of Victoria, 2 June 2008.

<sup>62</sup> Ross, N. And Ferguson, J. 'Liquor boss: battle lost, not war' *Herald-Sun*, 7 June 2008.

<sup>63</sup> Houston, C. 'Court blow for lockout initiative' *The Age*, 17 June 2008.

<sup>64</sup> Houlihan, L et al 'Is this your lockout, Mr Brumby?' *Herald-Sun* 8 June 2008.

<sup>65</sup> Stark, J. and Houston, C. 'Experts call lockout a failure' *The Age* 9 July 2008.

<sup>66</sup> *Ibid*

degree of arrogance about them because there's a lot of practised wisdom out there and they should be listening to the experts.'<sup>67</sup>

Professor Jon Currie, Director of Addiction Medicine at St Vincent's Hospital, defended the lockout strategy as did Vic Health Chief Executive Todd Harper, but admitted that the idea had not been given much attention. Meanwhile, a government spokesperson stated that Tony Robinson, the Minister for Consumer Affairs asked Sue Maclellan to investigate the possibility of a lockout. 'The Director of Liquor Licensing then looked at the stats and evidence, liaised with (police Chief Commissioner) Christine Nixon and then made the declaration based on the evidence and research,' he said.<sup>68</sup>

This report was soon followed by another which quoted Stonnington Mayor Claude Ullin describing the trial as a 'farce' and calling for more police numbers in the Chapel Street precinct.<sup>69</sup> A City of Melbourne Planning Committee Report would later reveal that: 'Local government was not consulted or informed of the development of the plan and its role is not defined, nor has local government been identified as a partner ... City of Melbourne was informed of the trial lockout the day prior to its announcement by State Government.'<sup>70</sup> Councils were also concerned about how the trial would be evaluated.<sup>71</sup>

A month into the trial, Sue Maclellan claimed that it had already been successful in curbing antisocial behaviour. She also stated that she was not obliged to take the advice of health experts before launching the lock-out: 'It is my decision whether to implement a lockout or not,' she said. The legislation does not require that I consult in implementing the lockout. I followed the requirements of the legislation and consulted with the Chief Commissioner before the lockout was introduced.'<sup>72</sup>

However, she did concede that: 'The Government was incredibly disappointed [with the exemptions]. But the twists and turns were not of my making ... I couldn't anticipate how VCAT would approach it and neither could my senior counsel.'<sup>73</sup> Although acknowledging that, '(The Government) would be keen that I didn't end up where I am now,' she looked forward to a possible permanent roll-out of the 2am lockout. Despite media reports calling for her resignation, Maclellan was confident of being around to do it: 'I'm a statutory appointee. (If) I choose to go, I will inform the Governor...If the evaluation says it's worth doing, I want to be in a position to do it.'<sup>74</sup> Due to end at the beginning of September 2008, a KPMG review of the lockout trial would be completed by the end of the year.

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Houston, C. 'Lockout not based on reality, councils claim' *The Age* 16 July 2008.

<sup>70</sup> Status report on the implementation and impacts of the state government's 2am lockout' Planning Committee Report, City of Melbourne, 5 August 2008, p.1.

<sup>71</sup> Ibid, p.2.

<sup>72</sup> 'Lockout architect defends trial' [www.abc.net.au/news](http://www.abc.net.au/news) Accessed July 2008.

<sup>73</sup> Bachelard, M. 'The woman in the eye of the lockout storm' *The Age*, 10 August 2008.

<sup>74</sup> Ibid.

## Exhibit A: City of Melbourne trouble spots

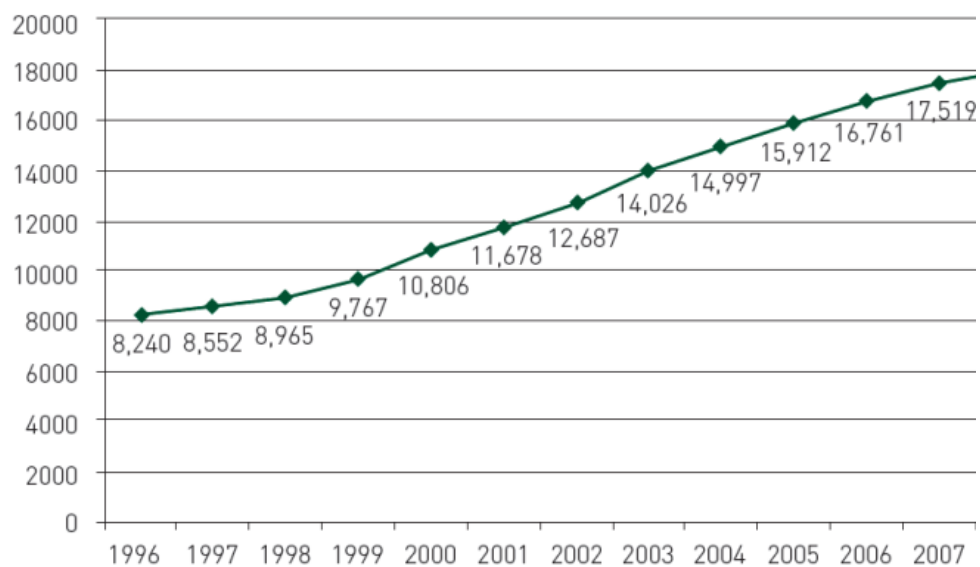


## Exhibit B: Lockout-affected municipalities



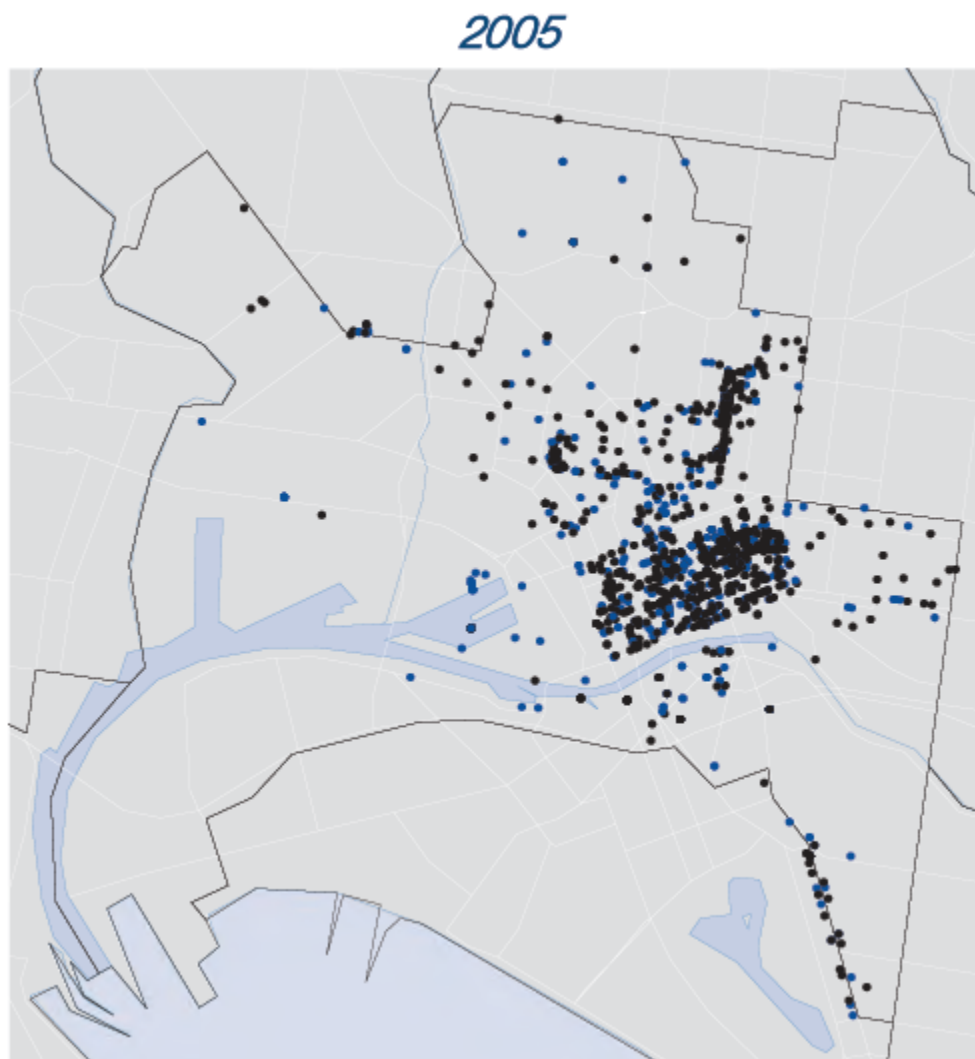
Adapted from City of Stonnington Boundary Map, City of Stonnington, Accessed: February 2014.

## Exhibit C: Number of licensed premises in Victoria 1996-2007



Adapted from: Trifonoff, A., Andrew, R., Steenson, T., Nicholas, R. and Roche, A.M. (2011). Liquor Licensing Legislation in Australia: A Jurisdictional Breakdown. National Centre for Education and Training on Addiction (NCETA) Flinders University, Adelaide, SA.

## Exhibit D: Distribution of active liquor licences, City of Melbourne 2005



Source: 'Effectiveness of justice strategies in preventing and reducing alcohol-related harm' Victorian Auditor-General's Report, June 2012, p.59.

## Exhibit E: Risk factors and licensed premises

Patron characteristics	Venue characteristics	Social environment	Staffing characteristics	Wider environment
Heavily intoxicated	Queues or line ups outside the building	Heavy drinking and high levels of intoxication	High proportion of male staff	High density of licensed premises
Greater proportion of males	Patrons hanging around outside venue at closing	Generally permissive environment with high levels of rowdy behaviour	Low staff-to-patron ratio	High levels of movement in and out of premises
Presence of males in groups, especially strangers to one another	Queues for public transport	Expectation that aggression will be tolerated	Lack of responsible serving practices	Entry and ejection practices for aggressive patrons
Heavy drinkers	Venues with larger capacity	Hostile atmosphere	Refusing service to already intoxicated patrons	Unfair or confrontational entry practices
Younger patrons, including those that are underage	Poorly maintained and unpleasant décor	Macho culture	Drinking by staff	Conflict between social groups emerging from or congregating around venues
Greater proportion of unkempt patrons and patrons from marginal groups	Unclean or messy	Patron boredom	Greater number of staff adopting confrontational approach to venue management	Poor management of cluster points such as bus stations, taxi ranks, food outlets
Patrons exhibiting signs of being less agreeable, more impulsive and angry	Poor or low levels of lighting	Underage drinking	Aggressive security staff	Congestion points as crowds leave venues (especially at closing time)
	Crowding that inhibits movement around the venue, including around the bar	Presence of competitive games	Poor coordination of staff	
	Frequent patron movement	Dancing	Poor monitoring and control of minor incidents	
	Higher noise level	Sexual activity, contact and competition	Limited ability to control or defuse situations	
	Poor ventilation and high temperature	Drink promotions	Lack of professionalism by security staff	
	Inadequate or uncomfortable seating	Limited availability of food	Serving several drinks to patrons at closing	
	Inconvenient access to the bar	Other illegal activities, such as drug dealing	Younger security staff	

Source: 'Inquiry into strategies to reduce assaults in public places in Victoria – Final Report' DCPC, Parliament of Victoria, August 2010, p.96.

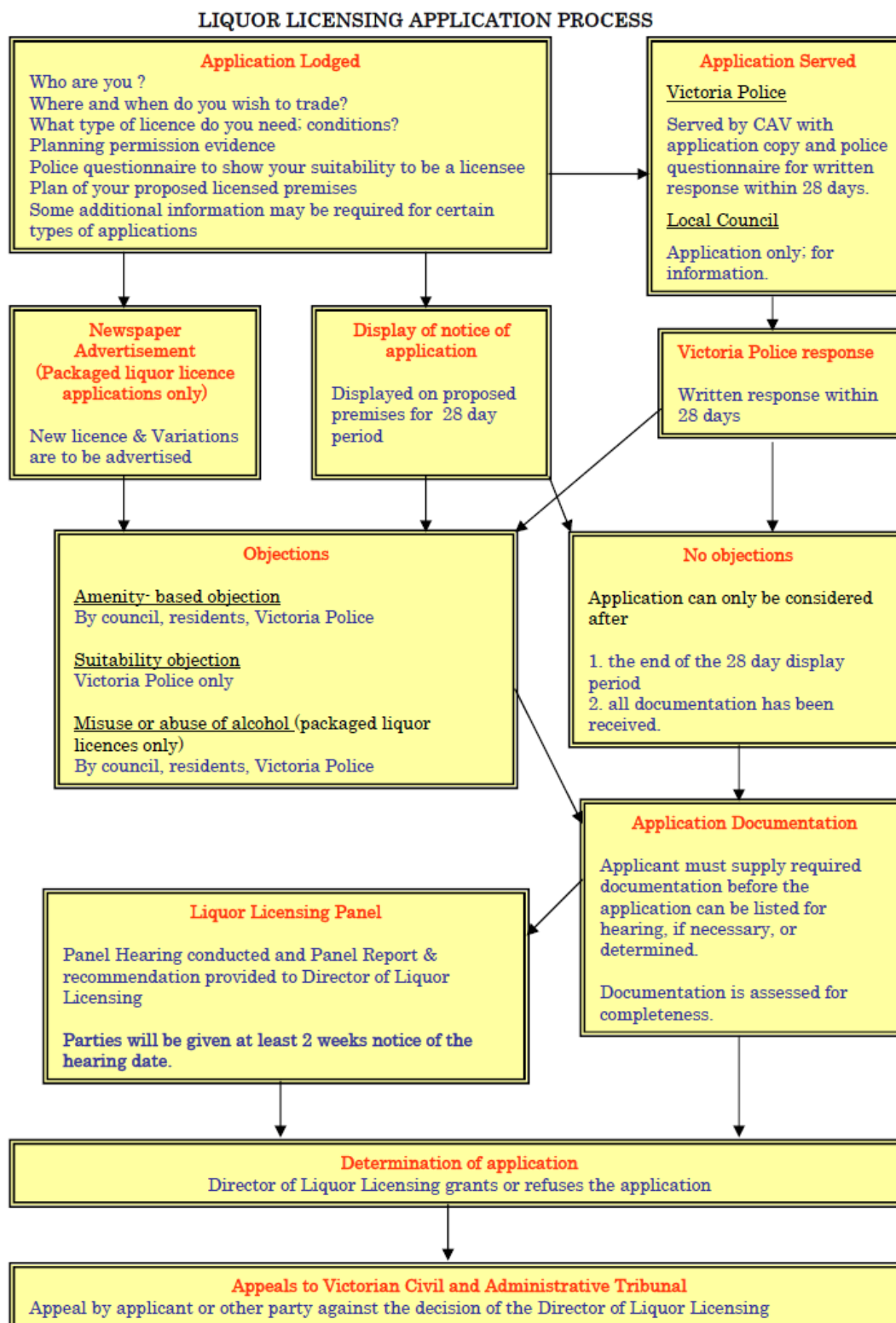


## Exhibit F: Types of liquor licences

Type of licence	Business intention	For these types of businesses or events
<a href="#">On-Premises Licence</a>	Supply liquor to customers for drinking on the premises.	Restaurants, bars and cafes.
<a href="#">Packaged Liquor Licence</a>	Supply liquor to customers to take away.	Retail liquor stores and supermarkets.
<a href="#">General Licence</a>	Supply liquor to customers: for drinking on the premises, and to take away.	Pubs, hotels and taverns.
<a href="#">Full Club Licence</a>	Supply liquor to: members, guests and gaming visitors for drinking on the premises, and members to take away.	Clubs only (especially those with gaming facilities).
<a href="#">Renewable Limited Club Licence</a>	Supply liquor to members and guests for drinking on the premises.	Clubs only.
<a href="#">Temporary Limited Licence</a>	Temporary or short-term supply of liquor to customers or club members for drinking on the premises.	For persons or organisations holding: one-off events, such as a ball or presentation night, a one-off event requiring an extension of trading hours, or a series of events over a limited season, such as a theatre production or racing carnival.
<a href="#">Renewable Limited Licence</a>	Supply liquor to customers: for drinking on the premises to take away in circumstances where the supply is substantially restricted or limited in some way (e.g. range of products, customers, hours, size of premises or means of delivery).	bed and breakfasts, caravan parks, small wineries, Internet vendors, and other businesses (for example, florists or gift-makers).
<a href="#">Pre-Retail Licence</a>	Supply liquor to other liquor licensees to on-sell to their customers.	Wholesalers, producers, brewers and liquor importers.
<a href="#">Vignerons' Licence</a>	Produce liquor from fruit grown on the premises, and then supply the liquor: from the premises for drinking or taking away, or elsewhere to other liquor licence holders.	Larger winemakers who produce liquor from substantially their own fruit (other requirements also apply).
<a href="#">BYO Permit</a>	Allow customers to bring their own liquor and drink it on your premises.	Restaurants and clubs that do not intend to hold a liquor licence.

Source: Applying For a Licence, Department of Consumer Affairs [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) Accessed July 2009.

## Exhibit G: Liquor Licensing application process



CAV denotes 'Consumer Affairs Victoria'.

Source: Applying For a Licence, Department of Consumer Affairs [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) Accessed July 2009.

## Exhibit H: The role of councils and police in liquor licensing

### **The Role of Local Councils**

Local councils have a role in the approval and administration of liquor. A local council may:

- consider and issue planning permits for licensed premises,
- stipulate trading hours,
- object to licence applications on amenity grounds,
- participate in local liquor licensing forums,
- pass by-laws governing the consumption of liquor in public places, and
- initiate disciplinary proceedings against licensees who trade in breach of their licence conditions.

### **The role of the Victorian Police includes:**

- checking police questionnaires,
- determining suitability of liquor licence applicants,
- enforcing liquor laws,
- monitoring of licensed premises on an ongoing basis, and
- participating in liquor licensing forums.

Source: Consumer Affairs Victoria, November 2006.

Liquor Licensing Factsheet

## Changes to the *Liquor Control Reform Act 1998*

February 2008



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*The Liquor Control Reform Act 1998 was amended on 19 December 2007. This follows the passage of the Liquor Control Reform Amendment Act 2007 (the Amending Act).*

”

**Need more information?**  
Call Liquor Licensing at Consumer Affairs Victoria on 1300 65 03 67.

The purpose of the Act is to:

- enable persons to be excluded from certain licensed premises or areas in specified circumstances
- strengthen liquor licensing penalties and enforcement powers
- facilitate and support voluntary liquor accords, and
- ban inappropriate advertising or promotion of liquor sales in licensed premises.

The Amending Act will be proclaimed progressively on various dates in 2007 and 2008.

**The following provisions came into effect from 19 December 2007**

### **Designated areas and banning notices and exclusion orders**

The Director of Liquor Licensing can declare a “designated area” if he or she believes that:

- alcohol-related violence or disorder has occurred within 100 metres of licensed premises in the area, and
- the issuing of banning notices or exclusion orders may be effective in reducing or preventing future alcohol related violence or disorder.

The Director must consult with the Chief Commissioner of Police before making an order to designate an area.

Once a designated area has been declared, relevant police members can issue a banning notice which bans a person from the designated area or all licensed premises in the designated area for 24 hours. To do so police must suspect that a person is committing or has committed a specified offence wholly or partly in the designated area.

The police member must consider:

- the state of health of the person
- the likelihood of the person continuing to offend
- whether it would be more appropriate to arrest the person
- whether the person can comprehend the notice, and
- any other relevant matters.

A banning notice cannot be given to a person if the relevant police member believes the person lives or works in the designated area.

[www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)  
1300 65 03 67



The maximum penalty for re-entering the area after a notice has been given is over \$2,000.

Application can be made to the courts for an exclusion order to ban a person from a designated area or from all or specified licensed premises within the area for up to 12 months. To make an exclusion order, a court must first find the person guilty of a specified offence that was committed wholly or partly in a designated area.

### **Associates**

The definition of **associate** in the Act has been amended to include any person who holds a relevant financial interest or exercises relevant power or is able or will be entitled to exercise any power or influence over the business.

Definitions of relatives, relevant financial interest and relevant power are contained in the Act.

### **Temporary late hour declarations (lockouts)**

The Director of Liquor Licensing may make a temporary late hour entry declaration without giving the 21 day notice period, where the Director believes it will address alcohol-related violence or disorder in a particular area.

The Director of Liquor Licensing must consult with the Chief Commissioner of Police, and must give written notice to each licensee in the area or locality to which the declaration applies.

In these circumstances, the declaration lapses after three months, when it is revoked by the Director or when a permanent late night entry declaration is made, whichever happens sooner.

### **Grounds for an inquiry into a licensee at VCAT**

New grounds for an inquiry into a licensee at the Victorian Civil and Administrative Tribunal under s90 of the Act have been included. The grounds relate to the suitability of directors of a company or a member of a committee of management who has been convicted of an offence punishable by a maximum term of imprisonment of three years or more.

### **Suspension by Police**

By notice in writing, the Chief Commissioner, a Deputy Commissioner or an Assistant Commissioner of Police may suspend a licensee's licence for a period not exceeding 24 hours, if on reasonable grounds it is believed that the licensee has, or will continue to, engage in conduct that would constitute grounds for an inquiry under s90 of the Act; and, there is a danger that a person may suffer substantial harm, loss or damage as a result of the conduct.

The notice must specify the conduct and the grounds for the police member's belief.

### **Accords**

Definitions of a liquor accord and liquor accord ban have been included in the Act. Accords may make provision in relation to the supply of liquor in licensed premises and to ban access by the public to licensed premises.

Provision has also been made for the Director of Liquor Licensing or a police member to be able to disclose certain information to accord members.

### **The following provisions came into effect from 7 February 2008**

#### **Restaurants**

A licensee holding an on-premises licence with restaurant conditions must not permit live or amplified music other than background music after 11.00pm.

This provision does not apply to pre-booked functions outside ordinary trading hours.

### **The following provisions are yet to be proclaimed**

#### **Breach notices**

The Director can issue a breach notice to a licensee if on reasonable grounds it is believed that the licensee has and will continue to engage in conduct that would constitute grounds for an inquiry under s90 of the Act at VCAT.

The notice must specify the conduct, specify a period to respond to the notice, the steps to be taken and the consequences of not responding to the notice.

If the licensee does not respond to the notice within a specified time, or the Director is not satisfied with the response, the Director may vary or suspend the licence. The variation or suspension will last seven days.

## Liquor Licensing Factsheet

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Date of Issue:  
February 2008

### **Increased penalties**

The maximum penalty for supplying liquor to an intoxicated person or allowing drunken or disorderly persons on licensed premises increases to over \$13,000. It is a defence to prosecution if the licensee did not know the drunk was on the premises or had taken reasonable steps to ensure the drunk was not on the premises.

The maximum penalty for selling liquor without a licence increases to over \$24,000 or two years imprisonment.

### **Inappropriate liquor promotions**

The Director can ban a licensee from advertising or promoting the supply of liquor or forms of conduct of licensed premises if it is likely to encourage irresponsible consumption or is otherwise not in the public interest.

The penalty which applies for failure of a licensee to comply with a ban is over \$12,000.

### **More information**

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Information on liquor licensing is available from:

**Consumer Affairs Victoria**

**Victorian Consumer & Business Centre**

113 Exhibition Street  
Melbourne 3000

Telephone 1300 65 03 67

Website [www.consumer.vic.gov.au/liquor](http://www.consumer.vic.gov.au/liquor)

### **Undertakings**

The Director of Liquor Licensing may accept a written undertaking from a licensee in relation to any power or function of the Director under the Act or a contravention of the Act.

The Director must also maintain a register of undertakings.

Source: Consumer Affairs Victoria, February 2008.

## Exhibit J: Membership of the advisory group to the Victorian alcohol action plan

**Mr Peter Allen (Chair)** Chief Drug Strategy Officer, Victorian Government

**Professor Jon Currie** Department of Addiction Medicine, St Vincent's Hospital

**Dr Yvonne Bonomo** Department of Addiction Medicine, St Vincent's Hospital

**Professor Robin Room** Chair of Social Research in Alcohol Policy, Centre for Alcohol Policy

**Mr Hadley Sides** CEO, City of Stonnington

**Mr David Murray** CEO, Youth Substance Abuse Service

**Mr Bill Stronach/Mr John Rogerson** CEO, Australian Drug Foundation

**Mr Todd Harper** CEO, Vic Health

**Professor George Patton** Vic Health Professor of Adolescent Health Research, Centre for Adolescent Health

**Dr Rodger Brough** Director, Alcohol and Drug Services, South West Healthcare

**Ms Yvette Pollard** Research and Policy Officer, beyondblue

**Ms Sue Maclellan** Director of Liquor Licensing

**Commander Stephen Fontana** Victoria Police Corporate Sponsor Drugs and Alcohol

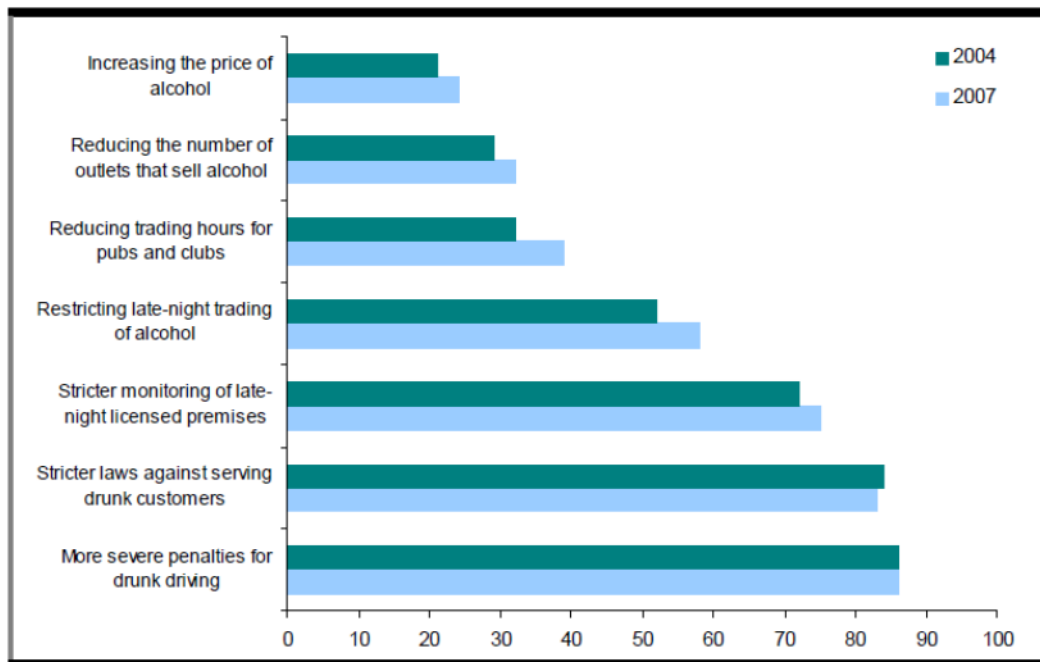
**Mr Sam Biondo** CEO, Victorian Alcohol and Drug Association

In addition to the members of the advisory group, the Victorian Government drew on advice from a range of health services, law enforcement, research, local government, industry, emergency services and other organisations in developing this plan.

Source: 'Restoring the balance – Victoria's alcohol action plan 2008–2013' Victorian Government, May 2008, p.42.



## Exhibit K: Support for alcohol harm reduction measures (%) amongst Australians aged 14+, 2004 and 2007



Source: 'Inquiry into strategies to reduce assaults in public places in Victoria – Final Report' DCPC, Parliament of Victoria, August 2010, p.115.