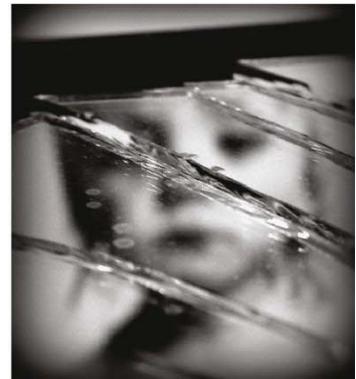
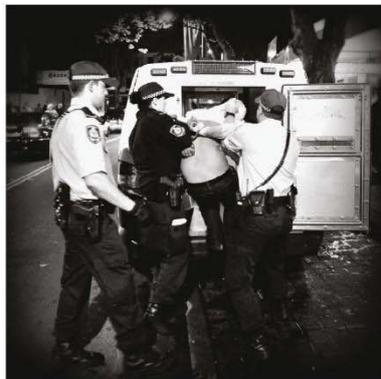




**Submission to the ACT Issues paper:
Addressing alcohol-related harm**



About the NSW ACT Alcohol Policy Alliance

The NSW ACT Alcohol Policy Alliance (NAAPA) aims to reduce alcohol harms by ensuring that evidence-based solutions inform alcohol policy discussions in NSW and ACT. NAAPA currently has 47 member organisations from a range of fields including health, community, law enforcement, emergency services and research.

The following are the ACT members of NAAPA:

- Alcohol Tobacco and Other Drugs Association ACT (ATODA)
- Australian Medical Association ACT
- Canberra Recovery Service, Salvation Army
- Cancer Council ACT
- CatholicCare Canberra & Goulburn
- DIRECTIONS ACT
- Foundation for Alcohol Research and Education (FARE)
- Karralika Programs Inc.
- Public Health Association of Australia ACT Branch
- Ted Noffs Foundation (ACT)
- The Royal Australasian College of Surgeons

To contact the NAAPA secretariat email info@naapa.org.au or for more information about NAAPA visit www.naapa.org.au

Contents

Summary	3
Submission format	4
Recommendations	4
Alcohol consumption and harms in the ACT	7
Limiting the physical availability of alcohol	8
Trading hours	8
Unsubstantiated claims by the alcohol industry on reasons not to reform late night trading	9
Exemptions	10
Policy proposal	10
Recommendations	11
Managing outlet density	11
Moratorium	12
Policy proposal	12
Recommendations	14
Limiting the economic availability of alcohol	14
Pricing	15
Policy proposal	15
Recommendations	16
Reducing exposure to alcohol	16
Policy proposal	18
Recommendations	18
Issues for consideration: Other measures for reform	19
Responsible service of alcohol	19
Recommendations	20
Data collection, publication and use	20
Recommendations	21
References	22

Summary

The NSW ACT Alcohol Policy Alliance (NAAPA) welcomes to the opportunity to provide comment on the *Issues paper: Addressing alcohol-related harm*. NAAPA also provided a submission to the *Two year review of the ACT Liquor Laws and Licensing Fees*.

The Australian Capital Territory (ACT) Government should be commended for the extensive evidence based *Issues paper: Addressing alcohol-related harm* (Issues paper). The matters raised in the *Issues paper* are vital because alcohol remains a significant cause of harm in the ACT. The impact of this harm is reflected in alcohol-related emergency department presentations in ACT, with more than 18 people a day presenting because of an alcohol-related injury.

The regulation of alcohol and the associated liquor licensing processes are critical elements that contribute to a safer and healthier community. NAAPA welcomes the government's changes to date with the introduction of the secondary supply laws and strengthening the membership of the Liquor Advisory Board. However, there is still more to be done to address alcohol harms in the ACT.

As outlined in the Issues paper it is well established that the increased availability, excessive promotion and lower price of alcohol all contribute to increased alcohol consumption and harms. Despite this, alcohol is more available than it has ever been, alcohol promotions are prolific with an average of 30.2 point of sale promotions per liquor outlet¹ and alcohol can be purchased for as little as 30 cents per standard drink.² The Issues paper clearly sets out the evidence for reform in these three areas.

The review of the *Liquor Act 2010* presents significant opportunities for the ACT Government to reform the way in which alcohol is regulated and to reduce the harms that impact so significantly on the lives of people in the ACT. There is support for the Government to act, with the latest data from the *National drug strategy household survey* finding that 61.7 per cent of ACT residents support restricting late night trading of licensed premises and a third support reducing the number of outlets that sell alcohol.³

Reforms to the regulation of alcohol must be comprehensive and must acknowledge that the current system of regulation is not adequately mitigating the harms that so frequently result from alcohol on people that consume alcohol and those around them. These reforms must begin with:

- Reducing the late night trading hours by introducing a 3am close and a 1am lockout for on-licence premises and 10pm close for packaged liquor.
- Addressing the reckless discounting of alcohol by banning the sale of alcohol for less than one dollar per standard drink in on- and off-premise venues.
- Providing the Commissioner for Fair Trading on the advice of the Chief Police Officer, the power to declare that a saturation zone where alcohol-related harms are considered significant.

These reforms and those included within this submission are proven solutions to reduce alcohol-related harms.

NAAPA welcomes the inclusion in the Issues Paper of evidence based measures to address alcohol harm as part of this reform. Limiting the physical availability of alcohol through reduced trading hours and liquor outlet restrictions, limiting the economic availability of alcohol through taxation and pricing policies, and reducing exposure to alcohol through the regulation of advertising and promotions have been shown to be the most effective strategies to reduce alcohol harm.

The ACT Government should use this review as an opportunity to introduce these policies and demonstrate their continued commitment to reducing alcohol harms.

Submission format

This submission will follow the format of the *Issues paper* and address the following sections:

- Alcohol consumption and harms in the ACT.
- Limiting the availability of alcohol.
- Limiting the economic availability of alcohol.
- Reducing exposure to alcohol.
- Other measures or reforms.

This submission should be read in conjunction with the *Issues paper: Addressing alcohol-related harm*. Recommendations have been made in each section that address the issues for consideration highlighted in the discussion paper.

NAAPA will also be providing a submission to the *Issues paper: Proposals for regulatory improvements* that will include a range of policies that will strengthen the *Liquor Act 2010* with the aim to reduce and prevent alcohol harms.

Recommendations

1. Schedule 2 of the *Liquor Regulation 2010* should be amended to reduce trading hours for all new and existing liquor licences to the following:
 - Opening times for all licensed premises (including off-licences) across the ACT should be no earlier than 10am.
 - Standard closing times for all on-licence (midnight) premises should be retained, with extended trading venues' closing times limited to 3am and lockouts (preventing entry for patrons) no later than 1am.
 - Standard closing times for all off-licence premises should be 10pm.
2. Schedule 2 of the *Liquor Regulation 2010* should be amended to ensure that no exemptions are granted to licensee for extended trading hours beyond 3am (on-licence) or 10pm (off-licence).
3. The *Liquor Act 2010* should be amended to provide the Commissioner for Fair Trading on the advice of the Chief Police Officer, the power to declare that a saturation zone where alcohol-related harms are considered significant.
4. The *Liquor Act 2010* should include provisions that require the Commissioner for Fair Trading to take into consideration the existing density of liquor outlets when making decisions on new liquor licence applications. Each application assessment should consider the cumulative impact of the venue in terms of the following risk factors: venue capacity; trading hours; venue type and related considerations such as noise; other outlets in the area and proximity to these; proximity to locations such as schools, childcare centres, places of worship, hospitals, sporting grounds and residential premises; crime and assault data; hospital and ambulance data and other relevant risk factors.

5. The *Liquor Act 2010* should provide power to the Commissioner for Fair Trading to reduce the excessive availability of alcohol in areas already saturated with liquor licences through initiatives such as liquor licence freezes, licence penalties and licence buy backs.
6. The *Liquor Act 2010* should be amended to require licensees to notify the following stakeholders within three days of submitting their licence application: ACT Health, ACT Policing, local hospitals, places of worship, educational institutions, community groups, facilities for vulnerable persons and managers of alcohol-free zones, public parks and sporting grounds. This notice to stakeholders should declare the submission date of the licence application, and note their rights as stakeholders to make written representations to the Commissioner for Fair Trading.
7. The *Liquor Act 2010* should be amended to require the Commissioner for Fair Trading under Division 2.4 to follow-up with ACT Health and ACT Policing in relation to licence applications within 14 days of the consultation period closing. A lack of written representations from ACT Health and ACT Policing in relation to licence applications should not be presumed by the Commissioner for Fair Trading to be a tacit approval of an application.
8. The *Liquor Act 2010* should be strengthened to prohibit the harmful discounting and promotion of alcohol products by including provisions under regulation 29 of the *Liquor Regulation 2010* that set a minimum price for alcohol of at least one dollar per standard drink.
9. Compliance and enforcement of the provisions under the *Liquor Regulation 2010* which prescribe harmful discounting of alcohol should be monitored and enforced.
10. The *Liquor Act 2010* should be strengthened to prohibit the harmful discounting and promotion of alcohol products by including provisions under regulation 29 of the *Liquor Regulation 2010* that:
 - Address alcohol promotions by both on and off-licence premises' with equal weight.
 - Declare 'Shopper docket' (liquor promotion vouchers on the receipts for purchases) as a prohibited promotional activity.
 - Prohibit point of sale promotional materials for liquor (such as 'happy hours', free gifts with purchase, prominent signage, competitions, price discounts for bulk purchases, and sale prices) from being displayed on and around licensed premises where minors are likely to be present.
 - Prohibit the placement of alcohol promotions on ACT Government property.
11. The *Liquor Regulation 2010* should be amended to include provisions requiring licensees and managers of all new and existing off-licence premises that sell alcohol among other consumer products, such as supermarkets, to:
 - Isolate designated floor space for alcohol products (liquor area) away from other products.
 - Enforce section 120 of the *Liquor Act 2010* to ensure that persons under the age of 18 are not entering the designated area on the premises.
12. Section 137 of the *Liquor Act 2010* should be extended to grant the Attorney General and the Commissioner for Fair Trading the powers to have active promotions discontinued or removed at their discretion.
13. Part 1.4 of Schedule 1 of the *Liquor Regulation 2010* should be amended to require all new and existing on-premises licensed venues in the ACT (as part of their licence conditions under

regulation 7 of the *Liquor Regulation 2010*) to adhere to the following mandatory licence conditions related to responsible service of alcohol (RSA) that prohibit:

- Sales of shots, mixed drinks with more than 30ml of alcohol and ready mixed drinks stronger than five per cent alcohol by volume after 10pm.
 - Sales of more than four drinks to any patron at one time.
 - Sales of alcohol mixed with energy drinks after midnight.
14. The transparency of RSA compliance should be enhanced by requiring the Office of Regulatory Services and the ACT Police to publicly report on compliance activities relating to the *Liquor Act 2010*. This includes the number of venues inspected and their location, the times of day that these venues are inspected and the number of identified breaches of compliance.
15. The transparency of RSA compliance should be enhanced by publicly naming and shaming on the website of the Office of Regulatory Services those premises that are found to have contravened the *Liquor Act 2010*, *Liquor Regulation 2010* or RSA standards.
16. The collection of alcohol-related data in the ACT should be enhanced by:
- Amending Part 1.5 of Schedule 1 of the *Liquor Regulation 2010* to include the collection of cider sales as part of wholesale data collection.
 - Requiring off-premise licensees to provide information on each purchaser/retailer to whom alcohol is sold, in order to determine where the alcohol is most likely to be consumed, and sales information relating to drink type, volume and date sold.
 - Requiring the Office of Regulatory Services to publicly report on the characteristics off-licences to include occupancy, trading hours, licence type, and volume of alcohol sold for off-licence.
 - Requiring agencies within the ACT Government to annually publish alcohol harm data and trends. These agencies include: ACT Health, Office of Regulatory Services, ACT Civil and Administrative Tribunal, ACT Policing, and ACT Ambulance Service.
 - Collecting and reporting on the place of last drink for those alleged to have committed alcohol-related offences.
 - Amending Part 1.5 of *Liquor Regulation 2010* to assist licensee reporting of alcohol purchases to the Commissioner of Fair Trading by including a definition of 'wholesaler'.
17. A whole of government report on key alcohol-related harms indicators should be produced annually for the Liquor Administration Board and Attorney General to inform their decision making on alcohol policies.
18. The Office of Regulatory Services should be required to reflect the available alcohol-related health and crime data for the ACT in their consideration of a proposed premises' suitability under section 75 of the *Liquor Act 2010* when making decisions on new licence and permit applications or applications for licence amendments.

Alcohol consumption and harms in the ACT

The ACT has bucked national trends to report a slight rise in daily alcohol consumption from 5.4 per cent to 6.6 per cent compared to an overall decline in Australia.⁴

Consumption levels in the ACT (82.7 per cent) are higher than the national figure (78.3 per cent), and the proportion of ACT residents drinking at a level that puts them at risk of long term harm is 22 per cent compared to 18.2 per cent nationally. The proportion of males and females drinking to risky levels on a single occasion (more than four standard drinks) was also higher in the ACT compared to the national average (55.2 per cent of ACT males compared with 48.2 per cent nationally, and 33.5 per cent of ACT females compared with 27.6 per cent nationally).⁵

Harm caused by alcohol in the ACT are also significant. The *Issues paper* provided a comprehensive picture of the harms caused by alcohol and the significant impact they have on both the health and justice system.

The harms from alcohol are not only significant they are also increasing. In the ACT there has been a 32 per cent increase in the number of alcohol-related emergency presentations over a four year period: from 5,084 in 2009-10 to 6,702 in 2012-13.⁶ The graph below provides an overview of the number of the alcohol-related emergency presentations in the ACT between 2009-10 and 2012-13.

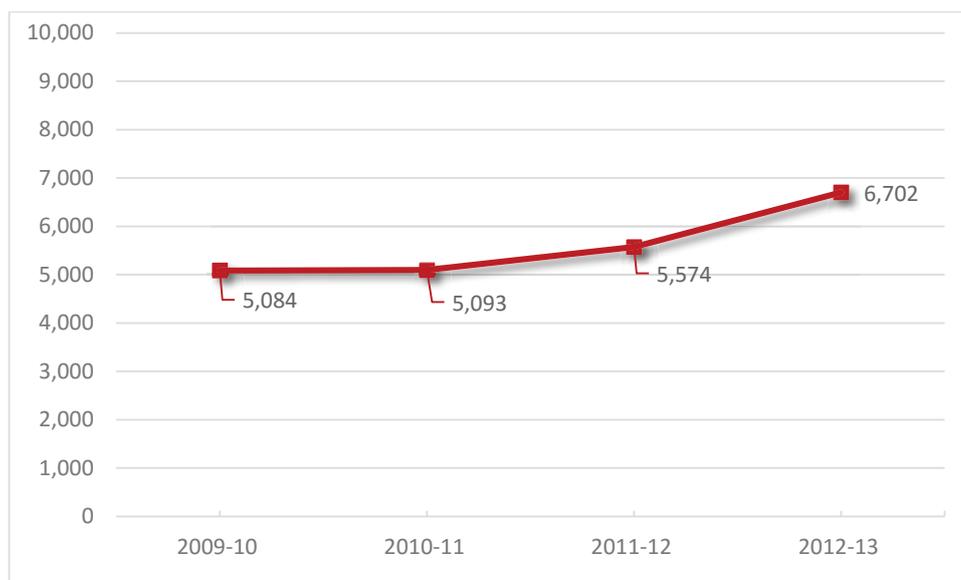


Figure 1. Number of alcohol-related emergency presentations in the Australian Capital Territory between 2009-10 and 2012-13.

Alcohol has a significant burden on our health system with more than 5,500 people being hospitalised each year for chronic conditions related to alcohol.⁷

There are also significant numbers of alcohol-related offences reported by police. Between late 2010 and September 2013, an average of 85 alcohol-related offences were reported across the ACT each month.⁸

Limiting the physical availability of alcohol

The relationship between the temporal and spatial availability of alcohol and alcohol-related harm is well accepted. As the *Issues paper* notes, an increase in availability is associated with an increase in harms, while a decrease in alcohol availability is associated with a decrease in harms. Australian and international research has shown that for every additional hour of trading, there is a 20 per cent increase in assaults and conversely, for every hour of reduced trading there is a 20 per cent reduction in assaults.^{9,10}

Recent research in Amsterdam has also found that an increase in the levels of alcohol-related harm associated with an increase in trading hours. The research examined ambulance attendance data, which captures alcohol-related harm such as poisoning, reduced consciousness, fractures, wounds and other injuries. The research found that a one hour increase in trading hours was associated with a 34 per cent increase in alcohol-related injuries.¹¹

Likewise, research has consistently found an association between the density of liquor licences and alcohol-related harms such as assaults, adolescent drinking, domestic violence, drink driving, homicide, suicide, and child maltreatment.^{12,13,14}

These research findings highlight the need to address the availability of alcohol in order to reduce alcohol harms. The following section examines this in relation to trading hours and outlet density.

Trading hours

Alcohol is currently available for purchase in the ACT for up to 22 hours per day every day, depending on the type of venue. Standard opening hours for licensed premises that sell alcohol for consumption on the premises (on-licence) are 7am to 12am, with the opportunity to extend late night trading hours to 5am upon application. There are currently 396 active on-licence¹⁵ premises in the ACT, with 89 venues licensed to trade after midnight and 48 venues trading after 3am.¹⁶ For the 197 premises¹⁷ that are licenced to sell alcohol for consumption off the premises, standard trading hours are 7am to 11pm, with no provision to extend trading hours.

Late night trading hours are particularly important in the context of harm because of the increase in harm observed after midnight. Research by the Bureau of Crime Statistic and Research (BOCSAR) in New South Wales looked at the relationship between alcohol and crime using New South Wales Police records. The study found that the percentage of alcohol-related assaults increased substantially between 6pm to 3am, with the highest rates of alcohol-related assaults occurring between midnight and 3am.¹⁸

This pattern has also been observed in the ACT, as noted in the *Issues paper*. A report by the Australian Institute of Criminology (AIC) based on the findings from research conducted by the AIC in conjunction with ACT Policing (ACTP) also found that the majority of assaults occurred between the hours of midnight and 3am (34 per cent). This research looked at licensed premises in Civic and the Kingston/Manuka area and found that this pattern was observed in both locations.¹⁹

Reducing trading hours of off-licence premises will contribute to an overall reduction in alcohol harm, as demonstrated by research in Switzerland and Germany. A reduction in off-licence trading hours in Geneva, combined with a reduction in availability by banning sales from gas stations and video stores, had a significant effect on hospital admission rates among adolescents and young adults. Depending on the age group, a reduction in availability resulted in a decrease in alcohol-related hospital admissions of 25-40 per cent.²⁰ In Germany, a reduction in trading hours of off-licence premises in

Baden-Wurttemberg resulted in a nine per cent fall in alcohol-related hospitalisations among adolescents and young adults.²¹

Unsubstantiated claims by the alcohol industry on reasons not to reform late night trading

It is anticipated that the ACT Government will receive numerous submissions from members of the alcohol industry asserting that late night trading measures are ineffective and harmful to industry.

It is unsurprising that members of the alcohol industry have made claims that late night trading restrictions have a negative and ‘devastating’ impact on their business and the night time economy. These claims are unsubstantiated and are made only to discourage the ACT Government from acting on reducing alcohol harms. The government must ensure that any claims are substantiated by independent data sources. It is important that the government prioritises the health and safety of communities before the profits of the alcohol industry.

NAAPA cautions the ACT Government in relying on data provided by members of the alcohol industry in making policy recommendations about reforming late night trading. It must be noted that the alcohol industry has a clear and vested interest and this can be counter to the need to prioritise community health and safety.

There is no evidence that earlier closing times and lockouts have ‘disastrous’ impact on the night time economy

It is expected that licensees would experience a change in business after the introduction of late night trading restrictions (such as 3am last drinks and 1.30am lock outs), as the purpose of these measures is to reduce the availability of alcohol during late night trade to reduce high levels of alcohol harms. The night time economy is broader than the alcohol industry and the impacts of the alcohol industry should not be viewed in isolation of the broader night time economy. Current evidence suggests that reducing trading hours can diversify and strengthen the night time economy.

A study commissioned by the Australian National Local Government Drug and Alcohol Advisory Committee, the *Australian night time economy: A first analysis: 2009 to 2011* examines the night time economies in the Local Government Areas of a range of Australian cities, including Newcastle.²² The report found that between 2009 and 2011 there was a 9.6 per cent decline in ‘drink’ sales revenue and a 10.3 per cent increase in ‘food’ sales revenue.²³ The decline in ‘drink’ sales revenue, was therefore largely offset by the increase in ‘food’ sales revenue, which resulted in a diversification of the night time economy. This change is also confirmed by anecdotal reports which suggest that the night time economy in Newcastle became more diverse and vibrant after the changes were introduced.

The harms from alcohol outweigh the harms caused by any other drug

The harms from alcohol far outweigh the harms from any other drug. In 2013-14, there were more than 12,000 ambulance attendances attributable to alcohol compared to 1,200 for ice in metropolitan Melbourne.²⁴ This equates to 45 patients a day because of alcohol in, compared to an average of four people daily for crystal methamphetamine (‘ice’).

Data from the 2013 *National drug strategy household survey*²⁵ shows that alcohol is also the main drug of concern in relation to violence. Almost five million Australians aged 14 and over (26 per cent) had been the victim of an alcohol-related incident such as verbal or physical abuse in 2013. Most of these were related to verbal abuse (22 per cent), a decline since 2010. In the same year, the proportion of

the population aged 14 and over who were affected by an illicit drug related incident was 8.3 per cent while the proportion of people experiencing physical abuse was 3.1 per cent.²⁶

Exemptions

Should an earlier closing time for licensed venues be introduced, such as 10pm close for off-licence premises and 3am for on-licence premises, it is expected that venues will be keen to seek exemptions. This has already been flagged in Queensland, where the government has announced its intention to introduce a 3am last drinks policy. At a stakeholder roundtable, the Chief Executive of the Queensland Hotels Association sought an exemption to allow venues to stay open for special events such as the Soccer World Cup, an event that runs for four weeks.²⁷

Governments should resist pressure to allow exemptions for some venues or events. Exemptions weaken the policy and reduce its ability to achieve its objectives. This was observed in Victoria when it introduced a lockout in 2008 that affected 487 late night venues in the Cities of Melbourne, Port Phillip, Yarra and Stonnington. The lockout prevented patrons from entering or re-entering licensed premises after 2am. However, approximately a quarter of the venues affected by the lockout (120 venues) were granted exemptions, with over three quarters (78 per cent) of these having high-risk conditions on their licencesⁱ.

An evaluation of the lockout in Victoria found that as result of the exemptions the potential for the lockout trial to be effective was significantly compromised due to the lack of consistency between venues and locations within Melbourne. The evaluation report stated that:

Given that one of the fundamental objectives of a lockout was to prevent patrons from moving between venues thus minimising opportunities for violence and anti-social behaviour to occur, the decision of VCAT to exempt venues has had a critical and negative impact on the capacity of the temporary lockout to achieve the intended outcomes.²⁸

Exemptions undermine the policy intent and provide the opportunity for further exemptions to be provided by establishing a precedent.

Policy proposal

There is strong evidence for the effectiveness of reducing trading hours to achieve a reduction in alcohol harm. This is particularly important for licensed venues because of the strong association between late night trading hours (after midnight) and alcohol harm.^{29,30}

The *Issues paper* provides case studies that have reduced trading hours in on-licence premises which have observed a significant reduction in harm. Success stories are found in both Australia^{31,32} and overseas.³³

The ACT should introduce earlier closing times for off-licence and on-licence premises. These should apply to all premises in the ACT to ensure that the measures achieve their objectives and are not compromised by exemptions.

The government should consider other measures to support earlier closing times of licensed venues, such as the cessation of alcohol service prior to closing and no entry after a specified time, however these should not be introduced instead of an earlier closing time. The evidence clearly shows that a

ⁱ High-risk conditions include: licensed venues that trade past 1am and provide live bands/DJ's using amplified music; venues providing sexually explicit entertainment and major dance/entertainment events (i.e. dance parties)

reduction in trading hours leads to a significant reduction in alcohol harm and should remain the priority for the ACT.

Lockouts have been well received by police who report that they provide a signal to patrons that venues will be serving last drinks or closing in a short while and thereby contribute to a staggered departure of patrons from licensed venues.³⁴

Recommendations

1. Schedule 2 of the *Liquor Regulation 2010* should be amended to reduce trading hours for all new and existing liquor licences to the following:
 - Opening times for all licensed premises (including off-licences) across the ACT should be no earlier than 10am.
 - Standard closing times for all on-licence (midnight) premises should be retained, with extended trading venues' closing times limited to 3am and lockouts (preventing entry for patrons) no later than 1am.
 - Standard closing times for all off-licence premises should be 10pm.
2. Schedule 2 of the *Liquor Regulation 2010* should be amended to ensure that no exemptions are granted to licensee for extended trading hours beyond 3am (on-licence) or 10pm (off-licence).

Managing outlet density

Alcohol is more readily available than it ever has been in Australia. The number and density of liquor licences has consistently increased over the past ten to 15 years³⁵ despite the fact that research overwhelmingly demonstrates that as alcohol becomes more available, consumption and alcohol-related problems increase.³⁶

Research has consistently found an association between alcohol outlet density (for instance, the number of active liquor licences in an area) and negative alcohol-related outcomes such as assaults, adolescent drinking, domestic violence, drink driving, homicide, suicide, and child maltreatment.^{37,38,39} An Australian study from Melbourne has found that there is a strong association between domestic violence and the concentration of off-licence liquor outlets in an area, in that a ten per cent increase in off-licence liquor outlets is associated with a 3.3 per cent increase in domestic violence. Increases in domestic violence were also apparent with the increase in general (pub) licences and on-premise licences.⁴⁰ A study in Western Australia, found that for every 10,000 additional litres of pure alcohol sold at a packaged liquor outlet, the risk of violence experienced in a residential setting increased by 26 per cent.⁴¹

Currently, a range of information must be considered when assessing an application for a liquor licence or permit in the ACT such as the noise impact,⁴² patron capacity,⁴³ impact on the local community⁴⁴ and proximity of the premises to specified locations such as schools and places of worship.⁴⁵

However, there is no requirement for consideration to be given to the number and concentration of active licenced premises in the relevant local area when assessing new liquor licensing applications or applications to extend late night trading. This is a serious oversight that needs to be addressed in light of the evidence on the relationship between outlet density and alcohol harm, as outlined in the *Issues paper*.

Currently, any member of the public may provide written representations to the Commissioner about a new liquor licence application or an application to amend the licence. To raise awareness about the application, applicants are required to display a sign on the premises and to publish a notice in a daily newspaper about the application under section 34 (1) of the *Liquor Act*. All public notices must include a statement noting that written representations can be made about the application and details of the consultation timeframe.⁴⁶

Moratorium

As the *Issues paper* notes, some states have introduced a moratorium, or freeze, on late night trading applications as an interim measure while they consider how best to address the issue of alcohol availability and related harm. Moratoriums are a crude instrument that government's use from time to time to restrict the availability of alcohol.

It is important that these measures are not removed before other mechanisms or policies are put in place to control the availability of alcohol and have had time to take effect. Queensland provides a case study of what happens when you lift a moratorium without first introducing other measures to manage availability.

Case study: Lifting the moratorium on late night trading hours in Queensland

In 2009, the Queensland Government introduced a moratorium on applications from on licensed premises seeking to extend trading hours between midnight and 5am. The moratorium applied to all new and existing applications before the Queensland Office of Liquor and Gaming Regulation. It did not apply to off-licence venues and venues operating in an extended trading hours precinct. The moratorium was originally in place for 12 months and was extended a number of times until it was removed on 1 September 2014.

An analysis of applications to extend late night trading hours in the first six months after the lifting of the moratorium shows that there has been a significant increase in the number of late night trading hours in Queensland.

A total of 107 applications were made to extend late night trading hours between 1 September 2014 and 28 February 2015. Of these, 40 were approved at 28 February 2015 and no applications were rejected. On average, venues sought an extra 12 late night trading hours per week, amounting to over 1,200 extra late night trading hours per week. Of the 40 applications approved, 491 extra trading hours per week were approved by 28 February. This figure equates to 25,532 additional late night trading hours per year. Should all applications to extend trading hours during this period be approved, the number of extra late night trading hours from these 107 venues would amount to an extra 67,184 hours per year.

Even though only a small percentage of licensees sought to extend their trading hours, this amounted to a large increase in the number of additional trading hours in Queensland. While the Queensland harms data from this period is not yet available, the evidence shows that an increase in late night trading is associated with an increase in harms.

Policy proposal

Cumulative impact policies

Mechanisms are available which provide a framework for taking into consideration the number and concentration of outlets in a particular location when considering liquor licence applications. These

mechanisms look at the impact of these applications on the health and safety of the community in the context of existing licences in the area.

As noted in the *Issues paper*, cumulative impact policies are being introduced in Australian states and territories as a way of controlling the number of licensed premises. Cumulative impact policies take into consideration the impact that additional liquor licences will have on a community to ameliorate the potentially negative cumulative impact on public health. These policies are especially important in areas of high outlet density, violence and crime.

The *Issues paper* provides a case study of the Environment and Venue Assessment Tool (EVAT) used in New South Wales. This tool was developed through an extensive consultation process with a wide range of stakeholders. As the name suggests, this tool undertakes an assessment of the risk associated with the venue itself and the risk for the local community.

Internationally, local authorities in England and Wales have been using saturation zones and cluster control policies to manage outlet density. Saturation zones impose limitations on the provision of new licences in areas where it has been identified there are a high density of licences.⁴⁷ They are established at the discretion of the individual local authority and are determined on the basis of existing outlet density levels and crime data including domestic violence statistics.⁴⁸ England and Wales have been using saturation zones since 2005.

Cluster control strategies prohibit new liquor licences for premises within a specified distance of existing licensed premises or other amenities (such as schools, hospitals, churches or places of religious worship). They are also found in Paris and New York. New York has enacted these through their *Alcohol Beverage Control Act*. The legislation includes a '500 foot' (150 metres) rule which prohibits new on-premise licences being issued within a 500 foot radius of three or more existing licences.⁴⁹ This has been in place since 1993. In Paris, the *Code de La Sante Publique* (public health legislation) defines protected areas within which new liquor licences are prohibited if they are within 75 metres of a licensed premise of the same category.⁵⁰

Planning authorities, liquor regulators and local governments need to be supported with policies that allow them to prioritise the health and safety of the community ahead of business interests.

Community input

There is no formal process by which relevant stakeholders are directly consulted about licence applications and public representations made to the Commissioner for Fair Trading are limited to addressing issues such as the suitability of the venue and the people associated with the venue.⁵¹

Members of the community who will be affected by new or amended liquor licences and other key stakeholders should have the opportunity to have greater input on the application process. Their involvement should be actively sought and they should be able to comment on a range of issues including the impact the venue will have on the community. Raising public awareness can be achieved in a number of ways such as direct notification to businesses, organisations and households in the local area and public notices through a variety of media.

Information on the application should be publicly available and easy to access and respond to so that it is simple and easy for stakeholders to participate in the process. A process that discourages participation from interested parties will result in poorer outcomes in terms of meeting the objectives of the policy and public health and safety.

Recommendations

3. The *Liquor Act 2010* should be amended to provide the Commissioner for Fair Trading on the advice of the Chief Police Officer, the power to declare that a saturation zone where alcohol-related harms are considered significant.
4. The *Liquor Act 2010* should include provisions that require the Commissioner for Fair Trading to take into consideration the existing density of liquor outlets when making decisions on new liquor licence applications. Each application assessment should consider the cumulative impact of the venue in terms of the following risk factors: venue capacity; trading hours; venue type and related considerations such as noise; other outlets in the area and proximity to these; proximity to locations such as schools, childcare centres, places of worship, hospitals, sporting grounds and residential premises; crime and assault data; hospital and ambulance data and other relevant risk factors.
5. The *Liquor Act 2010* should provide power to the Commissioner for Fair Trading to reduce the excessive availability of alcohol in areas already saturated with liquor licences through initiatives such as liquor licence freezes, licence penalties and licence buy backs.
6. The *Liquor Act 2010* should be amended to require licensees to notify the following stakeholders within three days of submitting their licence application: ACT Health, ACT Policing, local hospitals, places of worship, educational institutions, community groups, facilities for vulnerable persons and managers of alcohol-free zones, public parks and sporting grounds. This notice to stakeholders should declare the submission date of the licence application, and note their rights as stakeholders to make written representations to the Commissioner for Fair Trading.
7. The *Liquor Act 2010* should be amended to require the Commissioner for Fair Trading under Division 2.4 to follow-up with ACT Health and ACT Policing in relation to licence applications within 14 days of the consultation period closing. A lack of written representations from ACT Health and ACT Policing in relation to licence applications should not be presumed by the Commissioner for Fair Trading to be a tacit approval of an application.

Limiting the economic availability of alcohol

Alcohol is more affordable than it has ever been, available for as little as 29 cents per standard drink⁵². A study of the Australian alcohol industry by The Australia Institute shows that over the last two decades, the cost of alcohol has increased by 15 per cent relative to other consumer prices in Australia however Australian incomes have increased by 46 per cent over the same period.⁵³ The increased affordability of alcohol is a concern in light of evidence which shows that the lower the price of alcohol, the higher the levels of consumption.⁵⁴

High levels of consumption are likely to continue since we are bombarded with messages about alcohol being a normal everyday part of people's lives. Promotion of alcohol is prolific and occurs through a range of media including television, radio, product placement in television and film, social media, in store, on billboards and on people's phones.

Price and promotion are key drivers in the purchase and consumption of alcohol. The following section looks at these two issues and makes recommendations on actions the ACT Government can take to address price discounting and advertising.

Pricing

At present, the *Liquor Act* does not provide grounds for regulatory intervention in the reckless discounting of liquor at off-licence premises. The *Liquor Regulations* contain provisions that disallow the sale of alcohol for consumption on-premises at reduced prices for more than two hours per day, between midnight and 5am and at half, or less than half, the usual price.

Price-based liquor promotions are particularly concerning as there is an inverse relationship between the price of alcoholic beverages and levels of consumption and harms.⁵⁵ The cheaper the alcohol, the greater the volume of alcohol consumed and risk to the individual and others of alcohol-related harms. There are many studies that have indicated that when the price of alcohol is increased, levels of consumption are reduced at a population level.⁵⁶

Point of Sale (POS) promotions that involve price or volume discounts have been found to be particularly effective in encouraging the purchase of increased volumes of alcohol.^{57,58} In 2015, half (51 per cent) of Australian drinkers bought a particular type of alcohol because its price was discounted and a third (33 per cent) of Australian drinkers bought more alcohol than planned because the price was discounted.⁵⁹

The current regulatory regime for liquor promotions in the ACT does not adequately address the relationship between price and consumption of alcohol. The case study below (*'Aldi wine complaint'*) highlights the inadequacy of the current system to redress reckless price based promotions of liquor.

Case study: Aldi wine complaint

Aldi, a supermarket operator which sells liquor from its licensed supermarkets, ran a price-based promotion in 2013 offering six bottles of wine for \$11.99. This equates to just under \$2.00 per bottle, or 26 cents per standard drink.⁶⁰

On 17 May 2013, FARE wrote to the Commissioner of the Office of Regulatory Services (ORS) out of concern that the promotion conducted by Aldi contravened section 10(a) of the *Liquor Act* and section 29(a) and 29(h) of the *Liquor Regulation*.

ORS' response did not take into consideration the evidence provided in the complaint which shows that low alcohol prices result in higher consumption, including heavier drinking, occasional drinking and underage drinking.

Instead, the low promotional price was deemed to be beyond the powers of "ORS [who] does not regulate the pricing of alcohol". Further, there was no cause for concern according to the Commissioner's informal conclusion that the 46 standard drinks on offer (at 26 cents per standard drink) constituted "a relatively small quantity of wine at a discounted rate for a consumer to take away and drink at their leisure".

Policy proposal

The provision within the current regulations which prohibits harmful discounting of alcohol at on-licence premises should be maintained and enforced. Price promotions can be regulated through the introduction of a minimum price for alcohol which specifies the lowest price per standard drink at which alcohol can be purchased.

Minimum pricing is a regulatory measure used to increase the price of the cheapest alcohol products and decrease discounting of cheaper products. Loss leading strategies are frequently used in retail settings, such as supermarkets, where alcohol is often heavily discounted to attract customers into

their stores. A minimum floor price for alcohol would counteract these types of discounting practices.⁶¹ A minimum price can prevent retailers from using alcohol as a loss leader to attract customers into their stores and can guarantee that a product will not be discounted below a certain amount.

Evidence to support the introduction of a minimum price is found in two provinces in Canada: British Columbia and Saskatchewan. A ten per cent increase in minimum price in both provinces was associated with a 3.4 per cent⁶² reduction in overall consumption in British Columbia and an 8.4 per cent reduction in Saskatchewan.⁶³ In both situations, minimum pricing was shown to reduce alcohol consumption overall and for all beverage types. The difference in results from introducing a minimum price is due to the different circumstances in which they were implemented. A study that looked at the relationships between increases in minimum alcohol prices, changing densities of liquor stores and alcohol attributable deaths in British Columbia found that setting a minimum price of \$1.25 per standard drink would prevent 23.03 per cent of alcohol attributable deaths after the first year of implementation.⁶⁴

Prescribing harmful price discounting will also reduce the price differential between on- and off-licence premises. Policies relating to liquor promotions should clearly identify what a potentially harmful promotion is. The *Liquor Act* should also specify that alcohol should not be sold for less than one dollar per standard drink by off-licences to eliminate reckless price promotions that contribute to alcohol-related harms.

As discussed in the *Issues paper*, the ACT Government has the constitutional power to introduce a minimum pricing law. A minimum price could be included within existing state and territory liquor licensing laws, as occurred in Scotland.

Recommendations

8. The *Liquor Act 2010* should be strengthened to prohibit the harmful discounting and promotion of alcohol products by including provisions under regulation 29 of the *Liquor Regulation 2010* that set a minimum price for alcohol of at least one dollar per standard drink.
9. Compliance and enforcement of the provisions under the *Liquor Regulation 2010* which prescribe harmful discounting of alcohol should be monitored and enforced.

Reducing exposure to alcohol

The majority (70 per cent) of Australian drinkers have been influenced by a promotion when purchasing alcohol.⁶⁵ In relation to the regulation of liquor promotions, the *Liquor Act* contains provisions for:

- Penalising licensees and permit-holders who conduct inappropriate promotional activities.⁶⁶
- The Attorney General to declare prohibited liquor products.⁶⁷
- The Commissioner to make guidelines on 'what is appropriate in relation to the promotion of liquor'.^{68,69}

As noted in the *Issues paper*, this includes POS promotions found within or on the exterior of licensed premises at the point where an alcohol purchase is made (such as 'happy hours', free gifts with purchase, prominent signage, competitions, price discounts for bulk purchases, and sale prices). POS

promotions are likely to affect overall consumption by underage drinkers, as well as the consumption patterns of harmful drinkers, and regular drinkers.⁷⁰

The promotion of alcohol influences the age at which young people begin drinking alcohol as well as their levels of consumption.⁷¹ Young people are capable of interpreting the messages and images of alcohol advertisements in the same way that adults do.⁷² Consumer studies reveal that exposing young people to alcohol advertising increases the likelihood of them starting to consume alcohol as well as increasing consumption in those already consuming alcohol.^{73,74,75}

Key issues that the current regulatory regime for liquor promotions in the ACT does not adequately address include:

- ‘shopper docket’ promotions
- online promotions and advertisements
- the placement of liquor promotions and advertising on public property.

The *Responsible Promotion of Liquor Guidelines* (Promotion Guidelines) do not prohibit promotions of alcohol printed on ‘shopper dockets’ (a discount voucher on the bottom of a shopping receipt). In 2015, one in six (16 per cent) Australian drinkers bought a particular alcohol product because of a shopper docket, an increase from 12 per cent of drinkers in 2014.

The *Promotion Guidelines* do not cover online promotions of liquor by outlets licensed to sell liquor in the ACT. The Victorian guidelines for responsible liquor advertising and promotions are more extensive, covering signs, banners, flyers, posters, newspaper or internet advertisements, websites, social media (such as Facebook or Twitter) and SMS text messages. The Victorian guidelines also note that “Licensees should be aware that they may be responsible for advertisements on social media sites. This includes comments made by third parties, and advertisements and promotions made by promoters engaged by the licensee”.⁷⁶

Children and young people are also exposed to alcohol in the ACT through the placement of alcohol in supermarkets. As noted in the *Issues paper*, supermarkets in the ACT are able to sell alcohol within the supermarket store along with other products. Meaning that people aged over 18 years old can purchase alcohol in the same transaction as their bread and milk.

One of the ways in which children and young people are being exposed to alcohol promotion is on public transport, such as buses, trains and at bus and train stops. The ACT Government has a role to play in protecting children from being exposed to alcohol promotions by removing alcohol advertisements from state property such as at bus stations, and on and in public transport.

Alcohol advertisements and promotions are displayed on public transport and bus shelters in the ACT. The government’s contracts with independent advertising companies for ACTION buses (Go Transit Bus Media Group) and ACTION bus shelters (Adshel) allow for the display of materials promoting alcohol. This and the revenues generated from placement of liquor promotions on public property poses a challenge to the consistency of the ACT Government’s commitment to the minimisation of alcohol harms, as per the objects of the *Liquor Act*.

Case study: Shopper dockets

Shopper dockets are coupons or vouchers for free or discounted alcohol printed at the bottom of supermarket shopping receipts. Both of the big retailers (Woolworths and Coles) use shopper dockets to promote alcohol sales.

Complaints about these promotions were raised with the New South Wales Office of Liquor, Gaming and Racing (OLGR) in 2013. The complaints concerned loopholes which meant that the liquor promotion regulations did not extend to cover the conduct and content of shopper docket promotions; and the increased risk of alcohol misuse and abuse among shoppers redeeming these vouchers.

After a six month investigation, several emails and letters, experts analysis and paid critiques of this analysis by Woolworths and Coles Liquor; OLGR concluded that shopper dockets were “likely to encourage the misuse and abuse of liquor”.⁷⁷ The agency consequently recommended that shopper dockets promoting discounted alcohol should be banned.

Regrettably, the Director General of OLGR decided not to support his agency’s recommendations. To the detriment of the public interest in harm minimisation, this decision allows this practice to continue across New South Wales and in many other states.

Policy proposal

Prohibition of POS promotions, ‘shopper docket’ liquor promotions and the placement of alcohol advertising on public property, such as buses and bus shelters, would ensure consistency in the ACT Government’s commitment to harm minimisation by:

- Reducing public exposure to alcohol promotions that encourage the misuse and abuse of liquor
- Divesting government revenues from alcohol advertising and promotion.

Extending coverage of regulations to include online promotions would bring ACT liquor promotion regulations up to date with contemporary media and technology used by licensees to promote their liquor sales in the ACT.

Isolating supermarket floor space designated for alcohol away from other products and disallowing minors from entering the designated liquor area would minimise the exposure of children, young people, and other vulnerable people to alcohol promotions while shopping or in the course of their employment.

Banning inappropriate alcohol promotions would reduce the impact and exposure of the public to inappropriate alcohol promotions.

Recommendations

10. The *Liquor Act 2010* should be strengthened to prohibit the harmful discounting and promotion of alcohol products by including provisions under regulation 29 of the *Liquor Regulation 2010* that:

- Address alcohol promotions by both on and off-licence premises’ with equal weight.
- Declare ‘Shopper dockets’ (liquor promotion vouchers on the receipts for purchases) as a prohibited promotional activity.
- Prohibit point of sale promotional materials for liquor (such as ‘happy hours’, free gifts with purchase, prominent signage, competitions, price discounts for bulk purchases, and sale prices) from being displayed on and around licensed premises where minors are likely to be present.
- Prohibit the placement of alcohol promotions on ACT Government property.

11. The *Liquor Regulation 2010* should be amended to include provisions requiring licensees and managers of all new and existing off-licence premises that sell alcohol among other consumer products, such as supermarkets, to:
 - Isolate designated floor space for alcohol products (liquor area) away from other products.
 - Enforce section 120 of the *Liquor Act 2010* to ensure that persons under the age of 18 are not entering the designated area on the premises.
12. Section 137 of the *Liquor Act 2010* should be extended to grant the Attorney General and the Commissioner for Fair Trading the powers to have active promotions discontinued or removed at their discretion.

Issues for consideration: Other measures for reform

Challenges exist with the enforcement of liquor legislation, with an analysis of liquor licensing in Australia highlighting that “dealing with intoxication, both conceptually and practically, is one of the most challenging issues for police”.⁷⁸ These challenges for police include being unable to prosecute breaches because of the vague definitions of intoxication and the amount and form of evidence required to achieve a successful prosecution.⁷⁹ The following sections focus on areas to strengthen the enforcement of the *Liquor Act 2010* and the *Liquor Regulation 2010* to support the introduction of late night trading hour restrictions through increased responsible service of alcohol provisions and improved data collection.

Responsible service of alcohol

The principle of harm minimisation is included exclusively as the primary Object of the *Liquor Act*. The Commissioner must give consideration to the principles of harm minimisation and community safety when making any decisions in relation to licences and permits. Under Division 8.1 of the *Liquor Act*, it is an offence for licensees, permit-holders, their employees and crowd controllers to supply liquor without certified responsible service of alcohol (RSA) training. RSA training is required to be renewed every three years. Under part 1.4 of Schedule 1 of the *Liquor Regulation 2010* licensees “must engage in practices and promotions that encourage the responsible supply and consumption of liquor” as part of their licence conditions under regulation 7 of the *Liquor Regulations*. The compliance reporting of RSA requirements is not publicly available.

The Commissioner also has the power to impose extra licence conditions on venues already prescribed in the *Liquor Act* under section 31 (2). These extra conditions can include that stated levels of security must be used for certain events or that the licensee must not allow people to enter the licensed premises after a stated time.

RSA requirements are put in place to ensure that licensed venues are as safe as possible and includes a range of responsibilities for licensees and people working in licensed venues. These responsibilities include providing water and food to patrons, not serving alcohol to intoxicated persons and the service of alcohol in measures that reduce the risk of rapid consumption.

The 2013 *National drug strategy household survey* found that the majority of ACT residents support stricter enforcement of laws against serving ‘drunk customers’ (83.9 per cent) and strict monitoring of late night licensed premises (78.3 per cent).⁸⁰ Without appropriate enforcement mechanisms, RSA

measures have limited impact on the behaviour of people working in licensed venues and do not reduce alcohol-related harms.⁸¹

Recommendations

13. Part 1.4 of Schedule 1 of the *Liquor Regulation 2010* should be amended to require all new and existing on-premises licensed venues in the ACT (as part of their licence conditions under regulation 7 of the *Liquor Regulation 2010*) to adhere to the following mandatory licence conditions related to responsible service of alcohol (RSA) that prohibit:
 - Sales of shots, mixed drinks with more than 30ml of alcohol and ready mixed drinks stronger than five per cent alcohol by volume after 10pm.
 - Sales of more than four drinks to any patron at one time.
 - Sales of alcohol mixed with energy drinks after midnight.
14. The transparency of RSA compliance should be enhanced by requiring the Office of Regulatory Services and the ACT Police to publicly report on compliance activities relating to the *Liquor Act 2010*. This includes the number of venues inspected and their location, the times of day that these venues are inspected and the number of identified breaches of compliance.
15. The transparency of RSA compliance should be enhanced by publicly naming and shaming on the website of the Office of Regulatory Services those premises that are found to have contravened the *Liquor Act 2010*, *Liquor Regulation 2010* or RSA standards.

Data collection, publication and use

Under regulation 1.20 of the *Liquor Regulations*, licensees who sell liquor by wholesale under an off-licence are required to report their annual sales to the Commissioner and the Chief Health Officer of the ACT. Wholesalers must report on the volume in litres of beer (including full, mid and low strength), wine (including regular and low strength bottled and cask wine as well as fortified wine) and spirits (premixed and standard) sold. Currently cider sales are not reported on; nor is a definition of what constitutes a 'wholesaler' included in the *Liquor Regulations*.

ACT data collection on alcohol-related harms can be improved in a number of ways. Under the Risk-Based Licensing system, licensees are required to report to ORS on their occupancy, trading hours, licence type, and volume of alcohol sold for off-licence. ACT would benefit from reporting annually on the characteristics of licensed premises to assess the impact that ACT alcohol policies (such as the risk-based licensing measures) have on harms and the ability for these policies and programs to address these harms.

ACT hospitals and police should also routinely collect and report on data on the place of last drink for acute alcohol-related hospitalisations and alcohol-related offences. This information would be useful in identifying which premises or areas are associated with incidents of alcohol-related harm.

To strengthen and improve the data collection in the ACT, alcohol-related data collected by these agencies should be reported publicly on an annual basis.

Alcohol-related ACT Health and ACT Policing data that is collected and published should be used by ORS to aid their consideration of a proposed premises' suitability under section 75 of the *Liquor Act* when determining licence applications or applications for licence amendments. Broadening the

collection and use of alcohol-related data will assist in gaining an understanding of the true extent of alcohol harms in the ACT.

Recommendations

16. The collection of alcohol-related data in the ACT should be enhanced by:
 - Amending Part 1.5 of Schedule 1 of the *Liquor Regulation 2010* to include the collection of cider sales as part of wholesale data collection.
 - Requiring off-premise licensees to provide information on each purchaser/retailer to whom alcohol is sold, in order to determine where the alcohol is most likely to be consumed, and sales information relating to drink type, volume and date sold.
 - Requiring the Office of Regulatory Services to publicly report on the characteristics off-licences to include occupancy, trading hours, licence type, and volume of alcohol sold for off-licence.
 - Requiring agencies within the ACT Government to annually publish alcohol harm data and trends. These agencies include: ACT Health, Office of Regulatory Services, ACT Civil and Administrative Tribunal, ACT Policing, and ACT Ambulance Service.
 - Collecting and reporting on the place of last drink for those alleged to have committed alcohol-related offences.
 - Amending Part 1.5 of *Liquor Regulation 2010* to assist licensee reporting of alcohol purchases to the Commissioner of Fair Trading by including a definition of 'wholesaler'.
17. A whole of government report on key alcohol-related harms indicators should be produced annually for the Liquor Administration Board and Attorney General to inform their decision making on alcohol policies.
18. The Office of Regulatory Services should be required to reflect the available alcohol-related health and crime data for the ACT in their consideration of a proposed premises' suitability under section 75 of the *Liquor Act 2010* when making decisions on new licence and permit applications or applications for licence amendments.

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ISBN 978-0-9944181-0-4