



## Social Policy Committee

REPORT 2/55 – SEPTEMBER 2013

### PROVISION OF ALCOHOL TO MINORS

REPORTS  
COMMITTEES

5

LEGISLATIVE  
ASSEMBLY

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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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# Membership

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# Terms of Reference

That the Committee inquire into and report on matters relating to the provision of alcohol to minors by parents and guardians, specifically whether:

- (a) provisions in the *Liquor Act 2007*, which make it illegal for persons to sell or supply alcohol to people under the age of 18 years, including in homes, parks, halls and public places generally, are sufficient;
- (b) provisions in the *Liquor Act 2007*, which provide that a person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor, remain appropriate;
- (c) the defence against prosecution for an offence of providing liquor to a minor if it is proved that the defendant was authorised by the minor's parent or guardian to supply liquor to the minor, remains appropriate;
- (d) there is broad community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors;
- (e) New South Wales can benefit from experiences in other jurisdictions in relation to the provision of alcohol to minors by parents, guardians or responsible adults; and
- (f) any other related matters.

## Chair's Foreword

The Social Policy Committee commenced this inquiry into the provision of alcohol to minors by parents and guardians after a referral from the Premier of NSW, the Hon Barry O'Farrell MP. Given the significant community concern about the prevalence of risky underage drinking, this inquiry was timely and looked into whether the state's current laws about the supply of alcohol to minors were adequate.

The Committee heard from a range of interested stakeholders, including parent and community groups, alcohol research organisations, and industry and government representatives. The Committee welcomed the level of engagement shown by all inquiry participants who made submissions or appeared as witnesses. They demonstrated a genuine desire to reduce harm from young people's alcohol consumption by proposing ways to address this issue, and the Committee is grateful for their involvement.

The inquiry found that there is confusion in the community about the provisions in the *Liquor Act 2007* which allow parents and guardians to provide alcohol to their children who are under 18. Under the law, parents can also authorise another adult to give alcohol to their child. Many inquiry participants called for greater clarity under the law about what is acceptable when providing alcohol to minors, as well as better efforts to address the community's lack of awareness about the law.

Inquiry participants put forward a range of views about law reform, including calls for a ban on parents supplying alcohol under any circumstances; the removal of parental ability to authorise someone else to provide alcohol; and allowing authorisation to continue but making the conditions of authorisation stricter.

The Committee recognises there is great concern in the community about high levels of alcohol consumption, particularly amongst youth, and its consequences for the long-term health of those individuals. However, as the use of alcohol is so deeply ingrained in our society, and its use differs widely across the diverse ethnic and cultural groups which make up NSW, the Committee believes that a blanket prohibition on the provision of alcohol to minors would be resisted and be perceived as an unwelcome, and thus, unenforceable intrusion into the affairs of the family.

There is no single solution to address the adverse impacts excessive alcohol consumption has on our community. Rather, what is needed is an approach which acknowledges the rights of parents to make private decisions about how to educate their children about alcohol, while also upholding the community expectation that giving alcohol to young people should always be done responsibly. This is why the Committee's recommended approach involves strengthening the law to require 'responsible supervision', while also promoting education and clear public information as the best way to respond to young people's alcohol consumption.

The Committee considers that the current provisions in the *Liquor Act 2007* about parental supply and authorised supply should be tightened. We have recommended that NSW follow the legislative approach adopted by Queensland and Tasmania, which requires that the supply of alcohol to minors be consistent with 'responsible supervision'. The Committee has also recommended a public education campaign, including a dedicated website where parents can

access clear information and advice. In relation to penalties for offences we have recommended that attendance at counselling sessions form part of a range of penalty options.

I would like acknowledge the work of all members of the Committee including John Sidoti MP, Troy Grant MP, Anna Watson MP and Sonia Hornery MP.

I would also like to thank the committee staff who worked on the inquiry, particularly Rachel Simpson, Dora Oravec, Ben Foxe, Emma Wood and Meg Banfield.

A handwritten signature in blue ink, appearing to read 'Bruce Notley-Smith', is centered on the page. The signature is fluid and cursive, with a prominent loop at the end.

**Bruce Notley-Smith MP**  
Chair

# Executive Summary

Key issues examined by the Committee during this inquiry included the effectiveness of current laws in relation to the provision of alcohol to minors by parents, guardians and authorised adults; community understanding of these laws; whether penalties and enforcement could be improved; and whether NSW could benefit from experiences in other jurisdictions.

The Committee begins this report by looking at patterns of alcohol consumption among young people, noting that the alcohol that young people drink is often supplied directly by parents. While there is a trend towards fewer young people drinking, those who do drink are doing so at riskier levels. Parents have a significant influence in shaping the attitudes of their children towards alcohol. Many provide alcohol to their children because they believe that alcohol-related harm will be minimised if a 'safe' introduction to drinking is provided in a family setting.

While parental supply of alcohol is a generally accepted practice in the community, the Committee notes that guidelines from the National Health and Medical Research Council recommend that the safest option for those under 18 is not to consume alcohol. These guidelines are underpinned by growing scientific evidence that alcohol consumption involves risks to young people's health, including negative effects on adolescent brain development.

The *Liquor Act 2007* makes it an offence to supply alcohol to a minor. However, parents or guardians may provide alcohol to a minor, and other adults may provide alcohol to a minor as long as they can prove that parental authorisation has been given. A number of inquiry participants argued that current secondary supply<sup>1</sup> laws lacked clarity, as sufficient guidance is not provided to parents and the community about what is acceptable when providing alcohol. The Committee also heard that there is a general lack of awareness about these laws. Evidence was received about a number of ways to address these problems, including:

- requiring that alcohol be supplied to minors only under circumstances of 'responsible supervision';
- preventing parents from authorising other adults to supply alcohol, or restricting the ability of any adult, including parents, to provide alcohol to minors;
- retaining the ability of parents to authorise supply but strictly defining the form that authorisation must take;
- improving public awareness of laws through an education campaign;
- a broader range of penalties, including counselling for adults and minors involved in offences; and
- stronger enforcement of laws by police.

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<sup>1</sup> Secondary supply generally refers to the provision of alcohol products to young people under the age of 18 years by a third party.



***Parental supply and authorisation issues***

Firstly, the Committee looked at the questions of whether parents' ability to provide alcohol to their children should be removed altogether; whether parents should be able to authorise other adults to provide alcohol to their children; and whether existing authorisation requirements could be strengthened.

While some inquiry participants called for a ban on the supply of alcohol to minors by any adult, including parents and guardians, others stated this would be an unrealistic measure. The Committee believes that such a move would be out of step with community expectations and would remove the ability of parents to educate children about responsible alcohol consumption in family settings. It may also have unintended negative consequences, with children seeking alcohol from other sources, and would be highly impractical to enforce.

The Committee heard mixed views about removing a parent's ability to authorise another adult to supply alcohol. Some believed it would criminalise relatives and friends who traditionally provide alcohol to minors in family settings. Others argued that removing the ability to authorise supply would ensure greater parental control over children's drinking. The Committee's view is that the defence against prosecution, enabling an adult to supply alcohol provided they can prove they have parental authorisation, should remain in the Liquor Act. The 'responsible supervision' provisions recommended by the Committee (discussed below) should embed the expectation in the community that alcohol, when supplied to minors by either parents or authorised adults, must be provided in a responsible manner.

Stricter authorisation requirements were also considered, with a number of inquiry participants calling for parental authorisation to be supported by written evidence. While theoretically a sound idea, the Committee heard that in practice, written authorisations could easily be forged; nor would they be likely to have an effect on community behaviour and attitudes to responsible drinking. On balance, the Committee is not convinced that specifying the form of parental authorisation is necessary. Instead, the Committee considers that improving community awareness about the need to have proof of parental authorisation when supplying alcohol to a minor is the best way to improve compliance.

***Requiring responsible supervision***

The Committee believes that the best way to improve current legislation is to incorporate a requirement for 'responsible supervision', similar to the approaches taken in Queensland and Tasmania. The Committee has recommended that the *Liquor Act 2007* specify factors which would help to determine whether alcohol is being supplied to minors in a manner consistent with 'responsible supervision'. These factors would include: the age of the minor; the amount and type of alcohol being consumed; whether the supervising adult and/or the minor are drunk; and whether food is being consumed with alcohol. The Committee considers that 'responsible supervision' provisions would provide clearer guidance to the community about the expectation that supplying alcohol to minors must be done in a responsible way.

***Raising public awareness of secondary supply laws***

Given the lack of community awareness about secondary supply laws, the Committee has recommended that a public education campaign, using various forms of media, should accompany the recommended legislative changes to the Liquor Act regarding 'responsible

supervision.’ This was strongly supported by many inquiry participants, who believed it was critical to make available better information about both the legal and health consequences of providing alcohol to young people.

The Committee heard that there is a lack of certainty among parents about what the law states in relation to underage alcohol supply. Parents would feel more empowered to make decisions about their children’s drinking by being able to talk to other parents and adults with confidence about what the law permits and does not permit. For this reason, the Committee recommended that the public education campaign include the establishment of a dedicated website that provides clear information in accessible language about legal responsibilities in relation to the provision of alcohol to minors. The Committee has also recommended that information about the effects of alcohol consumption on young people’s health and development should be made available to parents attending early childhood health checks and other early childhood and parenting services.

### ***Penalties and enforcement***

The Committee considered whether the current penalties for offences in relation to secondary supply were appropriate. Maximum penalties are \$11,000 or 12 months imprisonment. Evidence indicated that financial penalties may not always be an appropriate response, particularly for disadvantaged families. Broadening the range of penalty options to include education or counselling sessions was discussed, as well as the question of whether attendance at counselling should be mandatory for offenders. The Committee considered that the best approach would be for court discretion as to whether attending counselling would be appropriate for the adults and minors involved in offences. The Committee has recommended that attendance at counselling sessions should form part of the range of penalty options for secondary supply offences.

Finally, the Committee looked at whether there could be better enforcement of secondary supply laws. Given that offences usually occur on private premises, it is often difficult for police to gain evidence that the law has been broken and to secure successful prosecutions. The Committee acknowledges the practical complexities of enforcing laws relating to the provision of alcohol to minors. Despite the difficulty of enforcement, the Committee maintains that the laws around secondary supply have value, as their existence sends a message to the community about what is acceptable.

The Committee takes the view that the secondary supply provisions in the Liquor Act are designed to protect minors from harm. The intent of the legislation is not about criminalising people. Ultimately, the Committee believes that legislation should be reinforced by an educative and preventative approach, creating an environment where parents and the community have a better understanding about the risks involved in supplying alcohol to minors and can make informed decisions.

### ***Report structure***

**Chapter One** explains the background to the establishment of the inquiry, its terms of reference and how it was conducted.

**Chapter Two** provides an overview of alcohol consumption by minors, including the health risks of underage drinking, and the influence of parents (and parental supply) on children’s

attitudes to alcohol. The chapter also outlines the provisions of the Liquor Act in relation to the supply of alcohol to minors and the main criticisms of the current law from submitters and witnesses.

**Chapter Three** covers legislative reforms to secondary supply provisions in the *Liquor Act 2007*. It covers issues such as the parental ability to authorise supply and whether stricter authorisation requirements are needed. The chapter also looks at the concept of ‘responsible supervision’ and how this may be incorporated into legislation.

**Chapter Four** looks at how community and parental awareness of current laws on secondary supply could be improved through public education campaigns and other strategies.

**Chapter Five** discusses penalties and enforcement. It considers whether counselling sessions could form part of the suite of penalties for offences against secondary supply laws.

# List of Findings and Recommendations

## RECOMMENDATION 1 \_\_\_\_\_ 18

The Committee recommends that section 117(4) of the *Liquor Act 2007*, enabling parents and guardians to supply alcohol to minors, be retained.

## RECOMMENDATION 2 \_\_\_\_\_ 25

The Committee recommends that the defence against prosecution in section 117(5) of the *Liquor Act 2007*, enabling an adult to provide alcohol to a minor if parental authorisation can be proved, be retained.

## RECOMMENDATION 3 \_\_\_\_\_ 26

The Committee recommends that the form of parental authorisation required under section 117(5) not be prescribed in the *Liquor Act 2007*.

## RECOMMENDATION 4 \_\_\_\_\_ 35

The Committee recommends that the Minister for Tourism, Major Events, Hospitality and Racing introduce amendments to the *Liquor Act 2007* to require that parents, guardians and responsible adults must supply alcohol to minors in a manner that is consistent with responsible supervision. Amendments should describe factors to be considered in determining whether supply is consistent with responsible supervision, including:

- the minor's age;
- whether the parent, guardian or responsible adult is intoxicated;
- whether the minor is intoxicated;
- whether the minor is consuming alcohol with food;
- whether the parent, guardian or responsible adult is responsibly supervising the minor's consumption of the alcohol; and
- the quantity and type of alcohol, and the time period over which it is supplied.

## FINDING 1 \_\_\_\_\_ 35

The Committee finds that a minimum age limit, below which a minor may not be provided with alcohol by a parent or authorised adult, should not be prescribed in the *Liquor Act 2007*.

## RECOMMENDATION 5 \_\_\_\_\_ 48

The Committee recommends that the NSW Government deliver a public education campaign, using various forms of media, to accompany the recommended amendments to the *Liquor Act 2007*. The campaign should have a dual focus—to state clearly what is permitted under the law, and to highlight the health risks of alcohol consumption by minors, based on National Health and Medical Research Council guidelines.

**RECOMMENDATION 6** \_\_\_\_\_ **48**

The Committee recommends that, as part of a public education campaign, the NSW Government develop a dedicated website that provides clear, easily accessible information about legal responsibilities in relation to the provision of alcohol to minors. The website should include guidance for parents on how to talk to young people about the law and how to talk to other parents and adults about the legal and health consequences of supplying alcohol to minors.

**RECOMMENDATION 7** \_\_\_\_\_ **50**

The Committee recommends that the NSW Government make information available about the effects of alcohol consumption on young people's health for parents attending early childhood health checks and other early childhood and parenting services.

**RECOMMENDATION 8** \_\_\_\_\_ **56**

The Committee recommends that the Minister for Tourism, Major Events, Hospitality and Racing introduce amendments to the *Liquor Act 2007* to provide that a court may require an adult convicted of an offence under section 117(4) to attend counselling. Provision should also be made for minors involved in offences to attend counselling.



# Chapter One – Introduction

## TERMS OF REFERENCE

- 1.1 On 25 May 2012 the Committee received a request from the Premier to conduct an inquiry into matters relating to the provision of alcohol to minors by parents and guardians. On 30 May 2012, the Committee resolved to conduct an inquiry into the provision of alcohol to minors.
- 1.2 The terms of reference require the Committee to consider issues including the appropriateness of current laws for the provision of alcohol to minors by parents, guardians and responsible adults; community understanding of these laws; and experiences in other jurisdictions in regard to the provision of alcohol to minors.

## Scope of inquiry

- 1.3 As part of the inquiry, the Committee heard from a number of individuals and organisations who commented on broader issues related to alcohol and underage drinking. Various inquiry participants discussed alcohol pricing and trading hours, young people's exposure to alcohol advertising and liquor outlet density.<sup>2</sup> Some of these issues are currently under review by the NSW Office of Liquor, Gaming and Racing, or are federally regulated matters. The Committee also notes that, during the inquiry, the Legislative Council's Social Issues Committee began an inquiry into strategies to reduce alcohol abuse by young people in NSW, with broader terms of reference than this Committee's inquiry.
- 1.4 The terms of reference for this inquiry were narrow in scope, and limited the Committee to considering the specific provisions of the *Liquor Act 2007* that relate to the supply of alcohol to minors by parents and guardians. The Committee was therefore unable to examine or make recommendations in relation to the broader issues that were raised during the inquiry, discussed above.

## CONDUCT OF THE INQUIRY

### Submissions

- 1.5 The Committee called for submissions on 30 May 2012 with a closing date of 30 July 2012. The call for submissions was advertised in the *Sydney Morning Herald* and *The Land*. The Committee also wrote to relevant stakeholders inviting them to make a submission to the inquiry.
- 1.6 The Committee received 30 submissions from a range of stakeholders including parent and community groups, drug and alcohol research bodies, industry representatives, and the NSW Government. A list of submission makers is at Appendix One. Submissions can be accessed at the Committee's website: [www.parliament.nsw.gov.au/socialpolicy](http://www.parliament.nsw.gov.au/socialpolicy).

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<sup>2</sup> Submission 16, FamilyVoice Australia, pp 5-6; Submission 19, VicHealth, pp 2, 4-6; Submission 23, Alcohol and Other Drugs Council of Australia, pp 2-3; Submission 26, Foundation for Alcohol Research and Education, pp 13-16

## Briefing

- 1.7 On 12 September 2012 the Committee held a private briefing with representatives of the Office of Liquor, Gaming and Racing, the NSW Police Force and the Ministry of Health.

## Hearings

- 1.8 Two public hearings were held at Parliament House on 31 October and 5 November 2012. Evidence was taken from 22 witnesses. A list of witnesses who appeared before the Committee can be found at Appendix Two.
- 1.9 The transcripts of evidence from the hearings can be accessed at the Committee's website: [www.parliament.nsw.gov.au/socialpolicy](http://www.parliament.nsw.gov.au/socialpolicy).

## Discussion paper

- 1.10 Following the public hearings, the Committee released a discussion paper with the aim of seeking feedback from inquiry participants on proposals for reform and related questions, which arose in evidence to the inquiry. The Committee received 16 responses to the discussion paper. These were received as submissions and supplementary submissions to the inquiry and are listed at Appendix One.
- 1.11 The Committee thanks the organisations and individuals who participated in the inquiry.



## Chapter Two – Alcohol consumption by minors and the law

2.1 This chapter begins with an overview of data and trends in relation to alcohol consumption by minors. It also discusses the health risks of underage drinking and considers the role of parents, both in terms of the supply of alcohol and the influence they have on children’s attitudes to drinking. The chapter then outlines the current provisions of the *Liquor Act 2007* in relation to the supply of alcohol to minors and highlight some of the main problems with the law identified by inquiry participants.

### ALCOHOL CONSUMPTION BY MINORS

2.2 Several inquiry participants referred the Committee to data on underage alcohol consumption. Studies cited suggest that an increasing number of young people aged under 18 are abstaining from drinking. However, young people who do drink are drinking more and starting to drink at a younger age. Most young people do not buy alcohol, instead obtaining it from parents and older friends and colleagues. This ‘secondary supply’ of alcohol to minors is the key issue in this inquiry.

2.3 Significant statistics on alcohol consumption by minors, and the source of alcohol supply, are provided below:

- A higher proportion of 12-17 year olds abstained from alcohol (61.6 per cent) than had consumed it in the last 12 months (38.4 per cent).<sup>3</sup>
- 5.1 per cent of 12-17 year olds consumed alcohol weekly, 32.2 per cent less than weekly, 38.4 per cent were classified as recent drinkers (had consumed alcohol in the previous 12 months), while 59.3 per cent had never had a full serve of alcohol.<sup>4</sup>
- The most reported source of the last alcoholic drink for 12-15 year olds who drank in the last week was parents (32.8 per cent), while for 16-17 year olds it was ‘getting someone to buy it’ (28.5 per cent), followed by parents (24.7 per cent) and friends (24.3 per cent). 7.4 per cent of 12-17 year olds had bought the alcohol themselves.<sup>5</sup>
- The proportion of students whose parents supplied them with alcohol was significantly greater among younger students (62 per cent of 12 year olds) than older students (41 per cent of 17 year olds).<sup>6</sup>

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<sup>3</sup> 2010 National Drug Strategy Household Survey, Submission 18, NSW Government, p 6

<sup>4</sup> 2010 National Drug Strategy Household Survey, Submission 25, NSW Commission for Children and Young People, p 11

<sup>5</sup> 2008 NSW School Students Health Behaviours Survey, Submission 25, NSW Commission for Children and Young People, p 11; Submission 18, NSW Government, p 6

<sup>6</sup> Submission 12, Australian Drug Foundation, p 5, footnotes omitted

## Drinking at risky levels

- 2.4 Although the proportion of minors who consume alcohol has decreased over time, those who do drink are doing so at riskier levels. The National Centre for Education and Training on Addiction (NCETA) highlighted that the proportion of 12-15 year olds drinking at risky levels for short term harm<sup>7</sup> doubled (from 2.5 per cent to 5 per cent) between 1990 and 2005.<sup>8</sup>
- 2.5 The Foundation for Alcohol Research and Education (FARE) noted that 28.1 per cent of current underage drinkers consume alcohol at risky levels on at least one occasion per year, and that this peaks among 17 year olds (44.5 per cent drinking at risky levels). FARE expressed concern at these figures and the resulting harms to young people's health:

These rates of risky drinking among young people contribute to the higher proportion of alcohol-related harms experienced by young people. This results in one Australian teenager dying and more than 60 being hospitalised each week from alcohol-related causes.<sup>9</sup>

## Consumption of alcohol on private premises

- 2.6 Inquiry participants noted that drinking by minors largely took place on private premises. Clubs NSW cited the 2010 National Drug Strategy Household Survey which reported that 79 per cent of drinkers aged 14 and over consumed alcohol in their own home or at a party.<sup>10</sup>
- 2.7 As part of an overview of Australian liquor licensing legislation, NCETA examined where young people consumed alcohol, with a study showing that 80 per cent of current underage drinkers had their last alcoholic drink in the family home, at a party or at a friend's home:

Around 31% of current drinkers reported that the last drink they consumed was at home, 30% last consumed alcohol at a party, and 20% last consumed alcohol at a friend's house (White & Smith, 2009).<sup>11</sup>

## Health risks of alcohol consumption

- 2.8 The Committee heard evidence about the health risks of alcohol consumption for young people. These included the effects of alcohol on adolescent brain development, the likelihood of engaging in risky behaviour, and the risk of establishing negative drinking patterns into adulthood.

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<sup>7</sup> Risks of short term harm from binge drinking specify seven standard drinks for males and five standard drinks for females as constituting the risk threshold, according to the NHMRC's 2001 *Australian Guidelines to reduce health risks from drinking alcohol*. In 2009, the NHMRC revised its advice, not specifying 'risky' and 'high risk' levels of drinking, but instead saying 'For healthy men and women, drinking no more than four standard drinks on a single occasion reduces the risk of alcohol related injury.' See [http://www.nhmrc.gov.au/files\\_nhmrc/publications/attachments/ds10-alcohol.pdf](http://www.nhmrc.gov.au/files_nhmrc/publications/attachments/ds10-alcohol.pdf) viewed 6 August 2013.

<sup>8</sup> Submission 13, National Centre for Education and Training on Addiction, p 3, footnotes omitted

<sup>9</sup> Submission 26a, Foundation for Alcohol Research and Education, p 5, footnotes omitted

<sup>10</sup> Submission 15, Clubs NSW, p 1, footnotes omitted

<sup>11</sup> Trifonoff, A, Andrew, R, Steenson, T, Nicholas, R, & Roche, AM, *Liquor Licensing in Australia: An Overview*, National Centre for Education and Training on Addiction, Flinders University, 2011, p 37, see [http://nceta.flinders.edu.au/files/2913/5226/7673/EN456\\_LLReport1.pdf](http://nceta.flinders.edu.au/files/2913/5226/7673/EN456_LLReport1.pdf).

*National Health and Medical Research Council guidelines*

- 2.9 Inquiry participants noted that the National Health and Medical Research Council's (NHMRC) guidelines on alcohol for low-risk drinking recommend that the safest option for under 18 year olds is not to consume alcohol.<sup>12</sup> The guidelines state that children under 15 are at the greatest risk of harm from drinking alcohol and for young people aged 15-17 years, the safest option is to delay the initiation of drinking for as long as possible.<sup>13</sup>

*Brain development*

- 2.10 The work of Professor Ian Hickie in researching the effects of alcohol on brain development was cited by inquiry participants.<sup>14</sup> Professor Hickie's research concluded that brain damage during adolescence can have long-lasting consequences, as neural development is not complete by 18. Adolescence is a period of heightened vulnerability because of complex brain changes affecting important cognitive functions. Damage to the adolescent brain can therefore have more profound and long-term effects on key brain functions than damage that occurs at other times, due to the level of change underway in the brain.<sup>15</sup>
- 2.11 Professor Hickie's research showed that alcohol is also likely to increase the risk of developing mental health problems, which can compound damage to the brain caused by alcohol consumption. It also results in higher levels of risk-taking behaviour than in adults, and the loss of control of fine motor skills, which can increase the likelihood of injuries. The risk of developing alcohol-related difficulties and common mental health problems which last into adulthood is also increased.<sup>16</sup>
- 2.12 The NSW Government's submission highlighted that alcohol has toxic effects on the cells of the central nervous system and, depending on the dose and duration of exposure, is likely to result in short and long-term harm to the brain. Damage to the hippocampus, which handles memory and learning, can lead to poorer school performance.<sup>17</sup>

*Risky behaviour, violence and injury*

- 2.13 The National Drug Research Institute stated that alcohol plays a part in physical, mental and social harms for young people. It has been found to increase the risk of death and injury from violence, depression, homicide and suicide, substance abuse and driving for adolescents, and emerging evidence suggests that risks of physical harm from alcohol are greater for adolescents than for adults. The Institute's research indicates that:

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<sup>12</sup> Submission 12, Australian Drug Foundation, p 4; Submission 11, National Drug Research Institute, p 5

<sup>13</sup> See <http://www.nhmrc.gov.au/your-health/alcohol-guidelines> (accessed 30 July 2013); Submission 18, NSW Government, p 6

<sup>14</sup> Mr David McGrath, Director, Mental Health and Drug and Alcohol Programs, NSW Ministry of Health, Transcript of evidence, 5 November 2012, p 1; Superintendent Patrick Paroz, Commander, Drug and Alcohol Coordination, NSW Police Force, Transcript of evidence, 5 November 2012, p 20

<sup>15</sup> Hickie, I, *Alcohol and the teenage brain: Safest to keep them apart*, Monograph 2009-2, Brain and Mind Research Institute, Sydney, 2009

<sup>16</sup> Hickie, I, *Alcohol and the teenage brain: Safest to keep them apart*, Monograph 2009-2, Brain and Mind Research Institute, Sydney, 2009

<sup>17</sup> Submission 18, NSW Government, pp 5-6

- From 1993 to 2002, an estimated 2,643 young Australians aged 15-24 died from alcohol-related injury and disease due to risky and high-risk drinking. Over the same time period, an estimated 501 underage drinkers (aged 14-17) died from alcohol-related injury and disease due to risky and high-risk drinking. Another 3,300 were hospitalised for alcohol-related injury and disease in 1999.
- From 1993-94 to 2001-02 there were an estimated 101,165 alcohol-attributable hospitalisations for young people, accounting for one-in-five (about 22%) of all hospitalisations in that age group.<sup>18</sup>

### *Long-term drinking patterns*

- 2.14 The Cancer Council NSW referred to a study which suggested that drinking more as a teenager can lead to heavier drinking in adulthood:

The Australian Temperament Project ... has followed a group of Victorians from infancy to their mid-twenties. Those who drank most as teenagers went on to become the heaviest drinkers as adults, but the greatest increase in drinking during the transition to adulthood occurred among those who drank moderately as teenagers. Those who did not drink at all as teenagers, on the other hand, generally became moderate drinkers in adulthood.<sup>19</sup>

- 2.15 The Australian Drug Foundation also cited studies linking teenage drinking with higher risks of alcohol dependence problems in young adulthood, even when drinking was at 'low-risk' levels.<sup>20</sup>

### **Supply of alcohol**

- 2.16 The Committee heard evidence that alcohol is usually supplied to minors by both parents and older friends or colleagues.

- 2.17 Parents were likely to supply alcohol to their children because they believed it would minimise the risks of the harm alcohol can cause. The National Drug Research Institute referred to a 2008 survey of parents' intentions to give underage children alcohol for school leaver celebrations. Most common reasons included trusting their child, being aware of how much they were drinking, and preventing them from getting alcohol elsewhere:

Of 142 parents surveyed, one third intended to supply alcohol to their teenager for leaver celebrations (51% did not and 14% were unsure). Similarly, at Rottnest Island the previous year, 30% of 121 respondents sourced at least some of their leavers' alcohol through their parents. The most common reasons parents gave for providing alcohol was because the parent trusted their teenager to be 'sensible' (61%), that parents would know how much alcohol their child had (58%) and to stop them from buying it from someone else (58%). More than a third (38%) intended to supply as 'all of their friends will be taking alcohol'; 22% supplied so their children would not

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<sup>18</sup> Submission 11, National Drug Research Institute, pp 1-2

<sup>19</sup> Submission 17, Cancer Council NSW, p 2, footnotes omitted

<sup>20</sup> Submission 12, Australian Drug Foundation, p 4, footnotes omitted

spend the money reserved for food on alcohol, and 22% reasoned their children deserved a celebration.<sup>21</sup>

- 2.18 According to FARE, parents sought to minimise harm to their children by providing alcohol themselves. However, they were unaware of the law and considered that they could give their children a safe introduction to drinking by providing them alcohol in the home:

Most parents used approaches they thought would minimise harm and promote healthy development in their children. However, parents were unclear of the NSW law relating to secondary supply and justified supply of alcohol to children in the home as a gradual, safe introduction to alcohol that would prevent future excessive drinking.<sup>22</sup>

- 2.19 The Australian Drug Foundation noted that parental supply is associated with moderate drinking and fewer drinking-related problems than supply from sources other than parents.<sup>23</sup>

- 2.20 FARE raised the issue of lack of supervision by parents in relation to risky drinking by minors, citing a study undertaken by the University of Newcastle which found that one in five parents who provide alcohol to young people did so in circumstances without adult supervision:

This is concerning because young people are far more likely to drink at risky levels when they are not being supervised by their own parents. Despite what is commonly thought by adults, even when young people were being supervised by other adults, this still resulted in risky drinking.<sup>24</sup>

- 2.21 Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, told the Committee that another significant source of supply was older colleagues:

The young people I am speaking to across the country now are not getting it from older siblings, they are getting it from boyfriends, girlfriends and—most importantly, this is a group no-one talks about—people they work with. The vast majority of our kids work. If you have a 15 or 16-year-old daughter who works at Coles, she is working with 18-, 19-year-old boys who are more than willing to provide her with alcohol. I met with some people from an organisation and they had some links with McDonald's. I think it would be a phenomenal exercise to actually get those people who provide part-time employment at McDonalds, Hungry Jack's, Coles, Woolworths—all of the basics. You ask any law enforcement officer where is the hub of drinking and drug activity on a Saturday night. It is in your local McDonald's car park and it is usually the people who work there who are actually providing it. They are 18 or 19, they are legally able to buy the alcohol and they provide it to younger people. I think that is a really important one that we completely ignore and no-one ever talks about them.<sup>25</sup>

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<sup>21</sup> Submission 11, National Drug Research Institute, pp 4-5

<sup>22</sup> Submission 26, Foundation for Alcohol Research and Education, p 9

<sup>23</sup> Submission 12, Australian Drug Foundation, p 5, footnotes omitted

<sup>24</sup> Submission 26a, Foundation for Alcohol Research and Education, pp 4-5

<sup>25</sup> Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, Transcript of evidence, 5 November 2012, p 59

### *Influence of parents on underage drinking*

- 2.22 The Committee heard evidence about the influence parents can have on underage drinking behaviour. Inquiry participants referred to studies which suggest that teenagers' drinking is affected by their parents' attitudes.
- 2.23 The Ulladulla Community Drug Action Team argued that studies show the importance of parental influence as 'attitudes and consumption behaviours are learnt in the context of the family, particularly parents':
- Parents who disapprove of and delay the onset of their children's drinking, reduce the likelihood of alcohol misuse by young people. The influence of parents on adolescents' attitudes and decisions about alcohol is greatest before they start drinking.<sup>26</sup>
- 2.24 According to the Australian Drug Foundation, parental disapproval of alcohol use correlated with a lower incidence of later adolescent drinking and a reduced influence from the drinking patterns of peers.<sup>27</sup>
- 2.25 The Commission for Children and Young People cited the work of the Australian Institute of Family Studies, which identified that poorly monitored teenagers start drinking earlier, tend to drink more, and are more likely to develop problem drinking habits. Parental behaviour management therefore plays a role in children's alcohol consumption, through incentives, positive reinforcement, setting limits, rules and boundaries, and providing consequences for misbehaviour.<sup>28</sup>
- 2.26 The Commission summarised the research findings in relation to parental supply of alcohol:
- ... parental supply of alcohol use to children to drink under supervision in the home may result in less heavy drinking on these occasions than drinking outside the home, including with peers, however parents allowing their adolescents to drink at home/ supplying them with alcohol can be associated with harmful consequences for children when surveyed over time ... There is consensus in the literature that parents have a significant role in secondary supply to younger teens, and that as adolescents age they are more likely to obtain alcohol from other sources. Parents thus have a clear role in influencing early onset of alcohol consumption in their children.<sup>29</sup>

### PROVISIONS IN THE *LIQUOR ACT 2007*

- 2.27 The *Liquor Act 2007* regulates the sale and supply of liquor in NSW. Section 117 of the Act governs provision of alcohol to minors. Under this section it is an offence to:
- sell liquor to a minor
  - supply liquor to a minor on licensed premises

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<sup>26</sup> Submission 6, Ulladulla Community Drug Action Team, p 2, citations omitted

<sup>27</sup> Submission 12, Australian Drug Foundation, p 5, footnotes omitted

<sup>28</sup> Submission 25, NSW Commission for Children and Young People, p 15

<sup>29</sup> Submission 25, NSW Commission for Children and Young People, p 18

- supply liquor to a minor on premises other than licensed premises unless the person is the minor's parent or guardian—there is a defence against prosecution for a defendant who proves they were authorised to supply liquor to a minor by the minor's parent or guardian
- allow liquor to be sold or supplied to a minor on licensed premises—there is a defence against prosecution for licensees who take reasonable steps to prevent liquor being sold or supplied to a minor
- obtain liquor for a minor from licensed premises—there is a defence against prosecution for a defendant who proves they were authorised by the minor's parent or guardian to obtain liquor for the minor.<sup>30</sup>

2.28 The NSW Government's submission stated that when the new Liquor Act provisions took effect in 2008, the aim had been a simplification of laws around supply of alcohol to minors:

The law was simplified so that it is easier for the community to understand the limited circumstances in which liquor can be supplied legally to a minor—as well as clarifying who is liable where liquor is supplied unlawfully to a minor—either on licensed premises or elsewhere.<sup>31</sup>

2.29 The NSW Government also submitted that 'the law is designed to decriminalise circumstances where a parent or guardian supplies their child with liquor in the family home, while at the same time, providing significant penalties where liquor is sold or supplied to a minor in most other settings'.<sup>32</sup>

2.30 The Act reverses the burden of proof in relation to offences, in that a defendant must prove either that they are the parent or guardian of a minor, or that they were authorised by a parent or guardian of a minor to sell or supply alcohol to the minor. Maximum penalties of up to \$11,000 and/or 12 months imprisonment apply to these offences.<sup>33</sup>

2.31 The Office of Liquor, Gaming and Racing told the Committee that reversing the onus of proof was designed to make parents think more carefully about authorising alcohol to be provided to their child, and to make adults who provide alcohol aware that they may be required to prove their authorisation:

...where defendants before the courts argue that they are not the parent or guardian but have the authorisation of the parent or guardian to supply liquor to the minor, we reversed the onus of proof to require the person to prove that he or she had that authorisation. That was an important change in that it sends a signal to parents and those authorised by parents to provide alcohol to minors that they ought to consider what the authorisation allows, and that there may be a need to prove before the courts whether the authorisation existed and the boundaries of it.<sup>34</sup>

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<sup>30</sup> *Liquor Act 2007* (NSW) s 117

<sup>31</sup> Submission 18, NSW Government, p 3

<sup>32</sup> Submission 18, NSW Government, p 3

<sup>33</sup> *Liquor Act 2007* (NSW) s 117(10); Submission 18, NSW Government, p 1

<sup>34</sup> Mr Peter Cox, Acting Assistant Director, Policy and Strategy, Office of Liquor, Gaming and Racing, Transcript of evidence, 5 November 2012, p 9

### Prosecutions under s 117 of the *Liquor Act 2007*

2.32 The table below shows the number of prosecutions and convictions for offences against section 117 of the Liquor Act between 2009 and 2011.<sup>35</sup>

Section	Offence	Prosecutions in the Local Court 2009-2011
117(1)	Sell liquor to a minor	24 convictions out of 25 matters
117(2)	Supply liquor to a minor on licensed premises	8 convictions out of 10 matters
117(4)	Supply liquor to a minor other than on licensed premises	31 convictions out of 40 matters
117(6)	Obtain liquor for a minor from licensed premises	12 convictions out of 16 matters
117(8)	Licensee allows liquor to be sold or supplied to minors on licensed premises	4 convictions out of 5 matters
<b>Total</b>		<b>79 convictions out of 96 matters</b>

2.33 Of the 155 infringement notices issued for offences against section 117 of the Liquor Act from 1 January 2010 to 21 June 2012, most (i.e. 74 notices or 47 per cent) were in relation to supplying liquor to a minor other than on licensed premises.<sup>36</sup>

2.34 Information about penalties applied for offences against section 117(4) is in Chapter Five.

### Problems with secondary supply provisions<sup>37</sup>

2.35 Inquiry participants pointed to a number of problems with the current provisions in the *Liquor Act 2007*, particularly a lack of clarity in the legislation itself, leading to a lack of understanding by parents and the wider community about the detail of the law in relation to secondary supply.

#### *Lack of clarity in the legislation*

2.36 The Committee heard criticisms of the lack of clarity in the law. The Australian Drug Foundation commented on the weakness of current law in not specifying that alcohol must be supplied in a responsible way:

... a weakness in the present Liquor Act ... allows an unlimited amount of alcohol to be supplied to a minor of any age either by the parent or guardian of the minor, or by a person who has the consent of the minor's parent or guardian; or allows the

<sup>35</sup> Submission 18, NSW Government, p 1

<sup>36</sup> Submission 18, NSW Government, p 2

<sup>37</sup> Secondary supply generally refers to the provision of alcohol products to young people under the age of 18 years by a third party. This includes parents providing alcohol to their children, or their children's friends, as well as older siblings providing alcohol to younger siblings and friends. See

<http://www.alcohol.gov.au/internet/alcohol/publishing.nsf/Content/secondary> viewed 1 August 2013



supply and consumption of alcohol in circumstances that place the minor at risk of harm.<sup>38</sup>

2.37 The Broken Hill Community Drug Action Team and Barrier Liquor Accord argued that the Liquor Act sends mixed messages about underage drinking, as different rules apply for licensed venues and private premises. Clearer guidance was also required on what was 'a reasonable amount of alcohol to supply'.<sup>39</sup>

2.38 The Ulladulla Community Drug Action Team agreed that the legislative distinctions between supply of alcohol in public and private settings create confusion for the community and affect compliance:

Distinctions between private and public venues and licensed and non-licensed venues become convoluted and confusing for citizens. Legislation that ... has an array of situational variables, reduces community understanding, resulting in reduced compliance.<sup>40</sup>

2.39 Mr Rob Stokes MP, in his submission, discussed the lack of clarity in terms of the defence against prosecution for those authorised to supply alcohol to a minor. Mr Stokes observed that there is no detail in the law about what form the authorisation should take, meaning that allowing a child to go to a party where it is assumed that alcohol will be present may be enough to imply consent. Mr Stokes stated that 'there is much confusion over the legal position in NSW, with even academic commentators erroneously asserting 'it is illegal to give a minor alcohol unless the minor's parent, or equivalent, is present and gives approval'.<sup>41</sup>

2.40 The Ulladulla Community Drug Action Team raised the issue of lack of clarity in the meaning of 'parental authority', arguing that the flaws in the legislation created difficulties for enforcement and prosecution of offences. It was noted that transferring parental responsibility can result in miscommunication and that there have been instances of children being injured or killed while under supervision by other adults:

The current legislation lacks clarity in terms of what constitutes "authority" to supply. There is lack of clarity if this "authority" is for a single occasion and what the boundaries of this "authority" are. There is additionally broad subjectivity and indistinct wording of "responsible" or "acceptable" alcohol consumption, when various groups in Australian society differ about what they consider to be "responsible" drinking and about when they consider drinking to be appropriate and acceptable. These limitations in terminology and in transfer of responsibility underpin ineffective enforcement of legislation, making prosecution difficult. There have been a number of cases across Australia where a child has suffered injuries or died as a result of drinking too much alcohol while under the supervision of an adult other than their parents. Allowing transfer of responsibility to another adult broadens opportunity for miscommunication of what parents deem acceptable and

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<sup>38</sup> Submission 12, Australian Drug Foundation, p 2

<sup>39</sup> Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 1

<sup>40</sup> Submission 6, Ulladulla Community Drug Action Team, p 1

<sup>41</sup> Submission 14, Mr Rob Stokes MP, p 3

it induces unclear determination as to responsibility in protecting young people from harm.<sup>42</sup>

*Lack of awareness of the law*

- 2.41 The Committee also heard that the current laws were not well known or understood by parents and the wider community.
- 2.42 The Commission for Children and Young People observed that there is better understanding of the law as it relates to minors drinking on licensed premises, due to existing training requirements for staff.<sup>43</sup> People other than parents and guardians may not realise that it is illegal for them to give a minor alcohol without parental permission. There was also likely to be a lack of awareness of the significant penalties attached to these offences.<sup>44</sup>
- 2.43 FARE echoed this view, stating that there is 'very poor community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors'. FARE cited a study conducted by the University of Newcastle, which found that parents were largely unaware of the specific details of the Liquor Act in relation to drinking by minors in private settings:

While several parents spoke about the 'law', they generally referred to their understanding that drinking under 18 years of age is illegal. This was a commonly held misinterpretation of the law in Australia. The parents generally had little understanding of the law surrounding alcohol consumption in private settings and secondary supply. Several parents described their impressions of the law, indicating clear misinterpretation e.g., one mother who reported that she would give her 16 year-old son two light beers to take to a party, and that she gave her 10 year-old a glass of orange juice with a splash of champagne in it for a birthday treat said "I know legally I'm not supposed to". Many parents referred to drinking "underage" and interpreted the law as "when they are 18 they can drink". Similarly, parents had little knowledge of guidelines regarding adolescent alcohol consumption, saying their decisions were based on their own values and discussions with friends, rather than external guidance.<sup>45</sup>

- 2.44 Mr Adair Donaldson, a solicitor who undertakes training with parents and young adults on risks associated with alcohol-related events, submitted that there is poor parental understanding of the law, and that past advertising campaigns had not accurately conveyed the laws about underage drinking:

Based on this experience, my strong opinion is that there is general ignorance with respect to the understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors.

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<sup>42</sup> Submission 6, Ulladulla Community Drug Action Team, p 3, citations omitted

<sup>43</sup> Submission 25, NSW Commission for Children and Young People, pp 6-7

<sup>44</sup> Submission 25, NSW Commission for Children and Young People, p 7

<sup>45</sup> Submission 26, Foundation for Alcohol Research and Education, p 9

Unfortunately, past and current awareness campaigns have simply focused on the premise that providing alcohol to minors is illegal – no exceptions. That is not the law.<sup>46</sup>

*Committee comment*

- 2.45 The Committee heard extensive evidence that the current secondary supply provisions in the *Liquor Act 2007* lack clarity and require reform. These concerns, and the Committee’s proposals on how best to improve the legislation, will be covered in Chapter Three. The Committee will also address the community’s lack of understanding about the laws in Chapter Four when it examines ways to improve education and awareness.

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<sup>46</sup> Submission 27, Mr Adair Donaldson, p 5

## Chapter Three – Legislative reforms to secondary supply provisions

- 3.1 This chapter examines evidence received by the Committee about possible reforms to legislative provisions in relation to the supply of alcohol to minors. Ways to amend and strengthen the *Liquor Act 2007* will be discussed, including how any amendments might be modelled on legislative approaches in Queensland and Tasmania. The chapter will look at a number of proposals including: stricter authorisation requirements for the supply of alcohol; whether there should be a minimum age limit at which a minor can be given alcohol; whether there should be restrictions on who may supply alcohol to minors; and a legal requirement for responsible supervision.

### THE NEED FOR REFORM

- 3.2 As covered in the previous chapter, the Committee heard various criticisms from inquiry participants about the current provisions of the *Liquor Act 2007* relating to the provision of alcohol to minors. The Committee heard that the legislation was complex and not easily understood in the community, that there was a lack of clarity about what parental authorisation for the supply of alcohol meant, and that enforcement was poor.
- 3.3 The Committee received evidence about how to address these problems with proposals to reform the existing provisions of the *Liquor Act*.<sup>47</sup>
- 3.4 Life Education NSW argued for restrictions on the existing ability of parents or guardians to supply alcohol to their child (or to authorise supply by another adult). The submission called for clearer and more stringent supervision requirements and limits on the amount of alcohol that may be supplied:
- The consumption of alcohol must be supervised by the parent or authorised adult. The locations where consumption by minors is permitted should be limited to the private property of the parent or authorised adult. The amount consumed must be limited, consistent with the recommendations of the NHMRC. The responsibilities being assumed by the parent or authorised adult need to be made clear. The penalties for breaching these responsibilities need to be significant.<sup>48</sup>
- 3.5 Superintendent Patrick Paroz, Commander of Drug and Alcohol Coordination for the NSW Police Force told the Committee that the police believed there was ‘room for improvement’ in the definitions of ‘authorise’ and ‘responsible amount’ in the secondary supply legislative provisions.<sup>49</sup>
- 3.6 Any proposed changes to legislation should be considered through the prism of health evidence, according to Mr David McGrath from NSW Health. He drew

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<sup>47</sup> Submission 12, Australian Drug Foundation, p 2; Submission 16, FamilyVoice Australia, p 4; Submission 25, NSW Commission for Children and Young People, p 2; Submission 26, Foundation for Alcohol Education and Research, p 6

<sup>48</sup> Submission 9, Life Education NSW, p 2

<sup>49</sup> Superintendent Patrick Paroz, Commander, Drug and Alcohol Coordination, NSW Police Force, Transcript of evidence, 5 November 2012, p 18

attention to the long-term effects of alcohol on brain development in young people and the importance of limiting the amount they consume:

... obviously the developing brain is sensitive to alcohol. We have a lot of evidence from the work, particularly by Professor Hickie, around the plasticity of the brain. There is significant importance in ensuring that developing brains are not exposed to alcohol even in small quantities ... I would say it is important to ensure that the developing brain is not exposed to alcohol in a way that might cause damage.<sup>50</sup>

### Legislation is only one way to bring about reform

3.7 A broad message that emerged during this inquiry was that any legislative change regarding alcohol supply to minors should be just one of a range of measures, such as better enforcement and targeted education campaigns to broaden awareness and explain the rationale behind legislative changes.<sup>51</sup> (Discussion of education measures to complement amendments to the law takes place in Chapter Four, while Chapter Five discusses the issue of enforcement).

3.8 The National Centre for Education and Training on Addiction (NCETA) acknowledged the importance of legislation, but advocated a range of approaches to address the supply of alcohol to minors:

Legislation is a powerful way of sending a message concerning community expectations regarding the supply of alcohol to minors. The legislation does, however, need to be part of a comprehensive series of approaches aimed at addressing the supply of alcohol to young people.<sup>52</sup>

3.9 NCETA also cautioned against 'over-reliance on legislation', noting that secondary supply provisions should be seen as an 'important component' but not a comprehensive response to harmful secondary supply. It advocated a suite of other measures, such as mass media campaigns, harm reduction and brief intervention programs, and the provision of support to responsible adults to help them with decision-making around the supply of alcohol to young people in their care.<sup>53</sup>

3.10 The Cancer Council NSW also supported 'a combination of law enforcement, education, and social marketing approaches to reducing alcohol use'.<sup>54</sup>

### SHOULD PARENTS AND OTHER ADULTS BE ABLE TO PROVIDE ALCOHOL TO MINORS?

3.11 The Committee received a significant amount of evidence about whether parents and other adults should be able to provide alcohol to minors, and if so, the manner in which permission is given. The following sections will look at the questions of whether parents' ability to provide alcohol should be removed;

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<sup>50</sup> Mr David McGrath, Director, Mental Health and Drug and Alcohol Programs, NSW Ministry of Health, Transcript of evidence, 5 November 2012, p 1

<sup>51</sup> For example, Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, Transcript of evidence, 5 November 2012, p 61

<sup>52</sup> Submission 13, National Centre for Education and Training on Addiction, p 3

<sup>53</sup> Submission 13, National Centre for Education and Training on Addiction, pp 5-6

<sup>54</sup> Submission 17, Cancer Council NSW, p 4

whether the ability of parents to authorise other adults to supply alcohol should be removed; and whether existing authorisation requirements could and should be strengthened.

### Removing the ability of parents to supply alcohol

3.12 The Committee heard arguments for tougher restrictions on the supply of alcohol to minors, including the complete removal of any ability to do so, even by parents and guardians. Other inquiry participants argued that taking this step would be unrealistic and very difficult to enforce.

3.13 The Broken Hill Community Drug Action Team and Barrier Liquor Accord stated that the Liquor Act should be ‘unambiguous’ about supplying alcohol to minors ‘no matter where or who supplies, including parents and guardians.’<sup>55</sup> The Ulladulla Community Drug Action Team also argued that it should be an offence for any person to supply alcohol to minors in any setting.<sup>56</sup> Its submission asserted that an amendment to legislation along these lines would establish:

... a more effective framework for government action in more appropriately reinforc[ing] a culture that does not support alcohol consumption by young people. This would remove any ambiguity pertaining to supply of alcohol to minors, enhancing both compliance and ability for law enforcement.<sup>57</sup>

3.14 The Federation of Parents and Citizens Association of NSW also wanted to see the provision allowing supply of alcohol to minors removed from legislation.<sup>58</sup>

3.15 However, other witnesses had different views, suggesting that restricting parents from providing alcohol at all would be going too far. The NSW Commission for Children and Young People highlighted to the Committee the potential unintended negative consequences of reducing parental supply of alcohol to minors, including the likelihood of young people obtaining alcohol from peers, sibling and other adults in or around licensed premises.<sup>59</sup> Ms Megan Mitchell, the then Commissioner, also noted that the community was unlikely to accept such restrictions.<sup>60</sup>

3.16 Mr Peter Cox, Acting Assistant Director, Policy and Strategy, of the Office of Liquor, Gaming and Racing (OLGR), acknowledged that completely banning the supply of alcohol to minors would make it easier to convey a message to the community about what is illegal. However, he also observed that such a measure would be difficult to enforce, particularly in light of already established social and cultural traditions:

I am not sure it would make our job easier, because enforcement of a black and white rule like that can still be a challenge in that you are trying to enforce those rules in people's private homes and at private functions, and being able to properly

<sup>55</sup> Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 1

<sup>56</sup> Submission 6, Ulladulla Community Drug Action Team, p 1

<sup>57</sup> Submission 6, Ulladulla Community Drug Action Team, p 2

<sup>58</sup> Submission 31, Federation of Parents and Citizens Associations of NSW, p 3

<sup>59</sup> Ms Megan Mitchell, Commissioner, NSW Commission for Children and Young People, Transcript of evidence, 31 October 2012, p 43

<sup>60</sup> Ms Mitchell, Transcript of evidence, p 45

enforce that sort of rule—which would be a significant departure from the cultural norm, I suppose, that we have had in place for a long time in Australia—that would be a very significant issue, certainly for us ourselves and I expect for police as well. That is not to say it is right or wrong but there would definitely be enforcement challenges, particularly in those sorts of private, in-home circumstances.<sup>61</sup>

- 3.17 Superintendent Paroz from the NSW Police Force stated that he did not think it would be realistic to legislate for no supply of alcohol to minors under 18. He said it was important for parents to have the opportunity to educate their children about responsible alcohol use.<sup>62</sup> He also believed that there would be a ‘significant impact’ on resources if police had to target every person under 18 who was consuming alcohol.<sup>63</sup> NCETA argued that a blanket ban would be unrealistic, difficult and resource-intensive to enforce.<sup>64</sup>
- 3.18 The Australian Drug Foundation (ADF) believed that section 117(4) of the Liquor Act, enabling parents and guardians to supply alcohol to minors, should be retained.<sup>65</sup> In the ADF’s response to the Committee’s discussion paper, it was argued that prohibiting a parent or guardian from providing alcohol to a minor ‘would require a burden of proof regarding alcohol related harm that is not available at this time. The NHMRC, whose guidelines in 2009 were the strictest iteration yet issued, did not suggest that minors aged 15-17 should not drink any alcohol at all’.<sup>66</sup>
- 3.19 The NSW Council for Civil Liberties also argued that removing the legal ability for parents and guardians to supply alcohol would be unlikely to prevent this practice continuing.<sup>67</sup>

### Committee comment

- 3.20 The Committee does not wish to restrict parents and guardians from supplying alcohol to a minor. The Committee agrees with inquiry participants who said this would be an unrealistic measure, out of keeping with general community expectations. Creating such restrictions may have unintended negative consequences, removing the ability of parents and guardians to educate children about responsible alcohol consumption in family settings or during other social celebrations and occasions. Minors may also seek to obtain alcohol from other sources, such as through peers or older siblings. Banning the supply of alcohol to anyone under 18 would also be highly impractical to enforce. Therefore the Committee does not see a need to repeal section 117(4) of the Liquor Act which enables parents and guardians to provide alcohol to their child.

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<sup>61</sup> Mr Peter Cox, Acting Assistant Director, Policy and Strategy, Office of Liquor, Gaming and Racing, Transcript of evidence, 5 November 2012, p 11

<sup>62</sup> Superintendent Paroz, Transcript of evidence, p 20

<sup>63</sup> Superintendent Paroz, Transcript of evidence, p 21

<sup>64</sup> Submission 13a, National Centre for Education and Training on Addiction, p 2

<sup>65</sup> Submission 12a, Australian Drug Foundation, p 2

<sup>66</sup> Submission 12a, Australian Drug Foundation, p 7

<sup>67</sup> Submission 10a, NSW Council for Civil Liberties, p 3

## RECOMMENDATION 1

**The Committee recommends that section 117(4) of the *Liquor Act 2007*, enabling parents and guardians to supply alcohol to minors, be retained.**

### Removing parents' ability to authorise supply

- 3.21 There is currently a defence against prosecution in section 117(5) of the Liquor Act for an offence of providing liquor to a minor if it is proved that the defendant was authorised by the minor's parent or guardian to supply liquor to a minor.
- 3.22 Mr Peter Cox from the OLGR noted that the current law 'recognises the circumstances where a parent may want a relative to provide alcohol to their children at a family gathering.' However, he also noted that removing the right to authorise 'would certainly make it easier for us as regulators to get the message across as to when alcohol can be provided to minors'.<sup>68</sup>
- 3.23 In Tasmania, the ability for a parent or guardian to authorise supply of alcohol has remained in that state's 2009 legislation. Ms Debra Salter, Manager of Policy, Development and Research Services of the Department of Police and Emergency Management, explained that there had not been a push to remove this provision, in recognition that the law still permitted alcohol to be consumed by minors and 'we had to make sure there was consideration around young persons being given that permission'.<sup>69</sup>

### *Views about parental ability to authorise supply*

- 3.24 The Committee heard mixed views about the parental ability to authorise supply of alcohol. Some argued it should be retained, as to do otherwise would risk criminalising relatives of young people who may supply alcohol in a responsible manner. Others argued that parental delegation of responsibility was open to abuse and that the ability to authorise should be restricted.
- 3.25 The NSW Council for Civil Liberties strongly objected to the removal of the defence in the legislation which allows authorised supply, arguing that this would go too far by 'criminalising' relatives of young people who may offer alcohol on family occasions when parents are not present:
1. The proposal goes way beyond dealing with the problems created by inadequately supervised parties. It will make criminals of relatives who, with the consent of a young person's parents, offer a small amount of wine on a family occasion when the parents are absent. It could make them criminals even if a parent were present and consenting.
  2. Criminalising relatives who give young people a sip of wine at Christmas will do nothing to reduce drinking by minors. If they are unable to obtain alcohol at parties, they will get it by other means, and drink it in places where they are unsupervised.<sup>70</sup>

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<sup>68</sup> Mr Cox, Transcript of evidence, p 13

<sup>69</sup> Ms Debra Salter, Manager, Policy, Development and Research Services, Department of Police and Emergency Management, Tasmania, Transcript of evidence, 5 November 2012, p 56

<sup>70</sup> Submission 10, NSW Council for Civil Liberties, p 1



- 3.26 NCETA stated that removing this provision would ‘risk the criminalisation of relatives and family friends who offer alcohol to minors’.<sup>71</sup> Mr Michael Thorn from FARE also believed the ability for parents to authorise supply should be retained, but that the requirements for authorisation should be strengthened.<sup>72</sup>
- 3.27 Superintendent Patrick Paroz told the Committee that his understanding of the original intent of the Act was to allow young people to participate in family celebrations. He noted there had been a significant departure from this in reality, and that because of this, the ability to delegate authorisation should be questioned. Superintendent Paroz emphasised parental responsibility:
- [Parental responsibility] is not something you can delegate. You cannot delegate raising your child to someone else. This is a critical part of raising children: Teaching them about alcohol, teaching them about how to consume alcohol and teaching them how to behave when consuming alcohol. The best way to do that is to model that behaviour.<sup>73</sup>
- 3.28 The NSW Commission for Children and Young People stated its preference to remove the ability for a parent or guardian to delegate responsibility for provision of alcohol. The then Commissioner, Ms Megan Mitchell, explained: ‘It is a problem for parents when they cannot guarantee the responsible actions of another human being when they are not present’.<sup>74</sup>
- 3.29 The Committee also discussed with representatives of VicHealth the appropriateness of the current defence against prosecution for providing liquor to a minor if the defendant can prove they had authorisation from the parent or guardian. Dr Bruce Bolam stated that: ‘if the intent of any reforms is to reduce harm it would make logical sense for that defence to be removed’.<sup>75</sup> However, Ms Emma Saleeba said there may be value in retaining the practice of ‘parental permission’:
- I would not say you would want to end parental permission to supply alcohol to a minor because it also provides parents with significant empowerment to have some control over how their child is supplied with alcohol and in what manner.<sup>76</sup>
- 3.30 Mr David Templeman, Chief Executive Officer of the Alcohol and Other Drugs Council of Australia (ADCA), did not support parents or guardians providing authorisation for other adults to provide alcohol to their minors, telling the Committee that tougher measures were needed:
- At the moment, when we have such an unfortunate percentage of parents not understanding the legislation around these things, maybe as one step forward you have got to be particularly tough.<sup>77</sup>

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<sup>71</sup> Submission 13a, National Centre for Education and Training on Addiction, p 2

<sup>72</sup> Mr Michael Thorn, Chief Executive, Foundation for Alcohol Research and Education, Transcript of evidence, 31 October 2012, p 38

<sup>73</sup> Superintendent Paroz, Transcript of evidence, p 19

<sup>74</sup> Ms Mitchell, Transcript of evidence, p 42

<sup>75</sup> Dr Bruce Bolam, Executive Manager, Knowledge and Environment for Health, VicHealth, Transcript of evidence, 5 November 2012, p 41

<sup>76</sup> Ms Emma Saleeba, Manager, Alcohol, Tobacco and UV, VicHealth, Transcript of evidence, 5 November 2012, p 42

- 3.31 The Ulladulla Community Drug Action Team argued against the ability for authorisation to exist as it can lead to miscommunication or misinterpretation of what parents may think is acceptable.<sup>78</sup>
- 3.32 Three Members of Parliament who wrote submissions to the Inquiry also expressed views on authorisation. Mr Rob Stokes MP was in favour of removing the ability of others to supply alcohol with parental authorisation.<sup>79</sup> Mr David Elliott MP and Mr Dominic Perrottet MP stated that supervising adults should be banned from supplying alcohol to minors not under their legal care, saying ‘parent or legal guardians cannot abrogate their vicarious liability by giving consent to other people to break the law’.<sup>80</sup>

### Defining the form of authorisation

- 3.33 Currently there is no guidance in the legislation as to what constitutes authorisation to supply alcohol. Stricter authorisation requirements were canvassed, including a requirement for authorisation to be in written form. However, other inquiry participants raised practical problems in relation to a requirement for written authorisations.
- 3.34 Mr Peter Cox of the OLGR told the Committee that the form of authorisation was not currently prescribed in legislation. He explained it has been left to the courts to determine whether authorisation has been given in specific cases, as it can be difficult to prescribe circumstances that can always apply:

The reason the legislation leaves it to the courts to determine whether the authorisation was given or not is that we thought the authorisation could be provided in a range of ways. It could be a written authorisation, although that is probably unrealistic in most circumstances ... To envisage for inclusion in legislation all the circumstances in which this might occur is very difficult, and sometimes it is left to the courts to determine that, rather than try to prescribe minute details of every circumstance in which an authorisation can be given and what the authorisation can and cannot look like.<sup>81</sup>

- 3.35 Factors that a court may take into account include whether authorisation was provided verbally or in writing, whether there were any instructions or limits given, and whether the parent or guardian was present when the alcohol was supplied.<sup>82</sup>
- 3.36 Mr Cox reflected on whether there could be further guidance and clarity provided around the circumstances where authorisation by a parent or guardian may occur:

An example might be: Is a 19-year-old who is consuming alcohol themselves at a party really an appropriate person to be acting as a parent or guardian of a 17-year-

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<sup>77</sup> Mr David Templeman, Chief Executive Officer, Alcohol and Other Drugs Council of Australia, Transcript of evidence, 5 November 2012, p 50

<sup>78</sup> Submission 6, Ulladulla Community Drug Action Team, p 3

<sup>79</sup> Submission 14, Mr Rob Stokes MP, p 1

<sup>80</sup> Submission 24, Mr David Elliott MP and Mr Dominic Perrottet MP, p 2

<sup>81</sup> Mr Cox, Transcript of evidence, pp 9-10

<sup>82</sup> Submission 18, NSW Government, p 3

old who is also consuming alcohol? I think there will be some strong concerns that that may not be an appropriate thing...<sup>83</sup>

- 3.37 Tasmania's legislation does not prescribe the form of authorisation—permission may be verbal, written or electronic but should be considered 'legitimate and reliable'. The Committee questioned what this would mean in practice. Ms Debra Salter responded by commenting on the difficulties of verifying the authenticity of written notes:

We grappled with this quite considerably when the legislation was being drafted. We went through all the nuances: is the fact that a youth supplies a written note that says, "My parents have agreed", necessarily legitimate, or can you test that? We tried to place some onus on the responsible adult to ensure that they were confident that however the permission was given it actually came from the right person. If you were prepared to accept a written note, to be confident that it came from the adult and not one that perhaps had been otherwise drafted.<sup>84</sup>

- 3.38 Mr Elliot Kleiner of PromNight Events told the Committee that while he did not see a problem with retaining the ability for a parent or guardian to authorise supply, the method by which that responsibility was assigned was currently not clear enough:

Is assignment a phone call? Is assignment a nod and a wink? Is assignment a note that the kid brings on a piece of paper scratched out with a biro?

...The method upon which that assignment is granted is the problem. How do we do it? Do we run the risk of being draconian imposers of law if we say that there is a government form that has to be downloaded, filled out and signed and witnessed by a justice of the peace [JP] and whatever else before that becomes a level of acceptable assignment that therefore follows on to be proof that is acceptable to be submitted and tendered as evidence in a court hearing where there is a prosecution...?<sup>85</sup>

### *Support for written authorisations*

- 3.39 The Australian Hotels Association (AHA) told the Committee that the Liquor Act could be strengthened by requiring a written authorisation rather than verbal consent, making sure that this predated any offence, and that it be in the possession of the designated adult at the time the liquor was supplied.<sup>86</sup> Mr David Cass, representing the AHA, stated that written notes would remove doubt about authorisation having been given, although he also acknowledged the potential for tampering.<sup>87</sup>
- 3.40 Mr Cass also commented that from a policing point of view, requiring written evidence would 'clearly allow for the situation to be tested and it could easily be

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<sup>83</sup> Mr Cox, Transcript of evidence, p 13

<sup>84</sup> Ms Debra Salter, Manager, Policy, Development and Research Services, Department of Police and Emergency Management, Tasmania, Transcript of evidence, 5 November 2012, p 52

<sup>85</sup> Mr Elliot Kleiner, Chief Executive Officer, PromNight Events, Transcript of evidence, 31 October 2012, p 30

<sup>86</sup> Mr David Cass, Consultant Policy Adviser, Australian Hotels Association, Transcript of evidence, 31 October 2012, p 5; Submission 1, Australian Hotels Association, p 7

<sup>87</sup> Mr Cass, Transcript of evidence, p 6

determined whether an offence has or has not been committed.’<sup>88</sup> He believed that it would take ‘minimal time’ to prepare a suitable letter of authorisation, ‘even for the poorest of households’. He suggested that the government, if implementing this measure, could attach some conditions or suggestions as to appropriate wording for such a letter.<sup>89</sup>

- 3.41 The NSW Police Force supported written authorisations, arguing they would be more easily enforceable. Superintendent Patrick Paroz suggested that a written note should state clearly a number of facts such as the names of those involved, the number and type of drinks authorised and the place where the alcohol is being consumed:

... the best authorisation is being present and saying, "Yes, that young person has my authorisation to consume alcohol." To make it enforceable I think it needs to be in writing, setting out clearly who the parent or guardian is, who the young person is, the date, the number of drinks the young person is allowed, the type of drink, and the place they are going to be. That sounds like a very nanny state, police state-type requirement but it would force a discussion between a parent and a young person about where they are going, who they are going to be with, where they are drinking, what they are drinking and how many they are planning on having.<sup>90</sup>

- 3.42 Mr Michael Thorn of FARE argued that the current legislative provisions did not provide enough guidance as to what authorisation means, and that therefore written authorisations would be useful:

... the provisions are weak and do not provide sufficient onus on the person providing alcohol to a minor that a parent or guardian has authorised the supply of liquor. Again the legislation allows for a young person to be supplied with alcohol by someone other than a parent where that authorisation has been given, but it is not clear ... what that authorisation means. In my view we should be elevating that requirement and what actually constitutes authorisation. I would suggest that one way of doing that is to propose that it be put in writing and that would certainly raise the standard.<sup>91</sup>

- 3.43 FARE’s submission also noted that written authorisations would promote dialogue and encourage parents to consider more carefully their decision to provide alcohol to their child.<sup>92</sup>

### *Potential problems with written authorisations*

- 3.44 The Committee heard that written authorisations could be problematic in practice. If they were to be required under the law, they could easily be forged, and such a requirement could be judged by the community as too draconian or impractical.

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<sup>88</sup> Mr Cass, Transcript of evidence, p 6

<sup>89</sup> Mr Cass, Transcript of evidence, p 6

<sup>90</sup> Superintendent Paroz, Transcript of evidence, p 22

<sup>91</sup> Mr Thorn, Transcript of evidence, p 34

<sup>92</sup> Supplementary Submission 26a, Foundation for Alcohol Research and Education, p 8. See also Submission 3, Victorian Alcohol and Drug Association, p 2

3.45 Mr Paul Dillon of Drug and Alcohol Research and Training Australia told the Committee that 'permission slips', often forged, were being used in Victoria at teenage parties. Victorian legislation requires authorisation but does not specify the manner of authorisation. Nevertheless, forged written authorisations were becoming common, with little change in risky drinking behaviour:

Essentially, what is happening is a party is happening and a letter goes out from a parent with a permission slip on the bottom. It says, "This gives me permission to serve your child alcohol on my property". What is happening is that it is going out, kids are coming back with these forms—most of which are forged. Parents keep all of them. A condition of entry is to provide them on entry and if it is not signed they are not allowed in because the law has changed and they know that if they do not have permission they can be prosecuted.

Potentially it is a minefield because, number one, you are taking legal responsibility for a young person who is drinking so if something happens to them there is that duty of care issue. It has not been tested in court but that is obviously one issue. The second thing is it is forged, so what happens there? It is the same as basically showing a fake ID to get into a nightclub. There are so many things. I think if you are going to make a law in this area you do not put clauses in it. I do not think you can do that "but get permission" stuff. I do not know how you do that. It is very complex.<sup>93</sup>

3.46 Mr Dillon reiterated that 'permission slips' have not had a positive effect on changing behaviour or attitudes of young people towards alcohol consumption:

In many ways parties are more problematic because we now have a whole pile of parents who are seeking permission from other parents to hold parties. They are not necessarily providing the alcohol, but their thinking is, "We need to get permission or we're going to get into trouble." So we have this pile of permission slips. All that has done is make kids feel more like, "I can do what I want now that Mum and Dad have signed a letter." That is certainly not what you want.<sup>94</sup>

3.47 The NSW Council for Civil Liberties submitted that written authorisations would be impractical, citing the potential for forgery. It was also argued that requiring written consent 'would not have credibility in the community' and that it would be 'overkill' to require written notes for religious ceremonies and at family BBQs where a relative provides a light beer to a 17 year old.<sup>95</sup>

3.48 The NSW Government's submission noted that requiring written authorisations could add complexity to police investigations. Even if written authorisation was produced, police would still need to obtain evidence to verify it was legitimate and that it was issued prior to the supply of alcohol.<sup>96</sup>

### *What is the aim of requiring authorisation?*

3.49 NCETA made the point that requiring parental authorisation in legislation is aimed at ensuring that the adult providing the alcohol has a clear understanding

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<sup>93</sup> Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, Transcript of evidence, 5 November 2012, p 59

<sup>94</sup> Mr Dillon, Transcript of evidence, p 62

<sup>95</sup> Submission 10a, NSW Council for Civil Liberties, p 3

<sup>96</sup> Submission 18a, NSW Government, p 4

of the expectations of the parents or guardian. Requiring evidence of written authorisation would not necessarily contribute to the goal of ensuring that the alcohol provider is aware of parental wishes. Ultimately, NCETA argued that the onus should be placed on the provider of the alcohol to prove they have been given a detailed authorisation about the quantity of alcohol to be provided, and the conditions under which it is to be supplied.<sup>97</sup>

- 3.50 As a way of enhancing the understanding of the legalities of providing authorisation, NCETA suggested that a pro forma document could be available on the internet, 'which could detail each aspect of the parent's/guardian's expectations that should be addressed when providing authorisation'.<sup>98</sup>
- 3.51 The NSW Council for Civil Liberties emphasised that the evidence of authorisation has two functions—informing the adult providing alcohol that they are authorised to do so, and providing a defence against prosecution. It was argued that practicality needed to be considered and that the solution to the problem was not 'necessarily the blunt tool of greater regulation'.<sup>99</sup>

### *Requiring consent in person*

- 3.52 The Australian Drug Foundation suggested that legislation should require that consent be conveyed in person, in order to ensure that 'the person to whom consent is given will know the consent is genuine'.<sup>100</sup> Personal consent would imply that the parent or guardian personally knows the individual to whom consent is given:

A personal passing on of consent (i.e. not in writing) would be appropriate given that the most usual rationale for the delegation of parental authority is to allow a member of the family to supply alcohol to a minor. That requirement may have the benefit of reducing access to alcohol for underage young people and lowering their consumption of alcohol.<sup>101</sup>

### **Committee comment**

- 3.53 On the question of whether parents should be able to retain their ability to authorise another adult to supply alcohol to their children, the Committee heard compelling arguments from both sides. On one hand, removing the ability for parents to delegate authority to supply alcohol would run the risk of criminalising relatives and friends who may traditionally provide alcohol to minors in family settings. However, the Committee also recognises the deep-seated concern in the community about the need to reduce alcohol-related harm among young people. Some inquiry participants believed that the defence against prosecution in section 117(5) of the Liquor Act was an inappropriate delegation of parental responsibility and that removing this defence would help to reduce the risk of harm and ensure greater parental control over their child's drinking.

<sup>97</sup> Submission 13a, National Centre for Education and Training on Addiction, p 2

<sup>98</sup> Submission 13a, National Centre for Education and Training on Addiction, p 2

<sup>99</sup> Submission 10a, NSW Council for Civil Liberties, p 3

<sup>100</sup> Submission 12a, Australian Drug Foundation, p 2

<sup>101</sup> Submission 12a, Australian Drug Foundation, p 8

- 3.54 The Committee takes the view that the ability of parents to authorise an adult to provide alcohol to their child or dependant should remain, and being able to demonstrate proof of that authorisation should remain a defence to prosecution under section 117(5) of the Liquor Act. While acknowledging concerns that delegation of parental responsibility may be open to misinterpretation or abuse, the Committee believes that the 'responsible supervision' provisions recommended later in this chapter will embed the expectation in the community over time that alcohol, when supplied by authorised adults, must be provided in a responsible manner.
- 3.55 Another question that the Committee grappled with was whether stricter proofs of authorisation could be legislated, such as a requirement for written evidence of parental authorisation. Several inquiry participants were in favour of written authorisations, arguing that there was currently ambiguity about what constituted 'authorisation'. It was also proposed that requiring authorisation in writing would make enforcement of the law easier and that dialogue would be encouraged between parents and children about alcohol use.
- 3.56 However, the Committee also heard that requiring written authorisations could be problematic, given the ease with which written notes could be forged. The Committee heard that forgery of written permission notes was already a problem in Victoria (even though that state does not prescribe in legislation what form authorisation must take).
- 3.57 The Committee is not convinced that a requirement for written authorisations should be prescribed under legislation in NSW. Such a requirement would not necessarily minimise risky drinking behaviour among minors. Rather, it could be viewed cynically by the community as another regulatory hoop to jump through or box to tick, with no real effect on attitudes and behaviour.
- 3.58 The Committee agrees with NCETA's view<sup>102</sup> that the reason for requiring parental authorisation in legislation is to ensure that the provider of the alcohol has a clear understanding of parental expectations. Ultimately, the onus should be on the person supplying the alcohol to demonstrate that genuine consent has been obtained (in writing or by other means) and to supply the alcohol consistent with responsible supervision.
- 3.59 The Committee believes that better education about legal requirements, particularly with regard to the need to have proof of parental authorisation when supplying alcohol to a minor, is the best way to address this issue (see recommendations in Chapter Four).

## RECOMMENDATION 2

**The Committee recommends that the defence against prosecution in section 117(5) of the *Liquor Act 2007*, enabling an adult to provide alcohol to a minor if parental authorisation can be proved, be retained.**

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<sup>102</sup> Submission 13a, National Centre for Education and Training on Addiction, p 2

### RECOMMENDATION 3

**The Committee recommends that the form of parental authorisation required under section 117(5) not be prescribed in the *Liquor Act 2007*.**

#### ‘RESPONSIBLE SUPERVISION’

- 3.60 One of the main suggestions<sup>103</sup> made by inquiry participants to strengthen the Liquor Act’s existing provisions was to enshrine the concept of ‘responsible supply’ or ‘responsible supervision’ in legislation, as Queensland and Tasmania have done. Currently there is no guidance in the NSW legislation as to how alcohol is to be supplied to minors, only that it may be supplied by parents or authorised adults. Benefits of incorporating an expectation of ‘responsible supervision’ in legislation would include a clearer message to parents and the community about secondary supply laws, and a reduction in risky drinking by people under 18.
- 3.61 The NSW Commission for Children and Young People noted that under current laws, there is an implicit, not explicit, assumption that supply to minors will be undertaken responsibly:
- Current New South Wales legislation mainly focuses on preventing supply of alcohol to minors at licensed premises with an apparent assumption that supply to minors on premises other than licensed premises by a parent or guardian will be governed by an implicit understanding of responsible provision.<sup>104</sup>
- 3.62 Ms Megan Mitchell, the then Commissioner, told the Committee that there is ‘real merit’ in introducing provisions which ‘might influence parents who wish to supply alcohol to their children [so] that they do so in a manner that is consistent with the responsible supervision of the child’.<sup>105</sup>
- 3.63 This view was supported by other submitters and witnesses.<sup>106</sup> The Australian Drug Foundation listed several benefits of specifying responsible supply of alcohol to minors in private settings, stating that legislating in this way would:
- contribute to reducing the prevalence and incidence of underage drinking;
  - provide a community standard for parents and other adults, in the absence of a readily accepted social norm;
  - contribute to educating the community about the problems inherent in allowing minors to drink alcohol;

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<sup>103</sup> Another suggestion for amending legislation included a proposal from the NCETA that proving the offence of ‘supply’ is too high a legal threshold and that the nature of the offence should be changed to one of a ‘failure to take reasonable steps to prevent harmful supply’. See Submission 13, National Centre for Education and Training on Addiction, p 3

<sup>104</sup> Ms Mitchell, Transcript of evidence, p 41

<sup>105</sup> Ms Mitchell, Transcript of evidence, p 41

<sup>106</sup> Mr Kleiner, Transcript of evidence, p 27



- support parents and other adults who do not want to give alcohol to minors or encourage underage drinking;
- encourage adults to cease providing minors with a supply of alcohol;
- not interfere with parents who wish to serve their own children alcohol, or who wish to serve other children, as long as they have approval from a responsible adult.<sup>107</sup>

3.64 Mr Michael Thorn of FARE was in favour of the Liquor Act being strengthened by 'irresponsible supply laws'. He argued there was value in providing the community and parents with a clearer indication about what is and is not legal and that this would help overcome confusion about current laws:

Irresponsible supply laws are designed, in my view, to make it clearer to people other than parents that they have to ensure supervision of consumption of alcohol by young people. A big issue in terms of young people's drinking is that there is this popular misconception among too many people that it is illegal for people under the age of 18 to drink alcohol. It is not. It is illegal to supply them if you are not a parent. It is illegal to sell young people alcohol. That becomes quite a confused message.<sup>108</sup>

3.65 Mr Thorn argued that the rationale for including conditions such as supervision of alcohol consumption was to reduce risky drinking and unsafe outcomes for young people. Without parental supervision, risky drinking is more likely to occur:

One of the reasons that we are arguing for the irresponsible law provisions is that some of the research shows that where parents introduce their children to alcohol and then supervise them in the consumption of that alcohol very little risky drinking takes place. Obviously the parents are there and they are watching over their kids. As soon as you remove that parental supervision the risky drinking escalates.<sup>109</sup>

3.66 According to NCETA, a view held by some police was that parents should be required to directly supervise their children when consuming alcohol:

... a major challenge for police was dealing with parents who had supplied alcohol to their children. It was maintained by one interviewee that there needed to be more responsibility placed on parents.

*From my point of view, the only way to actually solve the problem is that if kids are going to consume alcohol legally, then the parent must stay with them. So this business of giving them a carton of beer, and saying going off to a party, have a good time is not right. I think the only way that we could actually get on top of this problem is to say that that parent must stay with the children, who must drink under their supervision.<sup>110</sup>*

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<sup>107</sup> Submission 12, Australian Drug Foundation, p 8

<sup>108</sup> Mr Thorn, Transcript of evidence, p 34

<sup>109</sup> Mr Thorn, Transcript of evidence, p 34

<sup>110</sup> Trifonoff, A, Andrew, R, Steenson, T, Nicholas, R and Roche, AM, *Liquor Licensing Legislation in Australia: Police Expectations and Experiences*, National Centre for Education and Training on Addiction (NCETA), Flinders University, 2011, p 39, [http://nceta.flinders.edu.au/files/3413/5226/7676/EN458\\_LLReport3.pdf](http://nceta.flinders.edu.au/files/3413/5226/7676/EN458_LLReport3.pdf)

## Legislative approaches in Queensland and Tasmania

- 3.67 Both Queensland and Tasmania have passed legislation which, many submitters argued, provides clearer and stricter guidance for parents and the community around provision of alcohol to minors.

### *Queensland*

- 3.68 Under section 156A of Queensland's *Liquor Act 1992*, an adult must not supply alcohol to a minor at a private place unless the adult is a responsible adult for the minor.

- 3.69 A responsible adult for a minor must not supply alcohol to the minor at a private place unless the supply is consistent with the responsible supervision of the minor. The following factors are relevant in considering whether the supply is consistent with responsible supervision:

- (a) whether the adult is unduly intoxicated;
- (b) whether the minor is unduly intoxicated;
- (c) the age of the minor;
- (d) whether the minor is consuming the liquor supplied with food;
- (e) whether the adult is responsibly supervising the minor's consumption of the liquor supplied;
- (f) the quantity of liquor supplied and the period over which it was supplied.<sup>111</sup>

- 3.70 Irresponsibly supplying alcohol to a minor may attract a penalty of up to \$8,800.<sup>112</sup> Since the introduction of the laws in 2008, Queensland police have charged 72 people with offences under section 156A of the Liquor Act. Penalties have included fines, community service and probation. The Queensland Government informed the Committee that this legislation does not penalise parents and guardians who educate their children about alcohol through supervised and limited consumption in a family environment.<sup>113</sup>

### *Tasmania*

- 3.71 In Tasmania, the *Police Offences Act 1935* prohibits the supply of alcohol to a minor at a private place unless the person is a responsible adult for the young person.<sup>114</sup> A responsible adult for a youth must not supply liquor to the youth at a private place unless the supply is consistent with the responsible supervision of the youth.<sup>115</sup>

- 3.72 The following factors are relevant in determining responsible supervision:

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<sup>111</sup> *Liquor Act 1992* (Qld) ss 156A(2)-(3)

<sup>112</sup> Submission 22a, Minister for Police and Community Safety, Queensland, The Hon Jack Dempsey MP, p 2

<sup>113</sup> Submission 22a, Minister for Police and Community Safety, Queensland, The Hon Jack Dempsey MP, p 1

<sup>114</sup> *Police Offences Act 1935* (Tas) s 26

<sup>115</sup> *Police Offences Act 1935* (Tas) s 26(2)

- consideration being given to the age of the youth;
  - the consumption of alcohol being supervised;
  - consideration being given to the quantity, type and the time period over which alcohol is supplied; and
  - food and non-alcoholic drinks being available when alcohol is being consumed.<sup>116</sup>
- 3.73 Additionally, the responsible adult should not be intoxicated, nor allow the youth to become intoxicated.<sup>117</sup>
- 3.74 Each of the following persons is defined as a 'responsible adult' for a youth:
- (a) a parent, step-parent or guardian;
  - (b) an adult who has parental rights and responsibilities;
  - (c) an adult authorised to supply liquor by a parent, step-parent or guardian or by an adult referred to in paragraph (b).<sup>118</sup>
- 3.75 A fine of \$360 may be issued via an infringement notice for a minor offence, while for serious matters, offenders may receive fines of up to \$12,000 or imprisonment for a term not exceeding 12 months.<sup>119</sup>
- 3.76 The Committee heard evidence from the Tasmanian Department of Police and Emergency Management about the experiences of that state in relation to tightening of its liquor laws around supply to minors in 2009. Ms Debra Salter, Manager of Policy, Development and Research Services, explained to the Committee that one of the main drivers for tightening definitions of 'responsible supply' and 'responsible adult' in Tasmanian legislation was the injury of a young boy on the north-west coast who had consumed a considerable amount of alcohol on private premises. He was injured in a fire and at the time there had been no recourse to make anybody liable for what had happened.<sup>120</sup>
- 3.77 Nine people have been charged with breaches of Tasmania's legislation relating to secondary supply to minors. Ms Salter explained that four had now been convicted, with three people fined between \$350 and \$500. She stated that there has been quite a lot of media interest around those cases where penalties have been exacted and that this provides 'a not insignificant deterrent.'<sup>121</sup>

### Views on Queensland and Tasmanian approaches

- 3.78 Inquiry participants were broadly supportive of the 'responsible supervision' provisions adopted by Queensland and Tasmania. It was argued that NSW should

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<sup>116</sup> Submission 5, Department of Police and Emergency Management, Tasmania, p 2

<sup>117</sup> Submission 5, Department of Police and Emergency Management, Tasmania, p 2

<sup>118</sup> *Police Offences Act 1935* (Tas) s 26

<sup>119</sup> Submission 5, Department of Police and Emergency Management, Tasmania, p 3

<sup>120</sup> Ms Salter, Transcript of evidence, p 54

<sup>121</sup> Ms Salter, Transcript of evidence, p 53

adopt similar provisions requiring that the provision of alcohol to minors must be conducted in a responsible manner. Others pointed out what they saw as shortcomings in other states' legislation, including problems with enforcement.

- 3.79 Ms Megan Mitchell, the then NSW Commissioner for Children and Young People, strongly supported the legislative approaches of Queensland and Tasmania, saying that these states provide specific guidance and conditions around provision of alcohol to minors and that this may help with both enforcement and community awareness:

The Queensland and Tasmanian legislation has particular merit in that it seeks to provide guidance about community standards around supply of alcohol to minors, taking account of factors such as the age of the minor, the quantity of liquor supplied and over what period. Although such legislation may be difficult to enforce as consumption mainly occurs in private premises and police would have to be alerted to it occurring, it would support police intervention where children are at risk.<sup>122</sup>

- 3.80 Mr Peter Cox of the OLGR told the Committee that 'there is a good message' in the Queensland and Tasmanian amendments in relation to responsible supply. He stated that people providing alcohol to minors need to consider their responsibilities carefully and that the amended laws in these states provided useful advice in that regard:

It certainly sends a message to communities that there is a need to consider supply of alcohol to minors differently than supply of alcohol to adults, and that there is a responsibility on those who are supplying alcohol that is over and above their normal parental or guardianship responsibilities to consider what is a responsible supply situation. Providing advice to parents and adults about what is responsible and what is not can only be a good thing.<sup>123</sup>

- 3.81 On the other hand, the Ulladulla Community Drug Action Team's view on the Queensland legislation was that it remained too 'subjective and open to interpretation' as to what constitutes responsible supply. However, the Team's submission acknowledged that it was still a 'slight improvement' on the current NSW legislation.<sup>124</sup>

- 3.82 Mr David Templeman of ADCA commented on the difficulties of enforcement in Queensland, despite the recent tightening of regulations:

Even in the case of Queensland they have attempted to put in new legislation to combat the problems they have had with the annual schoolies activity and now you will see that although they may have thought that it was tightened up, it was done very much on the run and it was done very quickly and police report that it is very difficult to manage, very difficult to prove someone at fault in terms of that secondary supply where a parent may have delegated another adult to do that—how do you prove that in those sorts of situations?<sup>125</sup>

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<sup>122</sup> Ms Mitchell, Transcript of evidence, p 42

<sup>123</sup> Mr Cox, Transcript of evidence, p 14

<sup>124</sup> Submission 6, Ulladulla Community Drug Action Team, p 4

<sup>125</sup> Mr Templeman, Transcript of evidence, p 48

- 3.83 ADCA's submission argued that the laws introduced in Queensland were 'poorly constructed and ill-conceived'.<sup>126</sup> It also noted media reports of the Queensland experience and police commentary that they didn't have time to enforce the laws, as well as highlighting the difficulty of proving that an adult 'recklessly' supplied alcohol.<sup>127</sup>

### How prescriptive should the legislation be?

- 3.84 The Committee heard that there are both benefits and disadvantages to defining features of 'responsible supervision' within legislation. While doing so would provide the community with more guidance as to what constitutes acceptable behaviour, having overly prescriptive definitions or circumstances spelled out in legislative provisions may be overly complex and difficult to enforce.
- 3.85 Superintendent Patrick Paroz of the NSW Police Force stated that defining 'responsible supervision' would be beneficial, in that it would clarify the expectations for parents and other adults.<sup>128</sup> He also pointed out that the Queensland and Tasmanian legislation provided adequate frameworks for establishing the meaning of 'responsible supervision' by ensuring consideration is given to certain circumstances, such as the type of alcohol and whether the adult is alcohol-affected:

It is difficult when you get down to each individual scenario, but it puts some frameworks around what is accepted as responsible in terms of how much alcohol am I authorising the young person to have? Who else is supposed to be there? What type of alcohol is it? What is the expectation in relation to the adult? My expectation would be that that person would have to be in control of themselves, to start with. When you talk about an adult supplying alcohol, you would like to see that the responsible adult is not affected by alcohol or not affected to a degree where they cannot exercise their own responsibilities.<sup>129</sup>

- 3.86 Mr Peter Cox of the OLGR noted the types of circumstances that need to be considered when defining 'responsible supply', such as the level of supervision, the environment, the age of those providing alcohol and their relationship to the minors:

There might be circumstances where the level of supervision or the actual environment in which the alcohol is provided needs to be narrowed or further defined—so that the supply can only occur in certain circumstances. At the moment, it is fairly open as to when that supply can occur; essentially, it is any circumstance where that authorisation is provided. Perhaps there are more limited circumstances in which that is appropriate ... Is there a certain level of supervision required of those who are supervising? What is their relationship to the minors concerned? How old are they? What are they doing in that circumstance? Are they consuming alcohol themselves?<sup>130</sup>

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<sup>126</sup> Submission 23, Alcohol and Other Drugs Council of Australia, p 10

<sup>127</sup> Submission 23, Alcohol and Other Drugs Council of Australia, p 11

<sup>128</sup> Superintendent Paroz, Transcript of evidence, p 18

<sup>129</sup> Superintendent Paroz, Transcript of evidence, p 19

<sup>130</sup> Mr Cox, Transcript of evidence, p 10

- 3.87 However, Mr Cox warned against ‘overcomplicating and not trying to prescribe every circumstance in which someone may be prosecuted’.<sup>131</sup> He emphasised that translating legal provisions into public messages that can be easily understood was also important.<sup>132</sup>

### *Minimum age for supply of alcohol*

- 3.88 In considering the question of what would constitute ‘responsible supervision’, the Committee heard views about whether a minimum age limit (e.g. 15 years old) for the provision of alcohol to minors should be prescribed. Inquiry participants’ calls for an age limit to be mandated were based on health evidence of the effects of alcohol on the developing brain. However, others argued that mandating a minimum age limit would not be helpful, adding to confusion about the law, and that the community would not readily accept such a change.
- 3.89 Submitters<sup>133</sup> quoted the 2009 guidelines issued by the National Health and Medical Research Council (NHMRC) which state that for young people under 18, not drinking is the safest option. The guidelines also advise that children under 15 are at greatest risk of harm from alcohol and it is important for them not to drink.<sup>134</sup>
- 3.90 The NSW Commission for Children and Young People advocated changes to the law which would mean that no alcohol is served to any minor under the age of 15. It was argued that evidence about the harmful effects of alcohol consumption on children’s health—particularly if they were under 15—supported such a move:
- ...the research is pretty unequivocal about the capacity for brain damage and entrenching risky behaviours earlier than 15.<sup>135</sup>
- 3.91 No lower age limit for minors was included in the 2009 Tasmanian legislation because, according to Ms Salter, there did not appear to be clear direction or evidence as to what that age should be. However, the public messaging around the new regulations did point out the NHMRC guidelines on alcohol consumption, including that there is no safe level of alcohol consumption for anyone under the age of 18 years.<sup>136</sup> Ms Salter also acknowledged that some in the community felt there should have been more discussion about an absolute minimum drinking age when the Tasmanian legislation was being considered.<sup>137</sup>
- 3.92 Other submitters who advocated prohibiting alcohol supply to young people under 15 included Life Education NSW<sup>138</sup> and FamilyVoice Australia.<sup>139</sup> FamilyVoice Australia also recommended that supplying a minor aged 15 to 17

<sup>131</sup> Mr Cox, Transcript of evidence, p 11

<sup>132</sup> Mr Cox, Transcript of evidence, p 16

<sup>133</sup> Submission 16, FamilyVoice Australia, p 1; Submission 11, National Drug Research Institute, p 6

<sup>134</sup> See <http://www.nhmrc.gov.au/your-health/alcohol-guidelines> viewed 30 July 2013

<sup>135</sup> Ms Mitchell, Transcript of evidence, p 42

<sup>136</sup> Ms Salter, Transcript of evidence, p 54

<sup>137</sup> Ms Salter, Transcript of evidence, p 56

<sup>138</sup> Submission 9, Life Education NSW, p 1

<sup>139</sup> Submission 16, FamilyVoice Australia, pp 4-5

with more than four standard drinks on any occasion should be considered irresponsible under the law.<sup>140</sup>

3.93 However, mandating a minimum age limit was not supported by other inquiry participants. The Australian Drug Foundation acknowledged that while there is a scientific justification for setting a minimum age limit for alcohol consumption, 'such a change would require extensive dialogue with the community'.<sup>141</sup>

3.94 The National Centre for Education and Training on Addiction (NCETA) similarly argued that the community would not accept such a change at this time, as the health rationale for an age limit was not widely understood:

It has been a traditional practice for many people in Australia to introduce their children to alcohol at an age somewhere below fifteen years. While the evidence summarised by the NHMRC now suggests such a practice is risky, that knowledge may not have percolated throughout the community. In addition, at this time a substantial section of the public will likely resist the prohibition as usurpation of parental power and responsibility.

For Parliament to change the law to prohibit a parent or guardian from providing alcohol to their child aged less than fifteen years (for example) would require a community-wide knowledge and acceptance of the rationale for the change. That situation may not exist at this time.<sup>142</sup>

3.95 NCETA also argued that it would be sufficient for the 'age of the minor' to be considered as one of the factors in determining whether supply was consistent with responsible supervision.<sup>143</sup>

3.96 FARE believed that setting a minimum age limit would add to public confusion about the rules around secondary supply. FARE also argued that setting a minimum age limit of 15 years would be confusing, as it would provide a message to the community that it is acceptable for young people aged between 15 and 17 to drink alcohol.<sup>144</sup>

3.97 The NSW Council for Civil Liberties asserted there would be unintended consequences from imposing a statutory minimum age limit for the supply of alcohol to minors. Its submission highlighted the practice of providing alcohol to children during Christian and Jewish religious ceremonies, and that provision under these circumstances would not be inconsistent with supplying alcohol responsibly. Other drawbacks were raised, such as the greater likelihood of legal action and the risk of perverse outcomes:

Fixing a minimum age may result in parents, guardians and responsible adults being subject to legal action if their supply of alcohol to minors was otherwise responsible ... We consider that legislating for a minimum age may result in some NSW residents thinking that serving alcohol to minors who have reached that age is acceptable even if Parliament considers that would be undesirable—and even if the supply of

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<sup>140</sup> Submission 16, FamilyVoice Australia, p 5

<sup>141</sup> Submission 12a, Australian Drug Foundation, p 2

<sup>142</sup> Submission 12a, Australian Drug Foundation, p 6

<sup>143</sup> Submission 13a, National Centre for Education and Training on Addiction, p 1

<sup>144</sup> Submission 26b, Foundation for Alcohol Research and Education, p 2

alcohol to that minor would otherwise be inconsistent with responsible supply. This may, paradoxically, lead to greater harms to minors than if no minimum age was set.<sup>145</sup>

### Committee comment

- 3.98 The Committee takes the view that the intent of the existing secondary supply provisions in the *Liquor Act 2007* is ultimately to protect minors from harm. With this in mind, the Committee supports ways to strengthen existing laws governing supply of alcohol to minors in recognition of the community responsibility to safeguard the health and wellbeing of young people.
- 3.99 The Committee sees merit in legislative provisions that make it clear to parents and the community that alcohol is only to be provided to minors in a responsible way. This would require the concept of 'responsible supervision' to be spelled out.
- 3.100 Currently there is no guidance under the law as to what 'responsible supervision' entails when providing alcohol to minors. The Committee agrees with witnesses who called for clarity around the 'responsible' circumstances in which the supply of alcohol to a minor may take place. Explicitly stating these conditions in legislation would help to send a clearer message to the community about what is acceptable when providing alcohol to people under 18.
- 3.101 Legislative approaches in other jurisdictions, particularly Queensland and Tasmania, provide a useful model for factors to consider when establishing whether 'responsible supervision' has occurred. These include: the minor's age; the amount and type of alcohol being consumed; whether the supervising adult and the minor are drunk; and whether food is being consumed with alcohol. The Committee considers that these factors should be included in amendments to the Liquor Act that require the supply of alcohol to minors to be consistent with 'responsible supervision'. Responses to the Committee's discussion paper indicated broad support for the Committee's proposal.<sup>146</sup>
- 3.102 The Committee also heard calls to strengthen the provisions of the Liquor Act by mandating that minors who are supplied with alcohol must be of a minimum age (e.g. 15 years old). While the Committee accepts that there is significant health evidence showing that children under 15 are at the greatest risk of harm from alcohol consumption, the Committee believes that legislating a minimum age limit would be counter-productive. The Committee is convinced by those who submitted that setting a minimum age may lead to the unintended and confusing message that it is acceptable for children between 15 and 17 to consume alcohol. A minimum age limit would also be unlikely to be accepted in the community, given that parents often introduce their children to small amounts of alcohol at an age below 15. Making this practice illegal would be out of step with current community attitudes.

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<sup>145</sup> Submission 10a, NSW Council for Civil Liberties, p 2

<sup>146</sup> Submission 12a, Australian Drug Foundation, p 5; Submission 26b, Foundation for Alcohol Research and Education, p 2; Submission 10a, NSW Council for Civil Liberties, p 1



- 3.103 Ultimately, the Committee believes that incorporating the concept of 'responsible supervision' into the Liquor Act will significantly strengthen the provisions regulating the supply of alcohol to minors. Legislating a specific minimum age limit is not necessary, given the Committee's recommendation that the age of the minor should be one of the factors to be considered when determining whether responsible supervision has occurred.

#### RECOMMENDATION 4

**The Committee recommends that the Minister for Tourism, Major Events, Hospitality and Racing introduce amendments to the *Liquor Act 2007* to require that parents, guardians and responsible adults must supply alcohol to minors in a manner that is consistent with responsible supervision. Amendments should describe factors to be considered in determining whether supply is consistent with responsible supervision, including:**

- the minor's age;
- whether the parent, guardian or responsible adult is intoxicated;
- whether the minor is intoxicated;
- whether the minor is consuming alcohol with food;
- whether the parent, guardian or responsible adult is responsibly supervising the minor's consumption of the alcohol; and
- the quantity and type of alcohol, and the time period over which it is supplied.

#### FINDING 1

**The Committee finds that a minimum age limit, below which a minor may not be provided with alcohol by a parent or authorised adult, should not be prescribed in the *Liquor Act 2007*.**

#### OTHER IDEAS FOR REFORM

- 3.104 A number of other suggestions for law reform regarding the supply of alcohol to minors were raised during the course of the inquiry, including the issue of the legal responsibility for the welfare of a minor to whom alcohol has been provided.

#### Liability for welfare of a minor

- 3.105 There were calls for liability for damages to be made clear in legislation, to account for circumstances where a minor dies or is injured after being supplied with alcohol. However, the Committee also heard that there were reasons to be cautious about such an approach.
- 3.106 Enabling damages to be awarded in cases where intoxicated minors are injured or killed would be an effective deterrent, according to Ms Megan Mitchell, the then NSW Commissioner for Children and Young People. She told the Committee

that this could ‘stop party hosts being irresponsible and shirking their supervision responsibilities’:

It is a deterrent in itself, even if it were not enforced, in a sense. The fact that that could happen would be something that would make acute your responsibilities as a party host. We do hear about too many parties going on and kids being left alone with boxes of beer and wine and spirits, and then others who come in who are not even part of the original party scene. If you are hosting a party as an adult, you need to be responsible for it and what happens at it.<sup>147</sup>

3.107 The submission from the Cancer Council NSW called for amendments to *the Civil Liability Act 2002* to provide that damages may be awarded in respect of the death of or injury to a minor, notwithstanding that the minor is intoxicated. It was argued that this deterrent would help to ‘shift social norms relating to young people’s alcohol use’.<sup>148</sup> Mr Adair Donaldson also supported placing the onus and responsibility on the owner of the property if it is found that the host did not take ‘reasonable care’ when supplying alcohol on private premises.<sup>149</sup>

3.108 However, NCETA highlighted the need for caution when considering the application of criminal liability. Its submission noted that minors themselves can play an active role in obtaining alcohol and that placing full responsibility upon the adults involved may not be reasonable. It was suggested that ‘criminalising’ people to this degree could also have profound negative effects on employment prospects and on social groups and friendships.<sup>150</sup>

### Other suggestions

3.109 Various other suggestions for reform are listed below:

- a review of the provisions of section 114 of the Liquor Act in relation to sale of alcohol over the internet to help ensure that receipt of alcohol on delivery can be better restricted to persons over 18 years of age<sup>151</sup>;
- a requirement for hire contracts for functions in community halls to include a requirement to engage security personnel with Responsible Service of Alcohol accreditation<sup>152</sup>;
- a removal of the defence to a prosecution in section 117(3) of the Liquor Act if it is proved that the minor was at least 14 years of age and had used a convincing proof of age document to acquire alcohol on licensed premises<sup>153</sup>;
- a review of section 11(1) of the *Summary Offences Act 1988* relating to the possession or consumption of alcohol by a minor in a public place,

<sup>147</sup> Ms Mitchell, Commissioner, Transcript of evidence, p 46

<sup>148</sup> Submission 17, Cancer Council NSW, p 5

<sup>149</sup> Submission 27, Mr Adair Donaldson, p 5. See also Superintendent Paroz, Transcript of evidence, p 23

<sup>150</sup> Submission 13, National Centre for Education and Training on Addiction, p 5

<sup>151</sup> Submission 1, Australian Hotels Association, p 4

<sup>152</sup> Submission 1, Australian Hotels Association, p 7

<sup>153</sup> Supplementary Submission 26a, Foundation for Alcohol Research and Education, p 6

including a removal of defences in subsections (a) and (b), an increase in the current penalty and the introduction of non-monetary penalties<sup>154</sup>;

- allowing ‘controlled purchase operations’ by police for better enforcement of provisions regarding sale of alcohol to minors<sup>155</sup>;
- requiring online registration of events (e.g. parties) without parental supervision<sup>156</sup>; and
- the broader question of whether the liquor licensing legislation is the most appropriate Act to contain provisions relating to the secondary supply of alcohol to minors, and whether secondary supply provisions might be better incorporated into legislation focusing on child/youth protection. NCETA suggested that this would increase the chance of enforcement, as police would be more familiar with child welfare and summary offences legislation.<sup>157</sup>

### Committee comment

3.110 The Committee notes that inquiry participants proposed a variety of areas for further legislative reform in relation to the supply of alcohol to minors. However, the Committee has not examined these proposals in detail, as there was not sufficient evidence to make recommendations. As the majority of the evidence received during the inquiry focused on incorporating the concept of ‘responsible supervision’ into the Liquor Act and the issue of authorisation, the Committee decided to concentrate on these matters when considering how best to bring about meaningful legislative reform.

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<sup>154</sup> Submission 9, Life Education NSW, p 2

<sup>155</sup> Supplementary Submission 26a, Foundation for Alcohol Research and Education, p 6

<sup>156</sup> Superintendent Paroz, Transcript of evidence, pp 19–20. See also Submission 24, Mr David Elliott MP and Mr Dominic Perrottet MP, p 3

<sup>157</sup> Submission 13, National Centre for Education and Training on Addiction, p 4; Submission 13a, National Centre for Education and Training on Addiction, p 4

## Chapter Four – Better education measures

- 4.1 The importance of educating parents, young people and the general public about the laws in relation to the supply of alcohol to minors was a key theme that emerged through the inquiry.
- 4.2 In the previous chapter, the Committee recommended legislative change to ensure that when parents, guardians and responsible adults supply alcohol to minors, it must be consistent with responsible supervision. Several inquiry participants stated that any amendments to the laws around secondary supply of alcohol should be complemented by an effective public education campaign.<sup>158</sup>
- 4.3 This chapter begins with an overview of existing campaigns and education measures in relation to secondary supply laws and underage drinking. It then canvasses the evidence about the lack of community and parental awareness about not only the current laws, but also the health effects of alcohol consumption by minors. The chapter then discusses the proposals from inquiry participants about the design and content of an effective public education campaign, and other strategies for raising awareness about the health consequences of alcohol use by young people.

### EXISTING CAMPAIGNS AND EDUCATION MEASURES

- 4.4 A number of initiatives are already in place to improve community understanding of underage liquor laws. Information about the health risks of underage drinking has also been disseminated through a number of government, industry and community schemes.

#### NSW Government initiatives

- 4.5 Information on the Office of Liquor, Gaming and Racing (OLGR) website outlines key provisions of current legislation and answers frequently asked questions. In partnership with the Department of Education and Communities, the OLGR is developing an online education resource for students in years 9 to 12 to ensure 16 to 18 year olds have a better understanding of the operation of liquor laws.<sup>159</sup>
- 4.6 A number of other communication initiatives relating to youth and alcohol were outlined in the NSW Government submission.<sup>160</sup> These include:
- *What are you doing to yourself?*—a social marketing campaign run annually over the summer months aimed at promoting responsible drinking through personal responsibility;

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<sup>158</sup> Submission 23, Alcohol and Other Drugs Council of Australia, p 10; Submission 26, Foundation for Alcohol Research and Education, p 6; Mr David Cass, Consultant Policy Adviser, Australian Hotels Association, Transcript of evidence, 31 October 2012, p 1

<sup>159</sup> Submission 18, NSW Government, pp 3-4

<sup>160</sup> Submission 18, NSW Government, p 4

- *Everyone Doesn't Do It*—an interactive website tool available to school students that 'normalises' non-drinking to under-18s;
- the *Reduced Risk Increase Student Knowledge* (RRISK) program—a health promotion program addressing risk-taking behaviour associated with alcohol, drugs, driving and celebrating among Year 11 students on the NSW North Coast; and
- a series of pamphlets titled *Alcohol: Celebrations and Supply*, providing suggestions for parents hosting celebrations and information about the laws on secondary supply.<sup>161</sup>

### Liquor accords and local councils

- 4.7 Under a number of NSW liquor accords,<sup>162</sup> patron and community education campaigns focus on preventing underage drinking. These often coincide with events such as Schoolies Week and the school formal season. Community services staff employed by councils work on alcohol-related programs, often in cooperation with local police, and state and federal government agencies. For example, councils run alcohol-awareness programs and distribute alcohol-related information through local libraries and on council websites.<sup>163</sup> Local public health and community services are useful avenues for promoting information about alcohol to communities.<sup>164</sup>
- 4.8 Local Government NSW<sup>165</sup> highlighted that liquor accords are a flexible mechanism to enable local communities to address alcohol-related problems. Liquor accords can be tailored to have a particular focus—for example, on law enforcement or education measures.<sup>166</sup>

### Supply Means Supply campaigns

- 4.9 In 2009 and 2010, the NSW Police Force ran the *Supply Means Supply* campaign, an education and licensing enforcement program which aimed to raise awareness and knowledge of offences and penalties relating to the supply of alcohol to minors. It involved in-school education, media advertising, social media, signage in and around licensed premises, and increased police enforcement.<sup>167</sup>
- 4.10 However, an evaluation of *Supply Means Supply* found that the secondary supply laws were still not well understood by those who had seen the campaign. This was attributed to the 'vague wording' used in the campaign. Participants involved

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<sup>161</sup> Submission 18a, NSW Government, p 5

<sup>162</sup> Liquor accords are agreements by licensees and other stakeholders to take certain actions in local communities which aim to improve safety in entertainment areas and reduce alcohol-related anti-social behaviour, offences and violence. See [http://www.olgr.nsw.gov.au/accords\\_about.asp](http://www.olgr.nsw.gov.au/accords_about.asp) viewed 20 March 2013. See also Submission 20, The Hon Don Page MP, Minister for Local Government, p 1

<sup>163</sup> Submission 20, The Hon Don Page MP, Minister for Local Government, p 2

<sup>164</sup> Submission 30a, Local Government NSW, p 1

<sup>165</sup> Formerly the Local Government Association and Shires Association of NSW

<sup>166</sup> Submission 30, Local Government Association and Shires Association of NSW, p 5

<sup>167</sup> Submission 18, NSW Government, p 4. See

[http://www.police.nsw.gov.au/community\\_issues/alcohol/supply\\_means\\_supply](http://www.police.nsw.gov.au/community_issues/alcohol/supply_means_supply) viewed 25 March 2013

in the evaluation 'remained largely unconvinced that the illegality of supply would sufficiently deter them from supplying alcohol to minors'.<sup>168</sup>

- 4.11 The evaluation recommended a number of improvements to the campaign, including: a longer duration and higher intensity to increase community exposure; more specific information about the laws and penalties; and running the campaign at a time when police officers can better integrate it into enforcement activities.<sup>169</sup> The Foundation for Alcohol Research and Education (FARE) emphasised that any new public education campaign should build on the lessons learned from the *Supply Means Supply* campaign evaluation.<sup>170</sup>
- 4.12 The Northern Beaches Community Drug Action Team is launching its own *Supply Means Supply* campaign in September 2013. The campaign's key message is that 'secondary supply of alcohol to a person under 18 years is against the law (unless you are the parent or guardian) and results in a minimum on the spot fine of \$1,100 or fine [of] up to \$11,000 and/or 12 months imprisonment'.<sup>171</sup>
- 4.13 The campaign will involve social media, as well as advertising posters in liquor stores and other licensed premises, bus shelter and bus back advertising and messages on bottle shop paper bags. Some key messages include: 'You're a parent, not a mate' and 'Here's your drink, it cost me \$1,100'. A website, [www.supplymeanssupply.org.au](http://www.supplymeanssupply.org.au), will also include links to health information about the adolescent brain.<sup>172</sup> Parent workshops will also be delivered, focusing on the legislation, the harms associated with teenage drinking, and sharing tips about how to communicate with young people about drinking.<sup>173</sup>

## Industry campaigns

- 4.14 Other education initiatives have been run by the alcohol industry through DrinkWise Australia. For example, the 'Kids and Alcohol Don't Mix' campaign was developed to encourage parents to delay their children's introduction to alcohol and based on evidence that alcohol can affect the developing adolescent brain.<sup>174</sup> The 'Kids Absorb Your Drinking' campaign, launched in 2008, was designed to raise awareness among parents of their opportunity to have a positive influence on their children's future drinking behaviour, particularly through their own attitudes and drinking patterns.<sup>175</sup> The Liquor Stores Association of NSW Inc highlighted the 'Don't Buy It For Them' industry-run campaign, which discourages secondary supply.<sup>176</sup>

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<sup>168</sup> Submission 26a, Foundation for Alcohol Research and Education, p 9

<sup>169</sup> Submission 26, Foundation for Alcohol Research and Education, p 10

<sup>170</sup> Submission 26, Foundation for Alcohol Research and Education, p 11

<sup>171</sup> Submission 32, Northern Beaches Community Drug Action Team, p 1

<sup>172</sup> Submission 32, Northern Beaches Community Drug Action Team, p 1

<sup>173</sup> Submission 32, Northern Beaches Community Drug Action Team, p 2

<sup>174</sup> Submission 1, Australian Hotels Association, p 9

<sup>175</sup> 'Kids Absorb Your Drinking', DrinkWise Australia, <http://www.drinkwise.org.au/our-work/kids-absorb-your-drinking/> viewed 14 March 2013

<sup>176</sup> Submission 29, Liquor Stores Association of NSW Inc, p 3

## LACK OF COMMUNITY AND PARENTAL AWARENESS

4.15 The Committee heard evidence about a lack of community and parental awareness of laws governing the provision of alcohol to minors.<sup>177</sup> There was also a lack of knowledge about the health risks of alcohol consumption for people under 18. It was argued that information to guide and inform parents about current laws is difficult to locate, and that often, young people had better access to information about alcohol than their parents.

4.16 According to the NSW Commission for Children and Young People, some parents are unsure of the age at which they should allow their child to consume alcohol (although most would be aware that the legal drinking age in NSW is 18 years), and how to manage their child's drinking:

... some parents may supply alcohol to their child to take to parties at a friend's home so their child can avoid drink-spiking, and in the hope that they will limit their consumption to what has been provided.

The Commission is of the view that parents and the community in general are unlikely to be fully aware of the potential harm to children arising from consumption of alcohol, including through secondary supply. The Commission considers that parents should be made aware of this, particularly of the NHMRC recommendation that children, especially those below 15 years, should not drink.<sup>178</sup>

4.17 FARE pointed out that parents who supplied alcohol to their children often did so because they believed that supervised alcohol use would prevent irresponsible consumption in the future. Parents were largely unaware of the physical and mental health risks associated with early alcohol use.<sup>179</sup>

4.18 The Australian Hotels Association (AHA) submitted that there was 'not complete or satisfactory knowledge of the finer detail of [secondary supply] laws'. The AHA also observed that 'some people have little or no desire to know or accept the relevant laws and this shortcoming applies to parents as well as young people'.<sup>180</sup>

4.19 Ms Rowena Stulajter of the NSW Parents' Council Inc commented that finding accurate and easily accessible information on current liquor laws over the internet was difficult and that most parents would have trouble locating good information:

... it is extremely difficult to find accurate information on the internet, without going through many gateways, specifically related to what the law is about the provision of alcohol to minors. It appears to be a very grey area that can be manipulated depending on what the circumstances are, whether that is, "Oh, the parents told me it was okay" or "They have given me a written note" or "They told me that they were 18". Parents are continually coming up against the problem of not being able to access in "parent speak", as we like to say, information that is readily available.

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<sup>177</sup> Submission 25, NSW Commission for Children and Young People, pp 6–7; Submission 6, Ulladulla Community Drug Action Team, p 3

<sup>178</sup> Submission 25, NSW Commission for Children and Young People, p 7

<sup>179</sup> Submission 26a, FARE, pp 9–10

<sup>180</sup> Submission 1, Australian Hotels Association, p 10

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When I looked for information about the laws, it took me a long time to find something that was relevant here in New South Wales.<sup>181</sup>

4.20 Mr Elliot Kleiner of PromNight Events pointed out that he had to ‘drill and drill through so many different documents from many different government websites’, arguing that it is not easy to come by clear information.<sup>182</sup>

4.21 According to Ms Stulajter, parents also felt that they lacked peer support from other parents, who may not share concerns about underage drinking:

Some parents feel that other parents are allowing alcohol to be served and they feel that they are the only ones being the wowsers. From my own experience with three teenagers, I am sick of every weekend being a navigation, a journey for us at home, and I can sympathise with those parents.<sup>183</sup>

4.22 She also argued that clear, readily available information would empower parents:

If we could have very clear guidelines that you can find at the click of a button—not going through lots of websites—that is written in plain English and what the consequences are ... If we are able to direct parents and say, "Here is the legislation; here is the law", that might give parents that feeling of empowerment to say, "I am sorry, not here. It is against the law."<sup>184</sup>

4.23 Reverend Jay Bacik from Life Education NSW told the Committee that education messages should be simple and informative, saying ‘we need to try to be people helpful and parent helpful in dealing with this issue’.<sup>185</sup>

4.24 The Committee also heard that it was common for young people to receive more education than their parents on alcohol-related issues:

Children are getting education at school through a variety of channels such as speakers, subjects about alcohol and its effects and the laws. Where are parents getting that information from? They are not getting it.<sup>186</sup>

4.25 The Broken Hill Community Drug Action Team and Barrier Liquor Accord stated that young people in Broken Hill were more aware of the responsibilities around the supply of alcohol to minors than their parents.<sup>187</sup> Its submission also pointed out that ‘rural teenage friendships can involve a greater age range than in cities’ (for example, a 16 year old being friends with a 21 year old through sport) and that education about secondary supply should focus not only on parents and guardians but other young adults who may supply a minor with alcohol.<sup>188</sup>

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<sup>181</sup> Ms Rowena Stulajter, Community Development Manager, NSW Parents’ Council Inc, Transcript of evidence, 31 October 2012, p 8

<sup>182</sup> Mr Elliot Kleiner, Chief Executive Officer, PromNight Events, Transcript of evidence, 31 October 2012, p 27

<sup>183</sup> Ms Stulajter, Transcript of evidence, p 8

<sup>184</sup> Ms Stulajter, Transcript of evidence, p 11

<sup>185</sup> Reverend Jay Bacik, Chief Executive Officer, Life Education NSW, Transcript of evidence, 31 October 2013, p 17

<sup>186</sup> Ms Stulajter, Transcript of evidence, p 11

<sup>187</sup> Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 2

<sup>188</sup> Submission 4a, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 1



- 4.26 Parents have a very significant influence on the drinking attitudes and behaviour of their children, as already discussed in Chapter Two. The submission from the Ulladulla Community Drug Action Team highlighted the evidence for this:

Parents are the key influence on the development of alcohol use behaviours by young people in that attitudes and consumption behaviours are learnt in the context of the family, particularly parents (Ward et al, 2008). Parents who disapprove of and delay the onset of their children's drinking reduce the likelihood of alcohol misuse by young people (Nash, 2005). The influence of parents on adolescents' attitudes and decisions about alcohol is greatest before they start drinking (Parenting Strategies Program, 2010).<sup>189</sup>

- 4.27 VicHealth argued that improving parents' knowledge about what they can do to ensure their children drink responsibly and at an appropriate age would help to reduce alcohol-related harm among minors.<sup>190</sup>

## PROPOSALS FOR PUBLIC EDUCATION STRATEGIES

- 4.28 Many inquiry participants put forward the view that a good public communication and education strategy would help parents and the wider community to understand and abide by secondary supply laws. For example, the Cancer Council NSW stated that:

We believe that with a good communication strategy, the NSW community would accept stronger enforcement of [alcohol] laws relating to minors. Previous campaigns about delaying drinking to protect brain development have paved the way.<sup>191</sup>

- 4.29 FARE proposed that a campaign should be highly visible and clearly communicate the legal consequences of secondary supply for both the suppliers and the minors.<sup>192</sup> Clubs Australia supported a public education campaign 'encouraging positive role models and instilling an ethic of parental and personal responsibility'.<sup>193</sup> The Australian Drug Foundation (ADF) supported a social marketing campaign to explain why young people should avoid drinking. It was argued this would have the 'dual effect of educating the whole community and providing substantiation for the strengthened secondary supply law'.<sup>194</sup>

- 4.30 The Committee heard various ideas about the features of an effective public education campaign. A good campaign would aim to inform parents and minors of a change in laws, provide practical information and skills to assist with compliance, and raise awareness of the risks of unsupervised adolescent drinking, particularly risks to health.<sup>195</sup>

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<sup>189</sup> Submission 6, Ulladulla Community Drug Action Team, p 2

<sup>190</sup> Submission 19, VicHealth, p 8

<sup>191</sup> Submission 17, Cancer Council NSW, p 4

<sup>192</sup> Submission 26, Foundation for Alcohol Research and Education, p 11

<sup>193</sup> Submission 15a, Clubs Australia, p 1

<sup>194</sup> Submission 12a, Australian Drug Foundation, p 3

<sup>195</sup> Submission 12, Australian Drug Foundation, p 2

## Key messages in an education campaign

- 4.31 The Committee heard that the key messages in an education campaign should not only focus on what the law states, but also include information on the health risks to minors of alcohol consumption.
- 4.32 FARE was a strong advocate of highlighting the non-legal consequences of supplying alcohol to minors, ‘especially because in many cases these are far more damaging than any legal ramifications’.<sup>196</sup> Mr Michael Thorn of FARE told the Committee that a positive public health message should be presented, not a negative campaign:
- I do not think that we should be pursuing a public education campaign that is about finger pointing and telling parents you should not do this and you should not do that. It has to be a positive message about the right thing for your child.<sup>197</sup>
- 4.33 The NSW Commission for Children and Young People described some of the messages that a campaign should focus on:
- the National Health and Medical Research Guidelines stating that for people under 18, not drinking is the safest option;
  - advising parents that their own attitudes to alcohol will influence their child’s behaviour; and
  - making parents and children aware of the effects that alcohol can have on healthy brain development in adolescence.<sup>198</sup>
- 4.34 The Federation of Parents and Citizens Associations of NSW emphasised the importance of not only outlining the laws, but the reasoning behind the laws. The use of ‘real facts and figures as well as real stories and experiences’ was essential.<sup>199</sup>
- 4.35 However, some submitters were not convinced that a focus on health would be useful.<sup>200</sup> For example, the AHA called for a ‘catchy, succinct advertising campaign’<sup>201</sup> focusing on the law, and cautioned that a campaign on the laws regarding alcohol provision to minors ‘must only relate to the relevant laws of the State and not be cocooned as part of any health-warning messages’.<sup>202</sup> The NSW Council for Civil Liberties asserted that focusing on the health risks of alcohol consumption would not necessarily be effective in changing behaviour, as people have a tendency to discount messages about future impacts on health.<sup>203</sup>

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<sup>196</sup> Submission 26a, Foundation for Alcohol Research and Education, p 9

<sup>197</sup> Mr Michael Thorn, Chief Executive, Foundation for Alcohol Research and Education, Transcript of evidence, 31 October 2012, p 36

<sup>198</sup> Submission 25, NSW Commission for Children and Young People, p 3

<sup>199</sup> Submission 31, Federation of Parents and Citizens Associations of NSW, p 3

<sup>200</sup> Submission 27, Mr Adair Donaldson, p 6

<sup>201</sup> Mr David Cass, Consultant Policy Adviser, Australian Hotels Association, Transcript of evidence, 31 October 2012, p 3

<sup>202</sup> Submission 1, Australian Hotels Association, p 10

<sup>203</sup> Submission 10a, NSW Council for Civil Liberties, p 5

## How should messages be publicised?

- 4.36 The Committee heard that a variety of media should be used in a campaign, including television advertising, websites, online resources and social media.
- 4.37 The AHA suggested a television advertising campaign, screening at times and in programs which attract young people (e.g. during reality and talent quest shows, during rugby league telecasts and music video programs). The advertisements 'should be factual with only a minimal ingredient of humour' and involve a well-known identity who is popular and respected amongst the target community.<sup>204</sup>
- 4.38 The Broken Hill Community Drug Action Team and Barrier Liquor Accord also suggested a TV or social media advertisement showing a party with a 'choose your own ending':
- ... either a police officer taking home an intoxicated under age drinker (which may be shameful for teen and parent) or police officers turning up to say sorry your child is severely injured/dead.<sup>205</sup>
- 4.39 FARE argued that it was important for 'proactive' channels such as television advertising to be used in a campaign, as well as 'reactive' channels (e.g. a website).<sup>206</sup> Mr Elliot Kleiner of PromNight Events emphasised that people learn through different methods, and that using visual media like television may be more effective than printed material.<sup>207</sup>
- 4.40 In Tasmania, when the legislation concerning 'responsible supply' was enacted, police designed and distributed posters and pamphlets throughout the community, including to schools and to off-licensed premises. The legislation was also advertised in the state's three major regional newspapers. The police have also distributed information to high schools, colleges and licensed premises over the last three years. The Tasmanian Department of Police and Emergency Management stated that 'anecdotally there appears to be a reasonable level of community awareness of the legislation'.<sup>208</sup>

### *Example of Victorian campaign on secondary supply legislation*

- 4.41 After Victoria made changes to its secondary supply laws, the Australian Drug Foundation (ADF), in partnership with VicHealth, conducted a public awareness campaign during 2011-12.<sup>209</sup> The major features of the campaign were a dedicated website, an online question and answer service, online podcasts and community forums.<sup>210</sup>
- 4.42 The website, [www.teendrinkinglaw.vic.gov.au](http://www.teendrinkinglaw.vic.gov.au), provided information to parents and young people about secondary supply laws, the health risks of early drinking

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<sup>204</sup> Submission 1, Australian Hotels Association, p 11

<sup>205</sup> Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 3

<sup>206</sup> Submission 10a, NSW Council for Civil Liberties, p 5

<sup>207</sup> Mr Kleiner, Transcript of evidence, p 26

<sup>208</sup> Submission 5, Department of Police and Emergency Management, Tasmania, p 2

<sup>209</sup> See VicHealth, 'Campaign to raise awareness of new secondary supply of alcohol law', 11 October 2011, [http://www.health.vic.gov.au/news/supply\\_of\\_alcohol.htm](http://www.health.vic.gov.au/news/supply_of_alcohol.htm) viewed 1 August 2013

<sup>210</sup> Submission 12a, Australian Drug Foundation, p 3

and advice on parent/adolescent communication.<sup>211</sup> It was split into two sections—one directed at young people and one directed at parents and other adults. Information was provided in plain English on the following topics:

- the law
- how much young people drink and why they drink
- the harm caused by alcohol
- talking to young people about alcohol, including deciding whether to give permission for young people to drink
- deciding whether to drink
- reducing risk and harm.<sup>212</sup>

4.43 Nine public forums were held in metropolitan and country areas, targeting parents, teachers and health professionals and helping them to understand the newly introduced laws about secondary supply. Online discussion forums also allowed parents to share information on topics such as how to discuss alcohol with teenagers, BYO parties and the issue of consent.<sup>213</sup>

4.44 The ADF noted that the motivation behind the secondary supply public education campaign run in Victoria was to inform the public about the new laws, as well as to provide information about health risks for young people in consuming alcohol.<sup>214</sup> The ADF suggested this campaign would be a useful model for NSW to consider.

### Other suggestions regarding a campaign

4.45 The Committee heard several other suggestions about the features of an effective campaign, including:

- ensuring that people from culturally and linguistically diverse backgrounds are provided with appropriate and understandable information about laws relating to alcohol<sup>215</sup>
- publishing the number of people receiving a penalty for a secondary supply offence each year<sup>216</sup>
- consultation with young people in the development of effective campaign messages.<sup>217</sup>

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<sup>211</sup> Submission 12a, Australian Drug Foundation, p 3

<sup>212</sup> Submission 12a, Australian Drug Foundation, p 10

<sup>213</sup> Submission 12a, Australian Drug Foundation, p 11

<sup>214</sup> Submission 12a, Australian Drug Foundation, p 11

<sup>215</sup> Submission 8, Community Relations Commission, p 2

<sup>216</sup> Submission 12a, Australian Drug Foundation, p 9; Submission 29a, Liquor Stores Association of NSW Inc, p 7

<sup>217</sup> Submission 22, NSW Parents' Council Inc, p 3

## Committee comment

- 4.46 Given the current lack of community awareness about laws relating to the provision of alcohol to minors, the Committee considers that a comprehensive public education campaign should accompany the amendments to the Liquor Act recommended in the previous chapter.
- 4.47 While acknowledging that efforts have been made in past campaigns to communicate information about secondary supply laws (e.g. the NSW Police Force's *Supply Means Supply* campaign), the Committee heard evidence that there is still a general lack of awareness among parents and the wider community regarding what the law states about providing alcohol to minors.
- 4.48 The Committee was particularly concerned to hear that parents who are actively seeking to inform themselves about secondary supply laws are having difficulty finding clear information online. The NSW Parents' Council Inc said it was very hard to find accurate information on the internet without going through 'many gateways'.<sup>218</sup> The Committee notes that the Office of Liquor, Gaming and Racing has produced an online fact sheet titled 'Underage drinking laws'<sup>219</sup> and that the NSW Police Force has a webpage on 'Liquor Law and Under 18's'.<sup>220</sup> However, the information presented is lengthy and complex, and can take time to locate among other information on alcohol and licensing laws on these websites.
- 4.49 Hindered by a lack of certainty about the law, parents often do not feel empowered to talk to other parents and adults who may be providing alcohol to young people without authorisation. The Committee recognises the importance of supporting parents in their personal decision-making about whether their children consume alcohol. In making these decisions, it is crucial that parents have full knowledge of the legal and health consequences of providing alcohol to minors, and that this information is readily accessible in language that is easy to understand. The Committee heard that parents have a very significant influence on their children's attitude towards alcohol. Therefore, the Committee sees value in improving parents' knowledge by the provision of useful information.
- 4.50 The Committee believes that a dedicated website should be developed which provides both parents and young people with clear information about the law. It should also include advice for parents on how to talk to young people about secondary supply and the health risks of underage drinking, and how to talk to other parents about the legal and health consequences of supplying alcohol to minors. The Committee considers that the Victorian website, [www.teendrinkinglaw.vic.gov.au](http://www.teendrinkinglaw.vic.gov.au), provides a useful model for New South Wales to follow.
- 4.51 This dedicated website should form one component of a broader public education campaign, which uses television and radio advertising, social media and other online resources, such as discussion forums, to communicate a dual

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<sup>218</sup> Ms Stulajter, Transcript of evidence, p 8

<sup>219</sup> See [http://www.olgr.nsw.gov.au/pdfs/L\\_FS\\_UDL.pdf](http://www.olgr.nsw.gov.au/pdfs/L_FS_UDL.pdf) viewed 31 July 2013

<sup>220</sup> See [http://www.police.nsw.gov.au/community\\_issues/alcohol/liquor\\_laws\\_and\\_under\\_18s](http://www.police.nsw.gov.au/community_issues/alcohol/liquor_laws_and_under_18s) viewed 31 July 2013

message. The campaign should raise awareness of secondary supply laws, as well as the health effects of minors consuming alcohol.

- 4.52 The Committee believes that including health information in a campaign is necessary and will not detract from the message about the secondary supply law—rather, it will provide a rationale for the stricter rules around responsible supervision when providing alcohol to minors. Enabling parents and the community to be better informed about the health reasons for delaying the introduction of alcohol to young people will help to reduce alcohol-related harm and help people to understand the reasons behind the law.

## RECOMMENDATION 5

**The Committee recommends that the NSW Government deliver a public education campaign, using various forms of media, to accompany the recommended amendments to the *Liquor Act 2007*. The campaign should have a dual focus—to state clearly what is permitted under the law, and to highlight the health risks of alcohol consumption by minors, based on National Health and Medical Research Council guidelines.**

## RECOMMENDATION 6

**The Committee recommends that, as part of a public education campaign, the NSW Government develop a dedicated website that provides clear, easily accessible information about legal responsibilities in relation to the provision of alcohol to minors. The website should include guidance for parents on how to talk to young people about the law and how to talk to other parents and adults about the legal and health consequences of supplying alcohol to minors.**

### Providing information to parents when their children are young

- 4.53 The Committee heard that another avenue for providing information to parents about the health effects of alcohol on children could be during routine early childhood health checks and the provision of other early childhood and parenting services.<sup>221</sup>
- 4.54 Ms Megan Mitchell, the then Commissioner for Children and Young People, told the Committee that parents would be receptive to health information about alcohol consumption when their child is still young:

I think parents also need to understand about how their attitudes to alcohol and how they consume alcohol in the presence of children influences children as well ... I do think there are places that parents go for help—they go to the GP, they go to child care centres, they go to schools—and I think these are places where you can target that sort of messaging. They are there to be helped and they want to know about how to do successful parenting and how to develop their child, they are aspirational for their child, and if one of those aspirations is having a healthy body

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<sup>221</sup> Ms Vanessa Whittington, Senior Policy Officer, NSW Commission for Children and Young People, Transcript of evidence, 31 October 2012, p 44

and brain that can thrive at school—and most parents want that—I think there is an opportunity to pitch messages in that way.<sup>222</sup>

- 4.55 Submitters who responded to the Committee’s discussion paper were supportive of this idea.<sup>223</sup> The Australian Drug Foundation stated that providing information to parents when their child is young would be beneficial in the long-term:

Parents of young children will benefit from being informed as early as possible of the potential adverse impact of early drinking by children. Such advice will also enable parents to be aware of the importance of modelling low risk drinking if and when they themselves drink alcohol in the presence of their children.<sup>224</sup>

- 4.56 The NSW Government also noted that many parents access public health information through local early childhood services. Section 6.2.2 of the National Quality Standard for early childhood services states that current information must be available for families about community services and resources to support parenting and family wellbeing. Providing information about the effects of supplying alcohol to young people would be consistent with the national standards for early childhood services.<sup>225</sup>

- 4.57 Superintendent Patrick Paroz of the NSW Police Force commented that in the past, parents did not hear messages about the impact of alcohol on the developing brain. Promoting these messages could make a difference to parental attitudes:

Growing up, I never heard any of those messages. As a parent, it is only in the last five years that I am hearing all those messages and ... understanding the critical importance of alcohol at that young age. That sort of information may just influence parents to be better role models or better teachers when it comes to drinking.<sup>226</sup>

#### *Committee comment*

- 4.58 The Committee supports the idea of providing parents of young children with information about the effects of alcohol on children’s health and development. Such information could be easily disseminated when parents and children attend early childhood health checks and other early childhood and parenting services. The Committee believes that information about the effects of alcohol consumption on children’s health should be accessible by parents at an early stage of their child’s development. Any opportunity to reinforce these important health messages is worth pursuing. Providing this information as early as possible will enable parents to make informed decisions about whether they want to allow their child to consume alcohol during adolescence.

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<sup>222</sup> Ms Megan Mitchell, Commissioner, NSW Commission for Children and Young People, Transcript of evidence, 31 October 2012, p 44

<sup>223</sup> Submission 26b, Foundation for Alcohol Research and Education, p 3; Submission 30a, Local Government NSW, p 1

<sup>224</sup> Submission 12a, Australian Drug Foundation, p 3

<sup>225</sup> Submission 18a, NSW Government, p 5

<sup>226</sup> Superintendent Patrick Paroz, Commander, Drug and Alcohol Coordination, NSW Police Force, Transcript of evidence, 5 November 2012, p 20

## RECOMMENDATION 7

**The Committee recommends that the NSW Government make information available about the effects of alcohol consumption on young people's health for parents attending early childhood health checks and other early childhood and parenting services.**



## Chapter Five – Penalties and enforcement

5.1 This chapter examines the penalties for secondary supply offences under the Liquor Act. It considers the merits of financial penalties and whether there is scope for introducing a non-monetary penalty option for offenders, such as education or counselling. The question of how to address the complexity of the practical enforcement of secondary supply laws is also discussed.

### PENALTIES

5.2 The appropriateness of the penalty regime for offences relating to the supply of alcohol to minors was raised during the inquiry. The possibility of education as a penalty option for both adults and minors involved in offences against the law was also discussed, including whether this should be mandatory or applied on a case by case basis.

5.3 The current maximum penalty for selling or supplying liquor to a minor is \$11,000 or 12 months imprisonment, or both.<sup>227</sup> On the spot fines may also be issued and are generally 10 per cent (\$1,100) of the maximum court penalty for the offence.<sup>228</sup>

5.4 According to data from the Judicial Commission of NSW, between January 2009 and December 2012, the penalties for the 16 offences of supplying alcohol to a minor other than on licensed premises (s117(4) of Liquor Act), dealt with in the Local Court, were as follows:

- ten were fined;
- three had no conviction recorded;
- two were dealt with by way of a good behaviour bond;
- one received a suspended term of imprisonment; and
- no offenders received a sentence of full time imprisonment.<sup>229</sup>

### Other jurisdictions

5.5 The only other jurisdiction apart from NSW that provides a penalty of imprisonment for supplying liquor to a minor is Tasmania. In that state, there is a penalty of 12 months imprisonment (or a penalty of up to \$13,000) where liquor is supplied in a private place by a person other than a responsible adult, or the supply by the responsible adult is not consistent with responsible supervision.<sup>230</sup>

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<sup>227</sup> Submission 18, NSW Government, p 1

<sup>228</sup> See 'Underage Drinking Offences', Office of Liquor, Gaming and Racing, [http://www.olgr.nsw.gov.au/youth\\_fines.asp](http://www.olgr.nsw.gov.au/youth_fines.asp) viewed 6 August 2013

<sup>229</sup> Submission 18a, NSW Government, p 4

<sup>230</sup> Submission 18, NSW Government, p 5

- 5.6 In Victoria, the maximum penalty for supplying alcohol to a minor in a private home without parental consent is \$7,000.<sup>231</sup> In Queensland, a person (including the minor's own parent) charged with supplying a minor with an excessive amount of alcohol or not providing adequate supervision is liable for a penalty of up to \$8,800.<sup>232</sup> In the Northern Territory, a fine of up to \$14,100 applies for supplying liquor to a minor, unless the person is a responsible adult and supply is consistent with responsible supervision.<sup>233</sup>

### Views on appropriate penalties

- 5.7 Some inquiry participants argued that current penalties are inadequate.<sup>234</sup> For example, Mr Elliot Kleiner of PromNight Events, told the Committee that the current penalties for breaches of the legislation in NSW were 'laughable', saying 'they are no deterrent at all'.<sup>235</sup> He advocated 'increasing penalty amounts by many multiples'.<sup>236</sup> Mr David Elliott MP and Mr Dominic Perrottet MP favoured a three-year suspension of a driver's licence for persons guilty of supplying alcohol to minors.<sup>237</sup>
- 5.8 However, the NSW Council for Civil Liberties argued that increasing penalties would be ineffectual, having little deterrent value:

Demanding or imposing swingeing penalties (being "tough on crime") is not a sign of strength, but of abysmal weakness. Penalties produce very little deterrent effect. Imposing them in the pretence that they do makes it less likely that the problems targeted will be dealt with properly.<sup>238</sup>

- 5.9 The NSW Commission for Children and Young People favoured a broad penalty regime that would allow police discretion to determine what was appropriate for different family circumstances. The Commission expressed concern that fines could have a disproportionate impact on disadvantaged families:

One of the things we are concerned about with a fine regime is that for more socio-economically disadvantaged families there may be other unintended negative consequences for the children involved—the removal of a parent, missing out on support, food and other familial supports. I think it would be very helpful to have a regime where the police have discretion about what kinds of penalties they could impose depending on the circumstances.<sup>239</sup>

- 5.10 The National Centre for Education and Training on Addiction (NCETA) also believed that increasing penalties could have adverse impacts, particularly on socially disadvantaged people. NCETA stated that 'it is the perception of the likelihood of detection, rather than the severity of the penalty, which is most

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<sup>231</sup> Submission 12, Australian Drug Foundation, p 6

<sup>232</sup> Submission 22a, Minister for Police and Community Safety, Queensland, p 2

<sup>233</sup> Submission 18, NSW Government, p 14

<sup>234</sup> Submission 9, Life Education NSW, p 2

<sup>235</sup> Mr Elliot Kleiner, Chief Executive Officer, PromNight Events, Transcript of evidence, 31 October 2012, p 25

<sup>236</sup> Submission 28, ELK & Sons Consolidated Pty Ltd, p 2 (Document 3)

<sup>237</sup> Submission 24, Mr David Elliott MP and Mr Dominic Perrottet MP, p 3

<sup>238</sup> Submission 10, NSW Council for Civil Liberties, p 2

<sup>239</sup> Ms Megan Mitchell, Commissioner, NSW Commission for Children and Young People, Transcript of evidence, 31 October 2012, p 43

likely to enhance compliance'. Its submission argued that heavy fines or imprisonment should not be a first line measure in response to the secondary supply issue, which is primarily about the welfare of young people.<sup>240</sup>

- 5.11 The NSW Government's submission also noted that fines could have negative consequences for already marginalised members of the community:

... the imposition of a large fine on an already disadvantaged person opens the door to further interaction with the criminal justice system, with consequent negative impacts for family life, employment, individual morale and often the wider community. This in turn may have unintended impacts on minors.<sup>241</sup>

- 5.12 A range of penalties were appropriate, according to the Australian Drug Foundation (ADF), including warnings, fines and referral to an educational session. However, the ADF did not believe that imprisonment was justified as a penalty option, calling it 'overly harsh'.<sup>242</sup>

- 5.13 The Foundation for Alcohol Research and Education (FARE) stated that the current maximum penalties of an \$11,000 fine and/or 12 months imprisonment were adequate, but that these penalties should be complemented by other penalty options such as education and 'conferencing'.<sup>243</sup>

### Mandatory education as a penalty

- 5.14 There were mixed views on the value of mandatory education as a penalty option. While some inquiry participants said that such a scheme would have merit, they tended to offer qualified support, noting that mandatory workshops may not be effective or appropriate in all cases and should be applied with discretion. Personal, tailored education sessions for both adults and minors could also be considered as a more effective alternative to group workshops.

- 5.15 Dr Ramy Mezrani of the NSW Parents' Council Inc supported mandatory education, on the basis that it would provide an opportunity for discussion with parents who would not be motivated to attend voluntarily:

... I think most parents are not motivated and are not going to attend these workshops. In that case, I think that is probably the best outcome, that they come in with the minor or with the young person and we can all discuss alcohol, the consumption of alcohol and the risks associated with it. I think that is a fantastic idea.<sup>244</sup>

- 5.16 The Federation of Parents and Citizens Associations of NSW also supported the idea of offenders having to attend educational workshops.<sup>245</sup>

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<sup>240</sup> Submission 13a, National Centre for Education and Training on Addiction, pp 2–3

<sup>241</sup> Submission 18a, NSW Government, p 4

<sup>242</sup> Submission 12a, Australian Drug Foundation, p 8

<sup>243</sup> Submission 26b, Foundation for Alcohol Research and Education, p 3

<sup>244</sup> Dr Ramy Mezrani, Emergency Room Doctor, Central Coast and Vice President (Country), NSW Parents' Council Inc, Transcript of evidence, 31 October 2012, p 15

<sup>245</sup> Submission 31, Federation of Parents and Citizens Associations of NSW, p 3

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- 5.17 Mr Michael Thorn from FARE noted there was some evidence to support mandatory attendance at an education program as a penalty option, although he also raised concerns about the potential to criminalise people, and noted it would be costly:

It does not come cheap and you have got to be careful of net widening. It does draw people into the criminal justice system if they do not attend.<sup>246</sup>

- 5.18 FARE suggested that an alternative to workshops could be ‘conferencing’, which would be more personal and tailored:

An alternative approach would be to have parties (i.e. minor being supplied, minor’s parents) participate in conferencing shortly after the offence has taken place. Conferencing is superior to education workshops not only by reducing time and costs, but also by enabling face-to-face discussions and tailored education to take place.<sup>247</sup>

- 5.19 NCETA’s view was that workshop attendance should form part of the suite of penalty measures, with its application determined on a case by case basis.<sup>248</sup> The ADF also advocated that case by case decisions would be preferable, being consistent with the discretion given to police and the courts to issue warnings for a first offence regarding substances such as cannabis.<sup>249</sup>

- 5.20 The ADF suggested that an education session could be offered as an alternative to a fine, so the offender would have a good reason to attend the session (i.e. gaining a financial benefit from doing so).<sup>250</sup> For minors involved in offences, the ADF saw merit in education as well, but stated its preference for ‘a personal session delivered through an existing alcohol and drug service ... rather than a workshop, as a group setting may inspire a negative, peer-led reaction to the session by the young person’.<sup>251</sup>

- 5.21 It was noted that the low number of offenders may have an impact on the feasibility of running an education program.<sup>252</sup> Tasmania does not have a mandatory alcohol education program as a penalty option for minors and parents. Ms Debra Salter explained that any such interventions are undertaken on a case by case basis, and given there had only been nine people charged under Tasmania’s legislation, ‘we would question whether at the moment there are enough offenders in this regard to warrant setting up a program like that’.<sup>253</sup>

- 5.22 The ADF also questioned whether there would be sufficient offenders to justify holding a group workshop within a geographic area. It suggested instead a

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<sup>246</sup> Mr Michael Thorn, Chief Executive, Foundation for Alcohol Research and Education, Transcript of evidence, 31 October 2012, p 38. See also Submission 13a, National Centre for Education and Training on Addiction, p 3.

<sup>247</sup> Submission 26b, Foundation for Alcohol Research and Education, p 3

<sup>248</sup> Submission 13a, National Centre for Education and Training on Addiction, p 3

<sup>249</sup> Submission 12a, Australian Drug Foundation, p 3

<sup>250</sup> Submission 12a, Australian Drug Foundation, pp 8–9

<sup>251</sup> Submission 12a, Australian Drug Foundation, p 9

<sup>252</sup> Submission 18a, NSW Government, p 5

<sup>253</sup> Ms Debra Salter, Manager, Policy, Development and Research Services, Department of Police and Emergency Management, Tasmania, Transcript of evidence, 5 November 2012, p 53

‘personal education session’ at an alcohol and other drug service, saying ‘such services are distributed throughout the community and would enable the session to be scheduled reasonably quickly.’<sup>254</sup>

- 5.23 The Committee heard from the Ministry of Health that mandatory attendance at workshops had been used for cannabis offences but it was unclear whether such measures would achieve the desired outcome of behavioural change in this context:

Mandatory workshops can be helpful in certain circumstances but I would have to say it would be unlikely that across the entire cohort you would get the outcomes that you would be looking for. It is a reasonable policy lever. It has been used before and there is evidence you can draw on from those previous uses, particularly within the cannabis space. I would be guarded about whether it would actually lead to the behaviour change you are hoping for in the longer run.<sup>255</sup>

- 5.24 The Cannabis Cautioning Scheme gives police the discretion to caution adult offenders for minor cannabis offences involving personal use. The caution contains a warning about the health and legal consequences of cannabis use. The caution notice includes contact numbers for the Alcohol and Drug Information Service (ADIS), which provides a dedicated, confidential service to cautioned offenders, informing them of treatment, counselling and support services. A person can only be cautioned twice, and people who receive a second, final caution are required to contact ADIS for a mandatory education session about their cannabis use.<sup>256</sup>

- 5.25 The Committee is not aware of any mandatory education schemes operating in relation to alcohol-related offences in Australia.

### Committee comment

- 5.26 The Committee heard various views on the appropriateness of the penalty regime for offences under the Liquor Act’s secondary supply provisions. The Committee believes that the current maximum penalties (\$11,000 fine or up to 12 months imprisonment) are suitable and broadly consistent with the penalties in place in other jurisdictions.
- 5.27 However, the Committee sees merit in broadening the range of penalty options to include education or counselling. The Committee heard evidence that the imposition of fines could result in negative consequences for disadvantaged members of the community who may be charged with secondary supply offences. Incorporating a non-financial penalty option, such as education or counselling, would provide a way of avoiding the potential for further interaction with the criminal justice system for offenders who may already be economically disadvantaged.

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<sup>254</sup> Submission 12a, Australian Drug Foundation, pp 8–9

<sup>255</sup> Mr David McGrath, Director, Mental Health and Drug and Alcohol Programs, NSW Ministry of Health, Transcript of evidence, 5 November 2012, p 7

<sup>256</sup> NSW Police Force, Cannabis Cautioning Scheme, [http://www.police.nsw.gov.au/community\\_issues/drugs/cannabis\\_cautioning\\_scheme](http://www.police.nsw.gov.au/community_issues/drugs/cannabis_cautioning_scheme)

- 5.28 The Committee heard evidence about the drawbacks of requiring mandatory attendance at education workshops for all offenders. The risk of 'net-widening' and making people liable for a second offence for non-attendance was raised. Several inquiry participants believed the best approach would be for court discretion as to whether education or counselling would be appropriate in individual cases—for both the adult/s and minor/s involved. The Committee also heard that setting up group workshops may prove impractical, given the low numbers of offenders.<sup>257</sup>
- 5.29 The Committee is supportive of the suggestions put forward by the Australian Drug Foundation and the Foundation for Alcohol Research and Education for personal education sessions or 'conferencing' as an alternative to group workshops. The advantages of one on one counselling sessions would include more flexible delivery, lower costs and better tailored information. These sessions also could be delivered by existing drug and alcohol service providers, enabling them to be scheduled more quickly.

## RECOMMENDATION 8

**The Committee recommends that the Minister for Tourism, Major Events, Hospitality and Racing introduce amendments to the *Liquor Act 2007* to provide that a court may require an adult convicted of an offence under section 117(4) to attend counselling. Provision should also be made for minors involved in offences to attend counselling.**

## ENFORCEMENT

- 5.30 The Committee heard suggestions for improved enforcement of current laws around supply of alcohol to minors. Although better enforcement was called for, the complexity of enforcing offences that are difficult to prove, not well understood, and which occur on private property, was acknowledged.
- 5.31 Superintendent Patrick Paroz of the NSW Police Force spoke about the difficulty of proving that permission has not been given for a minor to consume alcohol and prosecuting successfully:

It is very difficult to enforce that side of it in terms of whether or not the young person has the authority of their parent or guardian to consume alcohol. Usually that will occur afterwards. We might detect someone who is under the influence of alcohol at a party where there are adults. For us to launch a prosecution, we have to get evidence, firstly, that they are intoxicated and, secondly, evidence in relation to who has provided the alcohol, but then the critical part is evidence that they do not have the permission. At the moment there is a legislated defence under section 117(5) I believe that says if they have permission from a parent or guardian, they are allowed to. It is really as simple as that. That leaves it open-ended. If I come to your place the next day after speaking to a juvenile and if you say, "Yes I gave permission", then we would not prosecute.<sup>258</sup>

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<sup>257</sup> There were 16 offenders in NSW between January 2009 and December 2012. See Submission 18a, NSW Government, p 4

<sup>258</sup> Superintendent Patrick Paroz, Commander, Drug and Alcohol Coordination, NSW Police Force, Transcript of evidence, 5 November 2012, p 19

- 5.32 On the question of whether police should be given greater powers to enter private residences to enforce secondary supply laws, Mr Michael Thorn from FARE commented that 'we would need to be careful' in going down that path. Nonetheless, Mr Thorn considered that there was a case for such an approach due to the potential for greater harm to occur if drinking occurs away from parental supervision. Mr Thorn also argued that parents who have not given permission for their child to be served alcohol have a right to request police to attend a function where they suspect that alcohol is being provided.<sup>259</sup>
- 5.33 Some inquiry participants argued that better enforcement by police would act as a deterrent. The Cancer Council NSW submitted that stronger enforcement would help to change drinking behaviour and attitudes.<sup>260</sup> It argued that novel approaches are needed to target drinking on private premises: 'Enforcement of underage drinking laws in licensed premises seems to have worked, and strategies should now be targeted to the home environment. This is likely to be met with some opposition, therefore innovative approaches will need to be developed to increase their acceptability'.<sup>261</sup>
- 5.34 Mr Paul Dillon described the situation where minors were supplied with alcohol by other young people over 18—'the randoms, with the boyfriends, the girlfriends'—and suggested that a police crackdown or blitz on this behaviour would have an impact:
- To me if you really wanted to make an impact very quickly, and reduce the amount of alcohol that is drunk at a party on a Saturday night, police that. It is incredibly easy to police. The Hornsby police have done this over a number of years. They sit in an unmarked car at a bottle shop and watch kids come up and actually buy the alcohol. They ask people to buy the alcohol for them. They simply get out of the car and they book them. Those people get an automatic fine, secondary supply, bang. You only need to do that three or four times and the word gets out pretty quickly not to get alcohol in that way. It is simple to police but nobody is doing that.<sup>262</sup>
- 5.35 NCETA undertook a review of liquor licensing legislation, which examined the enforcement of secondary supply offences. Police who took part in the review indicated they had difficulty enforcing the law if offences occurred on private premises. It was also noted that limited resources and the challenge of proving the offence made successful prosecutions difficult, and limited the deterrent effect of the law:
- During our national review of liquor licensing legislation, we also received consistent feedback from law enforcement officers concerning the difficulties associated with enforcing secondary supply offences. These difficulties arose from their frequent occurrence on private property, the often close relationship between suppliers and minors, problems with proving that the supply occurred with the knowledge and consent of the adult, a lack of corroborating testimony and a lack of resources available for enforcement. Even if these laws are enforced only when the drinking

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<sup>259</sup> Mr Thorn, Transcript of evidence, pp 36–7

<sup>260</sup> Submission 17, Cancer Council NSW, p 3

<sup>261</sup> Submission 17, Cancer Council NSW, p 2

<sup>262</sup> Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, Transcript of evidence, 5 November 2012, pp 59, 60-61, 63

activities of minors place them at significant risk of harm or involve grossly antisocial behaviour, the difficulties associated with securing successful prosecutions is a major impediment to their effectiveness.<sup>263</sup>

- 5.36 NCETA also reported police observations on the difficulty of enforcement activity on non-licensed premises:

The supply of alcohol to minors in situations other than licensed premises was seen as more complex. Licensed premises are environments in which the licensees and those with a role in liquor law enforcement can exert some influence over patterns of alcohol supply. This is not the case for non-licensed premises environments. Respondents reported that there had been few successful prosecutions in relation to secondary supply. It was further noted, however, that the main benefit of this legislation was that it raised the profile of secondary supply in the community.<sup>264</sup>

### The value of legislation despite the difficulty of enforcement

- 5.37 The Committee heard evidence that the practical difficulties of enforcement of secondary supply laws did not mean that there was no value in having legislation in place.

- 5.38 NCETA argued that 'legislation could have positive impacts on shaping community attitudes even if there were few successful prosecutions'.<sup>265</sup> The ADF also believed that enforcement of the legislation should be based on an 'educative approach, rather than criminal sanctions'.<sup>266</sup> The Tasmanian Department of Police and Emergency Management submitted that 'anecdotally there appears to be a reasonable level of community awareness of the legislation' and noted the view of the police that:

... the value of the legislation is seen in the level of awareness raised in the community, and not in the number of fines or charges made for offences under the legislation.<sup>267</sup>

- 5.39 Dr Bruce Bolam, Executive Manager of VicHealth, pointed out that legislative reform can lead to gradual change at a community level and can even result in little need for enforcement:

Legislation serves as the spearhead, as it were, of wider population health change. Again I refer to the example of tobacco. Periodically over time and in an incremental manner legislation dealing with tobacco has moved forward and taken on a new challenge that was somewhat controversial, in terms of a new ban which is then rolled out. Very soon we find it rolls out and legislates itself. There is virtually no

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<sup>263</sup> Submission 13, National Centre for Education and Training on Addiction, p 3. See also Submission 1, Australian Hotels Association, p 7

<sup>264</sup> Trifonoff, A, Andrew, R, Steenson, T, Nicholas, R and Roche, AM, *Liquor Licensing Legislation in Australia: Police Expectations and Experiences*, National Centre for Education and Training on Addiction (NCETA), Flinders University, 2011, p 11, [http://nceta.flinders.edu.au/files/3413/5226/7676/EN458\\_LLReport3.pdf](http://nceta.flinders.edu.au/files/3413/5226/7676/EN458_LLReport3.pdf)

<sup>265</sup> Submission 13a, National Centre for Education and Training on Addiction, p 3

<sup>266</sup> Submission 12, Australian Drug Foundation, p 8

<sup>267</sup> Submission 5, Department of Police and Emergency Management, Tasmania, p 2



need for enforcement because it becomes the community norm. I think that would be the model of best practice.<sup>268</sup>

- 5.40 Mr Elliot Kleiner observed that the spirit of secondary supply provisions is ultimately about safeguarding the health and safety of minors, not creating criminal liabilities:

It is not supposed to be about revenue raising, pointing fingers and restricting people. It is really supposed to be about kids not getting hold of alcohol that may be harmful to them or to cause them to do other harmful things to themselves and others.<sup>269</sup>

- 5.41 Reverend Jay Bacik of Life Education NSW also argued that the law should be protective, not punitive:

[The law] helps people to say, "I am not going to do that because it is against the law." A survey done by the New South Wales Crime Commission about six years ago—something about legalising marijuana—was that most kids did not want to take marijuana and one of the top three reasons was because it was against the law. I think we need to reinforce the value of that where the law is there to support the parent, not to be punitive but to be protective.<sup>270</sup>

### Committee comment

- 5.42 The Committee acknowledges that those responsible for law enforcement strive to do the best possible job in upholding the law and protecting the community. However, the Committee also appreciates the genuine practical difficulties that police face in enforcing secondary supply laws, particularly in gathering enough evidence to launch successful prosecutions. The Committee notes that there have been relatively few prosecutions for offences against section 117(4) of the *Liquor Act 2007*. Given that secondary supply offences occur largely on private premises, this also presents challenges.
- 5.43 The Committee believes that the 'responsible supervision' provisions recommended in Chapter Three will assist police in their enforcement activities. Clearer guidance under the law about what circumstances constitute responsible supervision when supplying alcohol to minors should help to identify whether enforcement action can be taken.
- 5.44 Despite the complexities and practical difficulties of enforcing secondary supply laws, the Committee considers that the legislation still has value. Its existence sends a message to the community about what is acceptable. Legislation can shape community attitudes. This was emphasised by various witnesses who argued that the provisions in relation to the supply of alcohol to minors were in place to prevent harm from underage drinking, not to criminalise people.
- 5.45 As discussed in Chapter Four, the Committee believes that legislation should be reinforced by an educative and preventative approach. Overall, better education

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<sup>268</sup> Dr Bruce Bolam, Executive Manager, Knowledge and Environment for Health, VicHealth, Transcript of evidence, 5 November 2012, p 42

<sup>269</sup> Mr Kleiner, Transcript of evidence, p 26

<sup>270</sup> Reverend Jay Bacik, Chief Executive Officer, Life Education NSW, Transcript of evidence, 31 October 2013, p 23

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measures will complement effective secondary supply legislation. It is hoped this will create an environment in which parents and authorised adults can provide alcohol to minors, with a clearer understanding of both the responsibilities involved and the effects of alcohol on young people's health.

## Appendix One – List of Submissions

1	Australian Hotels Association
1a	Australian Hotels Association
2	Ms Karen Newton
2a	Ms Karen Newton
3	Victorian Alcohol and Drug Association
4	Broken Hill Community Drug Action Team & Barrier Liquor Accord
4a	Broken Hill Community Drug Action Team & Barrier Liquor Accord
5	Department of Police and Emergency Management, Tasmania
6	Ulladulla Community Drug Action Team
7	Northern Territory Government, Minister for Alcohol Policy
8	Community Relations Commission
8a	Community Relations Commission
9	Life Education NSW
10	NSW Council for Civil Liberties
10a	NSW Council for Civil Liberties
11	National Drug Research Institute
12	Australian Drug Foundation
12a	Australian Drug Foundation
13	National Centre for Education and Training on Addiction
13a	National Centre for Education and Training on Addiction
14	Mr Rob Stokes MP
15	Clubs NSW
15a	Clubs NSW
16	FamilyVoice Australia
17	Cancer Council NSW
18	NSW Government
18a	NSW Government
19	VicHealth (Victorian Health Promotion Foundation)
20	Minister for Local Government and Minister for the North Coast
21	NSW Parents' Council Inc
22	Minister for Police and Community Safety, Queensland

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LIST OF SUBMISSIONS

22a	Minister for Police and Community Safety, Queensland
23	Alcohol and Other Drugs Council of Australia
23a	Alcohol and Other Drugs Council of Australia
24	Mr David Elliott MP and Mr Dominic Perrottet MP
25	NSW Commission for Children and Young People
25a	NSW Commission for Children and Young People
26	Foundation for Alcohol Research and Education
26a	Foundation for Alcohol Research and Education
26b	Foundation for Alcohol Research and Education
27	Shannon Donaldson Province Lawyers
28	ELK & Sons Consolidated Pty Ltd
29	Liquor Stores Association NSW
29a	Liquor Stores Association NSW
30	Local Government Association and Shires Association of NSW
30a	Local Government NSW
31	Federation of Parents and Citizens Association of NSW
32	Northern Beaches Community Drug Action Team

## Appendix Two – List of Witnesses

31 October 2012, Parliament House

Witness	Position and Organisation
Mr David Cass	Consultant Policy Adviser <i>Australian Hotels Association (NSW)</i>
Ms Rowena Stulajter Dr Ramy Mezrani	Community Development Manager Vice President (Country) <i>NSW Parents' Council Inc</i>
Reverend Jay Bacik	Chief Executive Officer <i>Life Education NSW</i>
Mr Elliot Kleiner	Chief Executive Officer <i>PromNight Events</i>
Mr Michael Thorn	Chief Executive <i>Foundation for Alcohol Research and Education</i>
Ms Megan Mitchell Ms Vanessa Whittington	Commissioner Senior Policy Officer <i>NSW Commission for Children and Young People</i>

5 November 2012, Parliament House

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Witness	Position and Organisation
Mr David McGrath	Director, Mental Health and Drug and Alcohol Programs <i>NSW Ministry of Health</i>
Ms Cathrine Lynch	Acting Director, Policy and Strategy
Mr Peter Cox	Acting Assistant Director, Policy and Strategy <i>Office of Liquor, Gaming and Racing</i>
Superintendent Patrick Paroz	Commander, Drug and Alcohol Coordination <i>NSW Police Force</i>
Ms Robyn Bale	Acting Director, Student Welfare
Ms Lyndall Foster	Assistant Director, Teaching Services
Mr Christopher Miles	Principal Legal Officer
Ms Sharon Starkey	Senior Curriculum Support Officer, Health and Physical Education <i>Department of Education and Communities</i>
Dr Bruce Bolam	Executive Manager, Knowledge and Environment for Health
Ms Emma Saleeba	Manager, Alcohol, Tobacco and UV <i>VicHealth</i>
Mr David Templeman	Chief Executive Officer
Mr Robert Gill	Policy and Communications Officer <i>Alcohol and Other Drugs Council of Australia</i>
Ms Debra Salter	Manager, Policy Development and Research Services <i>Tasmanian Department of Police and Emergency Management</i>
Mr Paul Dillon	Director <i>Drug and Alcohol Research and Training Australia</i>

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# Appendix Three – Extracts from Minutes

## Minutes of Proceedings of the Social Policy Committee (no. 8)

9.06 a.m. Wednesday 30 May 2012  
Room 1136, Parliament House

### Members Present

Mr Notley-Smith, Mr Sidoti , Mr Grant and Ms Watson.

Officers in attendance: Ms Vicki Buchbach, Ms Jacqueline Isles, Ms Dora Oravec.

### Apologies

Ms Hornery

#### 1. Confirmation of minutes

Resolved on the motion of Mr Grant, seconded by Mr Sidoti:  
That the minutes of the deliberative meeting of 22 November 2011 be confirmed.

2. \*\*\*

#### 3. Future inquiry – the provision of alcohol to minors

The Chair referred Members to their copy of the correspondence received from the Premier on 25 May 2012 and previously distributed, requesting the Committee to inquire into issues relating to the provision of alcohol to minors by parents and guardians. Members deliberated on the draft terms of reference.

Resolved on the motion of Mr Sidoti, seconded by Ms Watson:

To agree to the Premier's request that the Committee conduct an inquiry into this issue.

#### *Draft terms of reference*

Resolved on the motion of Ms Watson, seconded by Mr Grant:

That the Committee inquire into and report on matters relating to the provision of alcohol to minors by parents and guardians, specifically whether:

- (a) provisions in the Liquor Act 2007, which make it illegal for persons to sell or supply alcohol to people under the age of 18 years, including in homes, parks, halls and public places generally, are sufficient;
- (b) provisions in the Liquor Act 2007, which provide that a person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor, remain appropriate;
- (c) the defence against prosecution for an offence of providing liquor to a minor if it is proved that the defendant was authorised by the minor's parent or guardian to supply liquor to the minor, remains appropriate;

- (d) there is broad community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors;
- (e) New South Wales can benefit from experiences in other jurisdictions in relation to the provision of alcohol to minors by parents, guardians or responsible adults; and
- (f) any other related matters.

*Inquiry Advertising and Closing Date for Submissions*

The Committee agreed to advertise the inquiry in the Sydney Morning Herald and The Land and that the closing date for submissions be Monday 30 July 2012.

The Chair advised that he would prepare a media release regarding the inquiry and forward it to all members of Parliament.

*Future planning*

The Chair informed members about planning the next stage of the inquiry. He said that Committee staff would prepare a list of relevant stakeholders to invite to make a submission and invited members to bring suggestions for stakeholder invitations to the next meeting. The Committee agreed to meet on 20 June at 9.00 a.m. Discussion ensued.

The Committee adjourned at 9.18 a.m. until Wednesday 20 June at 9.00 a.m.

## **Minutes of Proceedings of the Social Policy Committee (no. 9)**

9.01 a.m. Wednesday 20 June 2012

Room 1136, Parliament House

### **Members Present**

Mr Sidoti (Deputy Chair), Mr Grant and Ms Hornery.

Officers in attendance: Ms Vicki Buchbach, Ms Carrie Chan, Mr Ben Foxe.

### **Apologies**

Mr Notley-Smith (Chair), Ms Watson

### **1. Confirmation of minutes**

Resolved on the motion of Mr Grant, seconded by Ms Hornery:

That the minutes of the deliberative meeting of 30 May 2012 be confirmed.

### **2. Inquiry into the provision of alcohol to minors**

The Committee noted inquiry background documents and a list of relevant stakeholders that had been prepared by Committee staff.

Discussion ensued.

Resolved on the motion of Ms Hornery, seconded by Mr Grant:

That the Committee should write to the responsible Ministers, Police and Attorneys-General from Queensland, Northern Territory and Tasmania, to seek information (statistics and any monitoring or evaluation results) with regard to the prosecutions, enforcement or impact of



the provisions on the irresponsible supply of alcohol to minors at a private place in those jurisdictions.

**3. \*\*\***

The Committee adjourned at 9.13 a.m. until a date to be confirmed.

## **Minutes of Proceedings of the Social Policy Committee (no.10)**

9:02am, Wednesday 22 August 2012

Room 1136, Parliament House

### **Members Present**

Mr Notley-Smith (Chair), Mr Sidoti (Deputy Chair), Ms Hornery, Mr Grant

Officers in attendance: Ms Carly Maxwell, Ms Emma Wood, Mr Benjamin Foxe

### **Apologies**

Ms Watson

## **1. Confirmation of minutes**

Resolved, on the motion of Mr Grant, seconded by Ms Hornery:

That the minutes of the deliberative meeting of 20 June 2012 be confirmed.

## **2. Inquiry into the provision of alcohol to minors**

a) Correspondence received

The Committee noted receipt of correspondence from the following individuals and organisations:

- Mrs Margaret Herbert, commenting on issues raised by the inquiry, dated 22 June 2012;
- NSW Department of Education and Communities, indicating that matters raised by the inquiry are receiving attention, dated 28 June 2012;
- The office of the Hon Adrian Piccoli MP, indicating that matters raised by the inquiry are receiving attention, dated 29 June 2012;
- Legal Aid NSW, advising that they will not be making a submission, dated 12 July 2012;
- NSW Director of Public Prosecutions, advising that he will not be making a submission, dated 13 July 2012;
- Federal Department of Health and Ageing, advising that they will not be making a submission, dated 23 July 2012;
- Australian Institute of Criminology, advising that they will not be making a submission, dated 25 July 2012;
- Local Government and Shires Association of NSW, indicating that they wish for their submission to be treated as a draft until it has been endorsed by their Executive Committee, dated 3 August 2012.

b) Submissions – consideration of and approval for publication

Resolved, on the motion of Ms Hornery, seconded by Mr Grant:

That the Committee agree to the request made by the author of submission 19 to accept an amended version of their submission as received on 14 August 2012.

Resolved, on the motion of Mr Grant, seconded by Ms Hornery:

That the Committee authorise the publication of submissions 1 – 21 and 23 – 25.

Resolved, on the motion of Mr Grant, seconded by Ms Hornery:

That submission 22 remain confidential to Committee members and not be published.

c) Forward planning

The Committee discussed a proposal to receive a briefing about issues associated with the inquiry from representatives of the Office of Liquor, Gaming and Racing, the Department of Health, and the NSW Police Force. The Committee agreed to hold the briefing on 12 September 2012.

The Committee deliberated over the timeframe of the inquiry. Discussion ensued.

### **3. General business**

Mr Grant informed the Committee that the inquiry had received substantial media attention within his electorate. Discussion ensued.

Resolved, on the motion of Mr Grant, seconded by Ms Hornery:

That the Committee issue a media release, welcoming the submissions that have been received and advising that the Committee will carefully consider the information provided by the public.

The Committee adjourned at 9:19 am until 9 am, Wednesday 12 September 2012.

## **Minutes of Proceedings of the Social Policy Committee (no.11)**

9:04am, Wednesday 12 September 2012

Waratah Room, Parliament House

### **Members Present**

Mr Notley-Smith (Chair), Mr Grant, Ms Hornery, Ms Watson

### **Apologies**

Mr Sidoti

Officers in attendance: Ms Rachel Simpson, Ms Dora Oravec, Ms Emma Wood, Mr Benjamin Foxe

### **1. Confirmation of minutes**

Resolved, on the motion of Mr Grant, seconded by Ms Hornery, that the minutes of the deliberative meeting of 22 August 2012 be confirmed.

## **2. Future inquiry activity**

The Chair raised possible dates for a future public hearing. Discussion ensued.

## **3. Informal private briefing for members on issues related to the provision of alcohol to minors in NSW**

The Chair welcomed the following individuals:

Mr David McGrath (Director, Mental Health and Drug and Alcohol Office, Ministry of Health); Superintendent Patrick Paroz (Commander, Drug and Alcohol Office, NSW Police Force); Ms Catherine Lynch (Acting Director, Policy and Strategy, Office of Liquor, Gaming and Racing); Mr Peter Cox (Assistant Director, Policy and Strategy, Office of Liquor, Gaming and Racing).

Following their presentations the Chair and the Committee members thanked the individuals for their attendance.

The Committee adjourned at 10.14pm until 9am on 19 September 2012 at Room 1136, Parliament House.

## **Minutes of Proceedings of the Social Policy Committee (no.12)**

9.04am, Wednesday 19 September 2012

Room 1136, Parliament House

### **Members Present**

Mr Notley-Smith (Chair), Mr Grant, Ms Hornery, Ms Watson

Officers in attendance: Ms Rachel Simpson, Ms Dora Oravec, Ms Emma Wood, Mr Benjamin Foxe

## **1. Confirmation of minutes**

Resolved, on the motion of Ms Hornery, seconded by Mr Grant, that the minutes of the deliberative meeting of 12 September 2012 be confirmed.

## **2. Inquiry into the provision of alcohol to minors**

### **a) Consideration of submission 26**

Resolved, on the motion of Mr Grant, seconded by Ms Hornery, that the Committee authorise publication in full of submission 26.

### **b) Consideration of potential witnesses to appear at public hearings**

Resolved, on the motion of Ms Watson, seconded by Mr Grant, that the Committee conduct two public hearings with the potential to invite the following witnesses and/or others identified by Committee staff, in consultation with the Chair:

Public hearing – Wednesday 31 October

- Australian Hotels Association
- Clubs NSW
- NSW Parents' Council Inc

SOCIAL POLICY COMMITTEE  
EXTRACTS FROM MINUTES

- Life Education NSW
- Elliot Kleiner, Prom Events
- Alcohol and other Drugs Council of Australia
- Professor Ian Hickie, Brain and Mind Research Institute, University of Sydney
- NSW Commission for Children and Young People
- Foundation for Alcohol Research and Education

Public hearing – date to be confirmed

- Ministry of Health
- Office of Liquor, Gaming and Racing
- NSW Police Force
- Department of Education and Training
- Division of Local Government
- Local Government and Shires Association
- VicHealth (Victorian Health Promotion Foundation)
- Tasmanian police
- Queensland Government

Discussion ensued.

Resolved, on the motion of Ms Hornery, seconded by Mr Grant, that, where necessary, the Chair seek approval to cover the cost of travel expenses for witnesses so as to enable them to attend the public hearings to give evidence in relation to the Committee's inquiry.

### **3. Date and time of next meeting**

The Committee agreed that staff would contact their offices regarding their availability for a second public hearing in November.

The Committee adjourned at 9.10am until Wednesday 31 October 2012 at 9.30am.

## **Minutes of Proceedings of the Social Policy Committee (no. 13)**

9.23am, Wednesday, 31 October 2012

Macquarie Room, Parliament House

### **Members Present**

Mr Notley-Smith (Chair), Mr Grant, Mr Sidoti, Ms Hornery

### **Apologies**

Ms Watson

Staff in attendance: Rachel Simpson, Emma Wood, Dora Oravec, Benjamin Foxe

### **1. Deliberative meeting**

- a) Confirmation of Minutes

Resolved, on the motion of Mr Grant, seconded by Ms Hornery, that the minutes of the deliberative meeting of 19 September be confirmed.

b) Media orders

Resolved, on the motion of Mr Grant, seconded by Ms Hornery, that the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 31 October 2012 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

c) Publication orders

a. Submissions

Resolved, on the motion of Ms Hornery, seconded by Mr Grant, that the Committee authorise publication in full of submission 27.

Resolved, on the motion of Ms Hornery, seconded by Mr Grant, that the Committee authorise the partial publication of submission 28, with Document 5 omitted at the author's request, and identifying details in the Appendix omitted.

b. Corrected transcript of evidence

Resolved, on the motion of Mr Grant, seconded by Ms Hornery, that the corrected transcript of evidence given today be authorised for publication and uploaded on the Committee's website.

d) Answers to questions on notice

Resolved, on the motion of Mr Grant, seconded by Ms Hornery, that for the duration of the inquiry into the provision of alcohol to minors, witnesses be requested to return answers to questions taken on notice and supplementary questions within 2 weeks of the date on which the questions are forwarded to the witness.

## **2. Public hearing: Inquiry into the provision of alcohol to minors (9.29am)**

The press and the public were admitted. The Chair opened the public hearing and, after welcoming the witness, gave a short opening address.

Mr David Cass, Consultant Policy Adviser, Australian Hotels Association (NSW), sworn and examined. Mr Cass made a brief opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee. Evidence concluded, the Chair thanked the witness for his evidence.

Ms Rowena Stulajter, Community Development Manager, NSW Parents' Council Inc, and Mr Ramy Mezrani, Vice president (Country), NSW Parents' Council Inc, affirmed and examined. Ms Stulajter made a brief opening statement.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witnesses for their attendance. The witnesses withdrew.

Rev Jay Bacik, Chief Executive Officer, Life Education NSW, sworn and examined. Rev Bacik made a brief opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance. The witness withdrew.

Mr Elliot Kleiner, Chief Executive Officer, Prom Night Events, affirmed and examined. Mr Kleiner made a brief opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance. The witness withdrew.

The Committee took an adjournment at 12:53pm and resumed the public hearing at 2:00pm.

Mr Michael Thorn, Chief Executive, Foundation for Alcohol Research and Education, affirmed and examined. Mr Thorn made a brief opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance. The witness withdrew.

Ms Megan Mitchell, Commissioner, NSW Commission for Children and Young People and Ms Vanessa Whittington, Senior Policy Officer, NSW Commission for Children and Young People, affirmed and examined. Ms Mitchell made a brief opening statement.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witnesses for their attendance. The witnesses withdrew.

The public hearing concluded at 4:10pm.

### **3. Deliberative meeting**

Moved by Mr Sidoti, seconded Mr Grant, that the name of a school be redacted from the Hansard transcript of Mr Bacik's evidence.

Question put.

The Committee divided.

Ayes: Mr Notley-Smith, Mr Grant, Mr Sidoti

Noe: Ms Hornery

Question resolved in the affirmative.

The committee adjourned at 4:13 pm until 9:30am on 1 November 2012.

## **Minutes of Proceedings of the Social Policy Committee (no. 14)**

9.28am, Monday, 5 November 2012

Macquarie Room, Parliament House

### **Members Present**

Mr Notley-Smith (Chair), Mr Grant, Mr Sidoti, Ms Watson

### **Apologies**

Ms Hornery

Staff in attendance: Rachel Simpson, Dora Oravecz, Emma Wood, Benjamin Foxe

## **1. Deliberative meeting**

### **a) Confirmation of Minutes**

Resolved, on the motion of Mr Grant, seconded by Mr Sidoti, that the minutes of the deliberative meeting of 31 October be confirmed.

### **b) Media orders**

Resolved, on the motion of Mr Sidoti, seconded by Mr Grant, that the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 5 November 2012 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

### **c) Publication orders**

Resolved, on the motion of Mr Grant, seconded by Mr Sidoti, that the corrected transcript of evidence given today be authorised for publication and uploaded on the Committee's website.

## **2. Public hearing: Inquiry into the provision of alcohol to minors (9.32am)**

The press and the public were admitted. The Chair opened the public hearing and, after welcoming the witness, gave a short opening address.

Mr David McGrath, Director, Mental Health and Drug and Alcohol Programs, NSW Ministry of Health, sworn and examined.

The Chair commenced questioning the witness, followed by other members of the Committee. Evidence concluded, the Chair thanked the witness for his evidence. The witness withdrew.

The Committee took an adjournment at 10:09 am and resumed the public hearing at 10:28 am.

Ms Cathrine Lynch, Acting Director, Policy and Strategy, Office of Liquor, Gaming and Racing and Mr Peter Cox, Acting Assistant Director, Policy and Strategy, Office of Liquor, Gaming and Racing, affirmed and examined.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

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Evidence concluded, the Chair thanked the witnesses for their attendance. The witnesses withdrew.

Superintendent Patrick Paroz, Commander, Drug and Alcohol Coordination, NSW Police Force, sworn and examined.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance. The witness withdrew.

The Committee took an adjournment at 12:05 pm and resumed the public hearing at 1:02 pm.

Ms Robyn Bale, Acting Director, Student Welfare, Department of Education and Communities, and Mr Christopher Miles, Principal Legal Officer, Department of Education and Communities, sworn and examined; Ms Lyndall Foster, Assistant Director, Teaching Services, NSW Curriculum and Learning Innovation Centre, Department of Education and Communities, and Ms Sharon Starkey, Senior Curriculum Support Officer, Health and Physical Education, Department of Education and Communities, affirmed and examined. Ms Bale made a brief opening statement.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witnesses for their attendance. The witnesses withdrew.

Dr Bruce Bolam, Executive Manager, Knowledge and Environment for Health, VicHealth, and Ms Emma Saleeba, Manager, Alcohol, Knowledge and Environment for Health, VicHealth, affirmed and examined. Dr Bolam made a brief opening statement.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witnesses for their attendance. The witnesses withdrew.

Mr David Templeman, Chief Executive Officer, Alcohol and Other Drugs Council of Australia, sworn and examined; Mr Robert Gill, Policy and Communications Officer, Alcohol and Other Drugs Council of Australia, affirmed and examined. Mr Templeman made a brief opening statement.

The Committee took an adjournment at 3:15 pm and resumed the public hearing at 3:30 pm.

Ms Debra Salter, Manager, Policy, Development and Research Services, Department of Police and Emergency Management, Tasmania, gave evidence via teleconference, pursuant to Standing Order 295.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for her evidence.

Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, sworn and examined. Mr Dillon made a brief opening statement.



The Chair commenced questioning the witness, followed by other members of the Committee. Evidence concluded, the Chair thanked the witness for his attendance. The witness withdrew.

The public hearing concluded at 5:06 pm.

### **3. Deliberative meeting (5:07 Pm)**

a) Publication orders

Resolved, on the motion of Ms Watson, seconded by Mr Sidoti, that the Committee authorise publication in full of submission 26a.

Resolved on the motion of Mr Sidoti, seconded by Ms Watson that the Committee accept the following documents tendered during the public hearing and authorise for publication:

- Collection of images tendered by Mr David Templeman from the Alcohol and Other Drugs Council of Australia.

The committee adjourned at 5:08 pm until a date and time to be confirmed.

## **Minutes of Proceedings of the Social Policy Committee (no. 15)**

9.13am, Wednesday, 22 May 2013

Room 1153, Parliament House

### **Members Present**

Mr Notley-Smith (Chair), Mr Grant, Mr Sidoti

### **Apologies**

Ms Hornery

Staff in attendance: Rachel Simpson, Dora Oravecz, Mohini Mehta

### **1. Confirmation of minutes**

Resolved, on the motion of Mr Grant, seconded by Mr Sidoti, that the minutes of the deliberative meeting of 5 November 2012 be confirmed.

### **2. Inquiry into the provision of alcohol to minors**

a) Publication orders

i. Submissions

Resolved, on the motion of Mr Grant, seconded by Mr Sidoti, that submissions 1a, 29 and 30 be authorised for publication and uploaded on the Committee's website.

ii. Answers to questions taken on notice

Resolved, on the motion of Mr Sidoti, seconded by Mr Grant, that the answers to questions taken on notice by the Department of Education and Communities, Office of Liquor Gaming and Racing and VicHealth be authorised for publication and uploaded on the Committee's website.

b) Further consultation – discussion paper

The Chair spoke to the discussion paper, and noted the attached list of stakeholders he proposed to write to inviting responses to the discussion paper.

Resolved on the motion of Mr Sidoti, seconded by Mr Grant that the discussion paper be authorised for publication, uploaded on the Committee's website, and circulated to stakeholders.

c) General business

The Committee discussed the distribution of a media release regarding the discussion paper to regional and metropolitan media organisations.

Resolved on the motion of Mr Grant, that the Chair engage with regional media heads to stimulate feedback to the discussion paper.

The committee adjourned at 9.23am until a date and time to be confirmed.

## Minutes of Proceedings of the Social Policy Committee (no. 16)

1.04pm, Thursday, 29 August 2013

Room 1254, Parliament House

### Members Present

Mr Notley-Smith (Chair), Mr Grant, Ms Hornery, Ms Watson

Staff in attendance: Rachel Simpson, Dora Oravecz, Meg Banfield, Mohini Mehta

### 1. Apologies

Mr Sidoti

### 2. Confirmation of minutes

Resolved, on the motion of Mr Grant, seconded by Ms Watson, that the minutes of the deliberative meeting of 22 May 2013 be confirmed.

### 3. Inquiry into the provision of alcohol to minors

#### 3.1 Correspondence

The Committee noted the following items of correspondence received:

- 30 May 2013 from the Australian Hotels Association, informing Committee of secondary supply reforms in Victoria
- 3 July 2013 from the Director of Public Prosecutions advising he has no comment in regard to proposed reforms and recommendations in the Committee's Discussion Paper

#### 3.2 Submissions received

The Committee noted the following submissions received in response to the Discussion Paper:

- Supplementary submission 2a – Ms Karen Newton
- Supplementary submission 4a – Broken Hill Community Drug Action Team and Barrier Liquor Accord
- Supplementary submission 8a – Community Relations Commission

- Supplementary submission 10a – NSW Council for Civil Liberties
- Supplementary submission 12a – Australian Drug Foundation
- Supplementary submission 13a – National Centre for Education and Training on Addiction
- Supplementary submission 15a – Clubs NSW
- Supplementary submission 18a – NSW Government
- Supplementary submission 22a – Minister for Police and Community Safety, Queensland
- Supplementary submission 23a – Alcohol and Other Drugs Council of Australia
- Supplementary submission 25a – NSW Commission for Children and Young People
- Supplementary submission 26b – Foundation for Alcohol Research and Education
- Supplementary submission 29a – Liquor Stores Association NSW
- Supplementary submission 30a – Local Government NSW
- Submission 31 – Federation of Parents and Citizens Associations of NSW
- Submission 32 – Northern Beaches Community Drug Action Team

Resolved on the motion of Ms Watson, seconded by Mr Grant, that the Committee authorise publication of submission nos 2a, 4a, 8a, 10a, 12a, 13a, 15a, 18a, 22, 22a, 23a, 25a, 26b, 29a, 30a, 31, 32 and that the submissions be placed on the Committee's website.

### **3.3 Consideration of Chair's draft report**

The Chair's draft report, previously circulated, was taken as read.

The Committee agreed to consider the report in globo.

Resolved on the motion of Ms Watson, seconded by Ms Hornery, that the draft report be the report of the Committee, signed by the Chair and presented to the House.

Resolved on the motion of Mr Grant, seconded by Ms Watson, that the Chair and secretariat be permitted to correct stylistic, typographical and grammatical errors, and that once tabled, the report be posted on the Committee's website.

## **4. General business**

The Committee discussed the arrangements for tabling the report.

The Chair and Committee thanked the secretariat for their professionalism and work throughout the inquiry.

## **5. Adjournment**

The Committee adjourned at 1.12pm until 1pm Thursday 19 September.