

**Submission
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PROVISION OF ALCOHOL TO MINORS

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**Submission to the Legislative Assembly Social Policy Committee on the
Inquiry of the Provision of Alcohol to Minors**

DATE

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Local Government and Shires Associations submission to the Legislative Assembly Social Policy Committee on the Inquiry to the Provision of Alcohol to Minors

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government.

Together, the Local Government Association and the Shires Association represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community.

The LGSA thanks the Legislative Assembly Social Policy Committee for the opportunity to provide a submission concerning the provision of alcohol to minors.

Purpose:

The purpose of this submission is to outline the current role of Local Government based on the relevant regulations contained in the *Local Government Act 1993* and the *Liquor Act 2007* and the influences from the other Government spheres (NSW and Australian). This submission includes aspects of the LGSA policy statements that are relevant to this issue.

Councils are involved with the regulation, enforcement and surveillance of the distribution of alcohol and alcohol related harm minimisation approaches in the community. Council involvement is heavily reliant on partnerships with agencies in State Government and local businesses and non-government organisations. These partnerships are imperative in the implementation of policies that improve the safety of the community from alcohol related risky behaviour and in some cases the long-term consequences of alcohol related harm. These initiatives from the Local Government sector may contribute to the number of reductions in alcohol related hospitalisations.

Councils are consent authorities under the NSW *Environmental Planning and Assessment Act 1979* (currently under review). They have the responsibility to regulate the environmental and social impacts of licensed premises through the development application process.

Local Government is increasingly invested in strategic community planning processes which take into account the needs of young people and families. Councils contribute to reducing social, financial and health costs through their efforts towards reducing alcohol-related harm in their community.

Councils are capable of raising awareness of the negative implications of excessive alcohol consumption and the community's acceptance of the Australian binge drinking culture. Councils are also becoming concerned about the increasing levels of illicit drug use by the community, particularly young people and the associated negative impact of increased usage.

It is important to note that private places and the provision of alcohol to minors in private homes are not within the scope of Local Government based on current legislation and therefore not something that councils can directly impact. However councils continue to create and encourage healthy, safe and family friendly communities.

The LGSA submission responds to the Inquiry's Terms of Reference.

Inquiry Terms of Reference

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

In responding to this section it is important to make the distinction between *public* and *private* places. The way in which these spaces are regulated and the jurisdictions under which this regulation falls is relevant when responding to the issues raised, concerning the provision of alcohol to minors. Local Government does not have the capacity nor does it have the responsibility to directly monitor, regulate or enforce the supply and use of alcohol to minors in private homes.

The *Liquor Act 2007* (the Act) Section 117 makes it an offence to sell or supply liquor to minors on licensed premises *unless the person is a parent or guardian of the minor* (issues relating to the role of parents and guardians will be addressed in section three). The Act does not make the same provisions for what it refers to as *private domestic premises*.

The LSGA supports the objects of the Act which seek to recognise *the expectations, needs and aspirations of the community*. We support the NSW and Australian Governments in the steps they take to encourage responsible attitudes and practices toward the promotion, sale, service and supply of alcohol. Local Government supports the harm minimisation approach which takes into account three intersecting components: people, their environment and the substance itself.

Private domestic premises

The LGSA regards *homes* as *private domestic premises* and therefore beyond the jurisdiction of Local Government to play a role in the regulation, monitoring or enforcement of laws relating to the provision of alcohol to minors. It is widely acknowledged that there are different levels of alcohol and other drug use and associated physical and social harm and that these occur in people's homes. It is important that appropriate information, support, prevention and intervention programs are available for families experiencing alcohol related incidents.

Public parks, beaches, streets and footpaths

Councils are involved in the regulation, monitoring and enforcement of alcohol in certain public and other places via provisions under the *Local Government Act 1993*. Councils are able to establish *alcohol prohibited areas (APA)* and *alcohol free zones (AFZ)* to improve community safety. A council may declare any public place to be an APA with the exception of public roads and car parks, in which cases these areas would be covered by an AFZ. A council enforcement officer has the power to seize any alcohol that is in the possession of a person (regardless of their age) and dispose of it immediately or retain for the purposes of handing it over to the Police. If in the event council officers feel unable to perform this limited enforcement role, it becomes the role and responsibility of Police and law enforcement agencies.

Halls and community events

Under existing licensing laws councils who hire halls and unlicensed venues for events are able to lease these to a non-profit organisation where a **limited licence** is held allowing liquor to be sold at functions including any dinner, ball, convention, seminar, sporting event, race meeting, exhibition, performance, trade fair or other fair, fete or carnival, or any other event or activity, that is conducted for public amusement or entertainment or to raise funds for any charitable purpose. Organisations and groups applying for a limited licence for an event (regardless of the venue) must notify the council and police within two working days of lodging the application.

The LGSA believes that this provision goes some way to increase the responsible consumption of alcohol at community events.

In the case of a private event such as a birthday party hosted in a council facility, alcohol can be served without the host applying for a limited licence. The laws pertaining to the supply of alcohol to minors remain the same. Councils are encouraged to take additional measures to ensure the safe consumption of alcohol, for example by recommending that the host employ a security guard and/or notify local police of the event.

To increase people's awareness and understanding about responsible drinking behaviour it may be worthwhile expanding the coverage of a limited licence to include private events in unlicensed public facilities where liquor is served.

Liquor Outlet Approvals

As the consent authority, councils advocate for more opportunities to work with the NSW and Australian Governments to ensure that an appropriate number of liquor outlets exist in each community. LGSA call for increased power at the Local Government level, through legislation, to enable councils to regulate the environmental, health and social impacts of licensed premises. Further consultation needs to occur with Local Government from the Office of Liquor, Gaming and Recreation and councils. LGSA also call for increased consideration of community submissions in the liquor outlet development process, given the perceived impact it will have on the community if a number of liquor outlets already exist. Councils work in close partnership with their local police authorities and need increased powers in the appeals process to ensure the number of liquor outlets is not excessive and has a negative impact on the community. Further to this, the LGSA recommend that the control of hours of licensed premises should also revert to councils.

The over-arching premise on which the majority of local, state and national alcohol harm reduction actions plans are based recognise that alcohol is a significant and in many cases legitimate aspect of Australian culture. Alcohol holds a prominent position in our diverse communities with a number of different sectors invested in its supply, promotion, service, regulation, harm minimisation and enforcement measures.

The density of outlets and the negative social and health impacts these can have on different communities is important to consider in relation to the availability, supply and consumption of alcohol by minors. Councils in some areas including Sydney's fringe, have reported the difficulty of taking into consideration the social and health factors in order to challenge a successful development approval. The NSW Government's response to these concerns is that planning regulations should not be used to restrict competition. The benefits of restrictions should clearly outline and outweigh the costs of further development, in particular, another liquor outlet in area. The cumulative impact of a high number of liquor outlets in communities is an issue that needs to be considered and again should also outweigh the costs of the planning objectives.

Limiting the supply of alcohol by limiting the number of liquor outlets is an important step to reducing the incidence of alcohol related harm. Councils are well placed to support a competitive retail environment that includes licensed venues in the best interests of their local communities.

A number of metropolitan and regional councils have been identified in the media expressing their concerns regarding another supermarket chain's plans to sell alcohol in over 100 of its NSW stores. Community stakeholders including councils are concerned that many of these outlets are targeting low socio-economic areas and could exacerbate alcohol related harm increasing demand on hospital, emergency and community health services.

In 2011 the Local Government Association Executive resolved to approach the Australian Government and the Australian Local Government Association (ALGA) with concerns regarding the possible detrimental impact on local communities of the proposal by the Australian Association of Convenience Stores to sell alcohol in local petrol stations where there is an attached convenience store. This resolution identified the exception for communities where there is only one outlet.

The LGSA recognises the importance of commercial investment, expansion and competition for the purpose of providing communities with a healthy and vibrant economy. We are concerned however that there is increasing research emerging regarding the negative health impacts on individuals and communities due to the level and frequency of alcohol supply, consumption and related harms. It is vital that an approach to harm minimisation in this area, with particular emphasis on children and young people, takes into account the availability of alcohol in a community and treats the number of liquor outlets as an important risk factor in increasing the availability of alcohol to minors.

Liquor Accords

A liquor accord is an agreement by licensees and other stakeholders where councils are identified as key partners, 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. Local Government plays an important role in the ongoing effectiveness of liquor accord and is in a unique position to focus on community development approaches when working within cross-sector networks such as these.

The strength of liquor accords lies in the collaborative and co-operative nature of the model. Liquor accords are not merely a mechanism for taking particular actions to address an issue such as teenage binge drinking. They are a diverse sector approach to identifying the complexities of the problem and analysing the social and environment impacts. Police play a vital role in this process as their support in confirming the issues, based on crime statistics and local experience, is key to further actions being developed such as reducing opening hours of licensed venues.

Liquor accords provide a forum for determining the significance and level of urgency regarding alcohol related issues occurring in the community. They can facilitate a particular emphasis on law enforcement measures and/or education initiatives. They are a valuable tool to achieving an appropriate balance between these two inseparable elements when addressing the complex environment where alcohol misuse is having a negative impact on young people.

Councils report their important and unique position in the liquor accord process. Other stakeholders including the Police, licensees, community organisations and health professionals, often see council officers as occupying a neutral role due to councils' investment in community development models rather than direct service delivery.

Liquor accords and other initiatives addressing young people alcohol related harm can feature in councils' strategic planning processes through the development of young people action plans and policies. Local Government in NSW has a significant investment in addressing the needs and opportunities of children and young people to maximise their access to safe, stimulating and healthy environments. From 1999 to 2009 Councils increased their employment of policy and development staff in young people focused positions by almost 50%. Nearly a quarter of councils had plans and policies addressing the needs of young people.

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

Section 1 of the Terms of Reference addressed the distinction between public and private places. The Act treats public and private places differently. In a similar view, it is important to determine that "any premises" is defined as all public places with the exception of private places and in this instance, licensed premises.

"Any premises" could be further defined with particular reference to public spaces as minors frequently congregate at public spaces in local community areas. Parks, beaches, halls and public places generally were initially identified as public spaces.

It is within a council's authority to manage alcohol consumption in public places, as legislated in the *Local Government Act 1993*. As outlined previously, councils are able to establish Alcohol Free Zones (AFZ) and Alcohol Prohibited Areas (APA). Given that these areas have been outlined in legislation, it would seem appropriate that the definition of public places be derived from the *Local Government Act 1993* and taken into consideration during the review of sections in the *Liquor Act* relating to the provision of alcohol to minors.

To include the provision as it is in the *Liquor Act*, the role of Local Government has been clearly defined in the regulating, monitoring and enforcing of liquor laws at the community level. Ensuring the inclusion and clarification of this definition would also ensure consistency with definitions in separate, yet overlapping, legislation for Local Government.

To determine whether this provision is appropriate as it currently stands, further research would need to be conducted to determine if there have been different interpretations of “any premises other than licensed premises” by reviewing court cases that may have challenged this provision in the *Liquor Act 2007*, or from NSW Police records that also relate to this provision.

The LGSA supports the State and Australian Government’s policy and programs that underpin alcohol misuse prevention and aims to reduce the adverse health, social and economic consequences of alcohol (and other drugs) by limiting the hazards of alcohol (and other drug use) for both the individual and the communities, in particular young people.

The LGSA recognises that young people have a right to access public space, and councils identify, provide or facilitate the provision of facilities, services and program which meet the needs of young people, which maximises their quality of life and wellbeing.

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

LGSA support a coordinated and integrated approach that responds to and supports the needs of families, children and young people. We believe that parents and guardians are influenced and can benefit from different types of government and/or community information and support and that this contributes to their ability to provide the essential love, care, education and access to resources for their children.

Local Government is invested in the provision of health promotion and community education. It also plays an important role in urban and social planning and community safety. In these capacities with adequate authority and resourcing, councils are well positioned to continue to support parents and guardians to adhere to the laws which restrict them providing alcohol to minors. For example, the fostering of partnerships through liquor accords, developing action plans and promoting wider public awareness campaigns. As to whether or not the existing law remains appropriate will continue to depend on a whole of government approach that supports the needs of families and children and protects them against the negative impacts of alcohol related harm.

There is broad community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors

While there is community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors, further community awareness campaigns needs to be undertaken to ensure that these are effective.

Parents, guardians and responsible adults may be aware of the implications of providing alcohol to minors at a licensed premises, however may be more inclined to do so at other public venues and more so in private homes. The degree of risk when alcohol is consumed by minors inside homes could be considered to be lower due to the close proximity of parents and other responsible adults.

NSW Government funded initiatives on alcohol related harm minimisation

The NSW Police community awareness campaign titled “Supply means supply” released using social media in 2009 used three different scenarios presenting the message that the provision of alcohol to minors is illegal regardless of setting. The number of times each of the clips is viewed is stated under each clip. As of mid-July 2012, the total number of views of the three clips is over 6500 views. Although it is raw data it does still indicate a low figure. However the effectiveness of the campaign in raising awareness is best determined through an evaluation of more reliable data collected by the NSW Police and NSW Health (with hospital data) that would indicate a positive change in statistics related to positive outcomes. For example, the low number of arrests for the provision of alcohol to minors or the low number of admissions to hospital, emergency and medical services for young people due to excessive consumption of alcohol.

It was reported in the then Department of Local Government's (DLG) Evaluation on Alcohol Free Zones that young people were unaware of the existence of AFZs. As highlighted earlier, AFZ were established throughout councils across NSW and in some cases the whole town as an early intervention measure to reduce alcohol related harm. The recommendation from the DLG evaluation to include as a principle in the *Local Government Act* was necessary for councils and the NSW Police to be able to improve public safety when disorderly behaviour increases due to alcohol consumption. These provisions did not create new offences in relation to drinking in public places or streets.

Two out of 18 councils implemented programs through the NSW Healthy Communities Initiative grant program to address the issue of young people engaging in risky drinking behaviour (binge drinking) in public spaces. In both cases, councils worked with the local young people services and the NSW Police to engage with young people and direct them to participate in alternative activities. Councils more widely have identified the need for responsible drinking programs to be implemented within their communities to further raise awareness to prevent risky behaviour (e.g. alcohol fuelled violence).

Australian Government funded strategies on alcohol related harm minimisation

In June 2012, the Australian Government Sports Minister, Kate Lundy, in an effort to influence alcohol promotion through sport, announced the provision of funding as an alternative to alcohol sponsorship. The partnership between sporting organisations and the Australian Government is welcomed. This is an encouraging step to address the nation's binge drinking culture thus decreasing the level of reliance on alcohol sponsorship. Reducing the level of exposure to alcohol images and branding to young people should be achieved through this initiative.

Other national funded programs through partnerships include the Good Sports program which also raises awareness through sports with a focus on licensing venues and responsibilities associated with the serving of alcohol in settings with a high number of young people often in the vicinity following a sporting event. Regional initiatives with a strong focus on supportive partnerships between Local Government and State Government agencies is the Reduce Risk – Increase Student Knowledge (RRISK) program that was established in 1999 that raises awareness of the associated risks of alcohol, drugs and driving. There is a number of community based preventive health programs focussing on young people and alcohol harm due to the increasing need for such programs.

Local Government seek an increase in the amount of resources devoted to conducting research in the development, monitoring and evaluation of the effectiveness and efficiency of alcohol related harm minimisation programs and the publication of these results to the wider community.

The influence from other spheres of government and across the agencies is encouraged and further strengthens the actions of the Local Government sector in addressing responsible drinking.

Councils employ officers who are in a unique position to focus on community development approaches when working within cross-sector networks, using community education frameworks, public health promotion methods and community capacity building techniques. An increased investment by the state government in resourcing councils to fund these positions would therefore increase the impact of community development approaches which by their nature can offer substantial coverage and connection bringing communities together to address difficult issues.

The relationship between alcohol and young people is one of risk taking and rites of passage. Our communities need to be able to manage this interaction to ensure that our public and private environments are safe and offer support during this time. Alternate options for leisure and recreation activities must be part of the formula to minimise the impact of alcohol related harm on children and young people.

Councils have previously and are increasingly engaging with young people and young adults more frequently on community matters that have an impact on them. Contributions through Youth Advisory Councils in the Local Government sector on minimising alcohol related harm is supported. These engagements should be promoted in enabling councils to conduct safe and family-friendly activities in communities.

The LGSA recognises that young people (minors) have needs for their own specific local facilities, services and programs that assist them in their own right and in their transition to adulthood.

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

Local Government is well positioned to receive increased resources which enable councils to expand community based programming and support young people and their relationship with alcohol.

There is a number of different action plans developed by different states and territories including those developed at a national level addressing alcohol use and misuse for young people and adults. We are encouraged that strategies to reduce alcohol related harm are broadly focused on achieving increased wellbeing for families and communities with the best interests of children at the forefront of decision-making. Local Government will continue its role as an important stakeholder, alongside other government, non-government, private and commercial sector agencies, in order to achieve the best and most equitable outcomes for families and communities suffering from the impacts of alcohol related harm.

The LGSA anticipates the release of three reports from a national review of Australia's licensing legislation by the National Centre for Education and Training on Addiction (NCETA). We understand that these reports will analyse liquor licensing legislation, especially from a law enforcement perspective.

If legislative reform is used to address issues regarding the provision of alcohol to minors and teenage binge drinking, it will need to address the circumstances in which this behaviour is occurring. It is an imperative that reforms in this area lead to the creation of safer environments for children and young people.

Other matters for consideration

The LGSA is aware of the abolition of the NSW Youth Drug and Alcohol Court (YDAC) in July 2012. It is concerning that public commentary suggests that this event has occurred in contrast to the Attorney General's stated commitment to rehabilitation of young offenders. Research shows that diverting young offenders from detention and using community-based programs is the most effective way to reduce juvenile crime. In the context of this Inquiry, it is hoped that additional early intervention and prevention programs are invested in to address the associated issues such as crime, family violence, addiction and illicit drug use, as these relate to alcohol misuse by minors.

The LGSA supports children and young people's involvement in planning processes, the delivery of services and community and social activities. We believe that these can enhance self-respect, competence and connection to family and community and have significant benefits for the delivery of resources. In order to achieve the best outcomes from this Inquiry it is important that adequate consultation is achieved with these groups.

The LGSA's Policy Statements on *Drug and Alcohol Use and harm minimisation*, *Licensed Premises*, *Late night trading*, *Children and families* and *Young people* can be found on our website at www.lgsa.org.au.

Conclusion

Local Government plays an important secondary role in the regulating, monitoring and enforcing of liquor laws to improve public safety and minimise alcohol related harm to and by members of the community.

Alcohol Free Zones and *Alcohol Prohibited Areas* are important tools used by Councils to ensure the safe use of public places. Partnerships with local police and local businesses are essential in making the conditions created by these tools effective and enforceable.

Local Government as the consent authority monitoring the number of liquor outlets in different communities needs **increased power in this role** if councils are to responsibly manage the negative social impacts and public health issues linked with alcohol related harm experienced by children and young people.

Local Government needs **increased investment in funding for youth focused community development positions** within councils to increase the impact of community development approaches which by their nature can offer substantial coverage and capacity building bringing communities together to address difficult issues such as alcohol related harm.

We support the NSW and Australian Government's to raise awareness to ensure that negative health, social and environmental impacts from alcohol related behaviour are kept to a minimum and responsible behaviours are encouraged throughout communities.

We seek an increase in the amount of resources devoted to conducting research in the development, monitoring and evaluation of the effectiveness and efficiency of alcohol related harm minimisation, prevention and early intervention programs and the publication of these results to the wider community.

Finally, we call for strong political leadership by the NSW and Australian Government's in convening a **whole of government and cross sector approach** to managing the supply, service and consumption of alcohol in our society.