



Royal Commission into Aboriginal Deaths in Custody Recommendation

82. Monitor effects of restrictions on alcohol consumption

That governments should closely monitor the effects of dry area declarations and other regulations or laws restricting the consumption of alcohol so as to determine their effect on the rates of custody in particular areas and other consequences.¹

Background²	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) identified that in several jurisdictions, the decriminalisation of public intoxication is often accompanied with other restrictions such as ‘dry areas’ where alcohol is prohibited. These regulations may act as a re-criminalisation of public drinking and continue to have a similar effect on rates of Aboriginal deaths in custody.
Intent	Monitor laws restricting alcohol consumption and their effects on custody rates and other outcomes.
Responsibility	All state and territory governments.
Key contacts	Liquor Control Victoria, Department of Justice and Community Safety; Local Government Victoria (LGV), Department of Government Services.

Key action taken

2005 Review³	The Department of Justice assessed Recommendation 82 as partially implemented . Department of Justice Legal Policy referred to their response to Recommendation 79, noting that the Drugs and Crime Prevention Committee’s Inquiry into Public Drunkenness had recommended the implementation of RCIADIC recommendations 79–84.
2018 Review⁴	Victorian Government Deloitte concluded that Recommendation 82 was partially implemented in Victoria. While the Victorian Government monitored restrictions on late-night liquor licences in inner Melbourne and tracked related assault and anti-social behaviour data, there was no requirement for ongoing review or reporting. No new ‘dry area’ declarations were made, as local governments did not have this power under the regulatory framework.

¹ Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 3, 28 ('RCIADIC').

² Ibid vol 3, 25-27 [2.1.77].

³ Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 1, 380-4 ('2005 Review').

⁴ Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 164-165 ('2018 Review').

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Since then

Liquor Control Victoria⁵

From 2008, a freeze on new late-night liquor licences applied in the municipalities of Melbourne, Stonnington, Yarra and Port Phillip. During this period, the Victorian Commission for Gambling and Liquor Regulation was asked not to approve the grant, relocation, or variation of a range of liquor licences or BYO permits allowing alcohol service after 1 am, except where an exemption was granted based on economic or cultural significance to the state by the Minister or the Commission.

The Victorian Government lifted this freeze at midnight on 30 June 2023. New guidelines for late-night licences in inner Melbourne now require the Victorian Liquor Commission to consider imposing conditions to minimise harms associated with late-night alcohol consumption, with affected areas to be closely monitored for increases in anti-social behaviour, assaults, and disorderly conduct.

The Victorian Government abolished 'dry areas' by removing the ability of local residents to vote on a proposed liquor license application in designated areas under the *Liquor Control Reform Amendment Act 2021*.

Local Government Victoria⁶

Local Government Victoria (LGV), within the Department of Government Services, provides policy advice to the Minister for Local Government, oversees relevant legislation and works with Victoria's 79 councils to support responsive and accountable local government in line with the *Local Government Act 2020* (Vic). As many local government functions fall under other portfolios, LGV does not have direct responsibility for implementing this recommendation. However, it remains available to support lead agencies by facilitating engagement with councils and assisting with the sharing and dissemination of information as needed.

Evidence of impact

Authorising documents

***Liquor Control Reform Amendment Act 2021 (Vic)*⁷**

Through introduction of this Act 'dry areas' in Boroondara were abolished through the repeal of provisions in the *Local Government Act 1989* that allowed residents to vote on proposed liquor license applications in designated areas.

***Local Government Act 2020 (Vic)*⁸**

Councils may make local laws under the *Local Government Act 2020*, provided they are consistent with other legislation and impose penalties of no more than 20 penalty units. While

⁵ Gaming and Liquor Integrity Regulation and Legal Services, '2023 Response to Aboriginal Justice Caucus Request for Liquor Control Victoria Information'.

⁶ Local Government Victoria, 'Review of Local Government Recommendations from the Royal Commission into Aboriginal Deaths in Custody, 2024'.

⁷ *Liquor Control Reform Amendment Act 2021 (Vic)* ('LCRA Act').

⁸ *Local Government Act 2020 (Vic)* ('Local Government Act').

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	some councils are known to restrict alcohol consumption in certain public places, LGV does not collate or monitor these local laws. ⁹
Outputs	The late-night liquor licence ‘freeze’ in the municipalities of Melbourne, Stonnington, Yarra and Port Phillip ended in June 2023.
Outcomes	<p>Some evidence was found of ‘once-off’ evaluations of restrictions on alcohol consumption, such as Local Law 8 in the City of Yarra and its impact on overall social harm. However, we could not find evidence of local governments regularly reviewing the local laws they establish or monitoring their effects in an ongoing way.</p> <p>When the Victorian Government considered remaking relevant laws or regulations, sometimes the associated impact statements included consideration of social harms but there was no monitoring of their effects on rates of people in custody or impacts on vulnerable groups.</p>
Community views	<p>Victorian Aboriginal Legal Service</p> <p><i>All councils should deal with alcohol as a health issue . . . councils should not police public drinking at any time of day.</i>¹⁰</p> <p>Exploring Experiences and Needs of People Who Drink in Public Places in City of Yarra¹¹</p> <p>This 2021 study aimed to evaluate experiences of people impacted by public drinking laws in the City of Yarra. It included Aboriginal perspectives, given their historic and contemporary links to public spaces in the area.</p> <p>Yarra Council updated its regulation of public drinking by implementing the Consumption of Liquor in Public Places Local Law 2019. It replaced Local Law 8 that had operated for the previous 10 years, limiting the consumption of liquor in public places. Previous evaluations of this law found that Aboriginal people were the most impacted and experienced ‘adverse social, cultural, legal, economic, and health impacts as a result of the law’.</p> <p>These trends remained consistent despite the change in the Yarra local laws. Aboriginal people reported feeling ‘unfairly targeted by the public drinking law’ and thought that ‘the law was undesirable’ with little to no deterrent impact on public drinking practices.</p> <p>Drug and Alcohol Review¹²</p> <p>In 2021, a review examined Victorian local governments’ drug and alcohol prevention initiatives, including their involvement in planning, inspecting premises, and monitoring alcohol use. Under the <i>Local Government Act 1989</i>, local governments were permitted to regulate local licensed premises planning and designate alcohol-free areas. The review found</p>

⁹ Local Government Victoria, 'Review of Local Government Recommendations from the Royal Commission into Aboriginal Deaths in Custody, 2024'.

¹⁰ Rachel Eddie, 'Public Drinking Could be Allowed in Melbourne’s Inner-North', *The Age* (online, 15 July 2021) <<https://www.theage.com.au/politics/victoria/public-drinking-could-be-allowed-in-melbourne-s-inner-north-20210714-p589iu.html>>.

¹¹ Anthony Barnett et al, Turning Point, *Exploring the Experiences and Needs of People Who Drink in Public Places in the City of Yarra* (Report, February 2021) 3-4 ('Exploring the Experiences and Needs of People Who Drink in Public Places in the City of Yarra').

¹² Bernadette Ward et al, 'Drug and Alcohol Review: Understanding Local Government Responses to Alcohol-Related Harm' (2021) 40 *Australasian Professional Society on Alcohol and Other Drugs* 761 ('Drug and Alcohol Review: Understanding Local Government Responses to Alcohol-Related Harm').

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that Melbourne local governments primarily enforced dry areas to address crime and community safety concerns.

The park was right in front of the local police station, so people were constantly being brought down, kind of to intervene with people who had been drinking to excess. Which is why they brought in the dry zones. But it's predominantly focused on community safety.¹³

Updated in 2021¹⁴:

Melbourne council local drinking laws

Where can you legally drink in public?

Council	Alcohol bylaw
Moreland	Drinking allowed on weekends and public holidays in local parks and reserves from 11am - 6pm standard time, 11am - 10pm daylight savings time. Otherwise banned.
Port Phillip	Drinking is allowed in parks and reserves between midday and 8pm, but it is banned on the foreshore from November 1 to March 31. Alcohol is also banned at all times on footpaths, or anywhere in the municipality around New Years Eve and other major holidays and events.
Maribyrnong	Drinking is allowed everywhere except for Footscray CBD.
City of Melbourne	Public drinking banned in CBD 24 hours a day, 365 days a week, except in designated public parks.
Moonee Valley	Alcohol banned in zones from 9pm-9am in Flemington, Ascot Vale, Moonee Ponds, Essendon, Airport West, Keilor East and Strathmore.
Darebin	Alcohol banned in two zones: Preston and Reservoir shopping precincts.

Related recommendations

2005 Review¹⁵

Recommendation 56

That Victoria Police and the Department of Justice (Liquor Licensing Victoria):

- (a) report on the impact on Aboriginal people in enforcing local restrictions on alcohol, and
- (b) provide a report to the Aboriginal Justice Forum on (a).

That the Victorian Government report on implementation and monitor Recommendation 82 through any monitoring process established as a consequence of this Review.

Assessment summary¹⁶

The intent of Recommendation 82 is to monitor laws restricting alcohol consumption and their effects on rates of custody and other outcomes. When asked about action relevant to this recommendation, Victorian Government departments noted:

¹³ Ibid.

¹⁴ Eddie, 'Public Drinking Could be Allowed in Melbourne's Inner-North'.

¹⁵ 2005 Review, 466.

¹⁶ Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 10 October 2024) ('Working Group Meeting (10 October 2024)'). Meeting with Aboriginal Justice Caucus (Project Team, In Person, 11 December 2024) ('AJC Meeting (11 December 2024)').

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- The late-night liquor licence freeze introduced in 2008 for areas in Melbourne, Stonnington, Yarra and Port Phillip ended in 2023. New guidelines for granting late-night licences in inner Melbourne require the Victorian Liquor Commission to consider placing conditions on licences to minimise harm arising from late night alcohol consumption. Affected areas will be closely monitored for increased harms, anti-social behaviour, assaults & disorderly conduct.
- Councils can make local laws under the *Local Government Act 2020* about when and where alcohol can be consumed in public. Local laws must be consistent with other legislation.
- Several councils have local laws that restrict the consumption of alcohol in designated public places; however, Local Government Victoria does not collate or monitor these laws or their impacts.

Some evidence was found of ‘once-off’ evaluations of restrictions on alcohol consumption, such as Local Law 8 in the City of Yarra and its impact on overall social harm. However, we could not find evidence of local governments regularly reviewing the local laws they establish or monitoring their effects in an ongoing way. When the Victorian Government considered remaking relevant laws or regulations, sometimes the associated impact statements included consideration of social harms but there was no monitoring of their effects on rates of Aboriginal or other people in custody.

Actions taken do not align with the intent of Recommendation 82 as there is not close or ongoing monitoring of laws restricting the consumption of alcohol or their impacts on vulnerable cohorts.

They haven’t had ongoing monitoring of the restrictions on alcohol consumption in any way shape or form.
(Chris Harrison, Co-chairperson, AJC)

The Turning Point Exploring the Experiences and Needs of People Who Drink in Public Places in the City of Yarra Report (2021), indicated that the Consumption of Liquor in Public Places Local Law 2019 that replaced Local Law 8 continued to have disproportionate impacts on Aboriginal people. Consultations made clear that Aboriginal people in the area felt the blanket ban on drinking was ‘inherently prejudicial’. They felt unfairly targeted by the public drinking law and that it had little to no impact on their public drinking practices.

All councils should deal with alcohol as a health issue . . . councils should not police public drinking at any time of day. (Victorian Aboriginal Legal Service)

Parts of Recommendation 82 relating to dry area declarations are no longer relevant to Victoria as ‘dry areas’ were abolished when the *Liquor Control Reform Amendment Act 2021* came into effect in December 2021.

Assessment of Recommendation 82

Is the intent of the recommendation accurately described?

Yes No

Does the action taken align with the intent of the recommendation?

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

0

(Score out of 3)

Is there evidence of the desired impact or outcome/s?

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

0

(Score out of 3)

How relevant is the recommendation in the current context?

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

2

(Score out of 3)

Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

1

(Score out of 3)

Potential actions for further work

Ongoing monitoring of local restrictions on alcohol consumption including impacts on vulnerable groups.

Moderate priority for further work

Relevance and potential impact

		Low (0-2)	Moderate (3-4)	High (5-6)
Extent of action taken and evidence of outcomes	High (5-6)			
	Moderate (3-4)			
	Low (0-2)		Rec 82	

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