



## Royal Commission into Aboriginal Deaths in Custody Recommendation

### 83. Local agreements on public consumption of alcohol

That

- a) The Northern Territory Government consider giving a public indication that it will review the two kilometre law at the end of a period of one year in the expectation that all relevant organisations, both Aboriginal and non-Aboriginal, will negotiate as to appropriate local agreements relating to the consumption of alcohol in public that will meet the reasonable expectations of both Aboriginal and non-Aboriginal people associated with particular localities; and
- b) Other Governments give consideration to taking similar action in respect of laws operating within their jurisdictions designed to deal with the public consumption of alcohol.<sup>1</sup>

<b>Background<sup>2</sup></b>	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) highlighted the need to closely monitor the impacts of decriminalising and regulating public drinking to prevent increased detentions or discrimination against Aboriginal people. It recommended that the Northern Territory Government review the two-kilometre law after one year and urged other governments to address public alcohol consumption laws through locally negotiated agreements involving both Aboriginal and non-Aboriginal communities.
<b>Intent</b>	Negotiate and review local agreements relating to public consumption of alcohol with Aboriginal and non-Aboriginal organisations to ensure they meet local needs.
<b>Responsibility</b>	All state and territory governments.
<b>Key contacts</b>	Department of Justice and Community Safety; Local Government Victoria, Department of Government Services.
<b>Key action taken</b>	
<b>2005 Review<sup>3</sup></b>	The Department of Human Services and Department of Justice assessed Recommendation 83, stating that part a) was not relevant to Victoria and part b) was <b>partially implemented</b> .  <b>Department of Human Services</b> Drugs Policy and Services advised that seven Koori Community Alcohol and Drug Resource Centres were set up across Victoria to serve the Aboriginal community. The existing model of service provision was under review.

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

<sup>2</sup> Ibid vol 3, 25-27 [21.1.77].

<sup>3</sup> 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, 381-4, 446 ('2005 Review').

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### Department of Justice

In 2000, the Victorian Government commissioned the Scrutiny of Acts and Regulations Committee (SARC) to review the *Summary Offences Act 1966* (Vic) and the *Vagrancy Act 1966* (Vic). Both Acts, in part, dealt with issues concerning behaviour in public spaces. The Government provided in principle support to SARC's recommendation to modernise provisions relating to obscene, indecent, threatening language and behaviour in public.

The 2001 report from the Drugs and Crime Prevention Committee Inquiry into Public Drunkenness suggested RCIADIC recommendations 79-84 be implemented.

### Review Team

The Review Team agreed that part a) of Recommendation 83 about the Northern Territory's two-kilometre law was not relevant to Victoria.

### 2018 Review<sup>4</sup>

### Victorian Government

Deloitte concluded that Recommendation 83 was **partially implemented** in Victoria. Although no formal review or consultation processes had been established, Victoria Police had engaged with local governments and Aboriginal representatives on liquor laws and public consumption of alcohol. Other relevant initiatives included:

- Coordination between Koori Community Alcohol and Drug Resource Service networks and Aboriginal Community Controlled Health Organisations.
- Alcohol-free events under the Alcohol and Other Drug Strategy 2012–20
- A 2013 roundtable with the Aboriginal Justice Forum, Aboriginal health services, and alcohol and other drug services to address public intoxication from alcohol misuse

The Victorian Government had not implemented a statewide process for reviewing liquor laws or for consulting Aboriginal communities.

### Since then

### Local Government Victoria<sup>5</sup>

Local Government Victoria (LGV) does not have direct responsibility for implementing this action but are supportive of the Department of Justice and Community Safety and Victoria Police actively engaging with councils on this recommendation. LGV is available to support lead agencies to engage with councils and share and disseminate information as required.

Provisions in the *Local Government Act 1989* (Vic) that enabled the Victorian Electoral Commission to conduct a poll of voters in relation to 'dry zones' have been repealed. Councils have retained the ability to make local laws under the *Local Government Act 2020* (Vic). Local laws must be consistent with other legislation and can only prescribe penalties not exceeding 20 penalty units for a contravention. Anecdotally, LGV is aware that several councils have local laws that restrict the consumption of alcohol in designated public places.

<sup>4</sup> 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) 166-7 ('2018 Review').

<sup>5</sup> Local Government Victoria, *Review of Local Government Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (UNPUBLISHED, 23 September 2024) ('Review of Local Government Recommendations from the Royal Commission into Aboriginal Deaths in Custody').

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### Evidence of impact

<b>Authorising documents</b>	None identified.
<b>Outputs</b>	A 2013 roundtable with representatives from the Aboriginal Justice Forum, Aboriginal health services, and alcohol and other drug services to develop responses to public intoxication arising from alcohol misuse.
<b>Outcomes</b>	<b>Exploring the Experiences and Needs of People Who Drink in Public Places in City of Yarra<sup>6</sup></b> This 2021 Turning Point report identified three independent reviews of Local Law 8 between 2010 and 2014. There were consistent findings that Local Law 8 had not reduced alcohol-related harm, and Aboriginal people experienced the most cultural, legal, and economic impacts because of the law.
<b>Community views</b>	More than 250 community members responded to community consultations led by the Yarra Council in June and July 2019. While the Turning Point report did not specify the number of Aboriginal participants in these consultations, formal submissions highlighted the disproportionate impact the law had on Aboriginal people.

### Related recommendations

	None identified.
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### Assessment summary<sup>7</sup>

The intent of Recommendation 83 was to negotiate and review local agreements relating to public consumption of alcohol with Aboriginal and non-Aboriginal organisations to ensure they meet local needs.

We are concerned that restrictions on drinking alcohol in public are often implemented by councils as a knee-jerk response to commercial concerns without any engagement with local Aboriginal communities.

*It's only when it [people's consumption of alcohol in public] becomes a nuisance to businesses that councils will make special laws that they bring in very quickly to ban anyone drinking in parks and public areas. Aboriginal people aren't consulted. (Bobby Nicholls, Chairperson, Hume RAJAC)*

There aren't any processes in place for involving Aboriginal organisations and groups in negotiating local agreements relating to the consumption of alcohol in public.

Only part of Recommendation 83 applies in the Victorian context. Further implementation, through greater Aboriginal engagement in local discussions about consumption of alcohol in public, could contribute to improving Aboriginal justice outcomes. Recommendation 84 covers similar issues, and we considered it a higher priority for implementation than this one.

<sup>6</sup> 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) ('Exploring the Experiences and Needs of People Who Drink in Public Places in the City of Yarra').

<sup>7</sup> 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)').

## Assessment of Recommendation 83

**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

1.5

(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

Refer to actions identified for Recommendation 84.

## Low 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 83		

## **Bibliography**

Meeting with Aboriginal Justice Caucus (Project Team, In Person, 11 December 2024)

Meeting with Aboriginal Justice Caucus Working Group (Project Team, Online, 10 October 2024)

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)

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*Royal Commission into Aboriginal Deaths in Custody* (Final Report, 1991)