



LIQUOR STORES ASSOCIATION NEW SOUTH WALES



SUBMISSION

By the Liquor Stores Association NSW

To: NSW Office of Liquor, Gaming & Racing (OLGR)

In response to: Review of the 10pm take-away liquor sales restriction (Stage 1)

Date: August 2015

August 2015

Dr Gavin Faunce
Manager, Monitoring & Evaluation
NSW Office of Liquor, Gaming & Racing
Level 6, 323 Castlereagh Street
SYDNEY, NSW 2000

**LSA NSW SUBMISSION:
REVIEW OF THE 10PM TAKE-AWAY LIQUOR SALES RESTRICTION (STAGE 1)**

Dear Dr Faunce,

On behalf of the Liquor Stores Association NSW (LSA NSW), we welcome the opportunity to provide a submission to the NSW Office of Liquor, Gaming & Racing (OLGR) *Review of the 10pm take-away liquor sales restriction*, which was announced by the O'Farrell Government in January 2014, and introduced from February 2014.

LSA NSW understands that the review is in line with the Government's response to the *'Statutory review of the Liquor Act 2007'*, and will be conducted in two stages, with Stage 1 focusing on the impacts in regional NSW, and Stage 2, commencing from February 2016 to consider impacts of the restriction on Sydney metropolitan areas.

Following a face-to-face meeting with yourself and Mr Luke Ryan on Friday 14th August 2015, where the review was discussed and LSA NSW provided verbal feedback, we have prepared our written submission for Government's careful consideration.

On behalf of the Association and its members, we thank Government for their commitment to undertake a thorough review of this regulatory restriction.

LSA NSW would be happy to provide any further information to support this submission.

Yours sincerely,



Michael Waters
Executive Director

KEY CONSIDERATIONS

1. NSW LIQUOR ACT 2007 REVIEW

The five year statutory review of the NSW Liquor Act 2007 (the Act) was undertaken by former OLGR Commissioner Michael Foggo, with the report tabled in Parliament in November 2013.

The review was assisted by over 100 submissions from the community, Government agencies, local councils, industry and the health sector, with most submissions supporting the strategic framework introduced by the Act.

The review supported continued regulation of the sale, supply and consumption of alcohol to reduce and minimise harm that is associated with its consumption, whilst also recognising that alcohol is widely enjoyed within society, can be consumed in a responsible manner, and the liquor and associated industries make a significant contribution to the social and economic fabric of NSW.

The review made a significant number of recommendations relating to the terms of the Act that would assist in better achieving statutory objectives, including:

Recommendation 35: *The current standard trading hours for packaged licences should remain unchanged.*

Discussions held between LSA NSW and the Minister's office in the lead up to the 2013-14 festive trading period gave the industry reason to believe that the report would be 'the blue-print' for future alcohol policy, and on the 30th December 2013 Minister Souris issued a media release, reaffirming:

"Government's commitment to tailored solutions to address specific alcohol-related problems in local communities which have achieved significant success in reducing violence.

"The recent independent review of the liquor laws which advocates tailored solutions as opposed to a 'one size fits all' response. The Government continues to consider the 91 recommendations of the liquor law review by independent reviewer Michael Foggo and will respond in the next few months.

"The Government supports to use of these powers on a case by case basis to address specific alcohol problems caused by irresponsible venues and not blanket measures that punish responsible licensees and patrons. Other local communities have achieved significant reductions in alcohol-related violence using tailored measures – not by adopting the Newcastle model".

Despite the recommendation, less than a month later Premier O'Farrell (in what could best be described as a knee-jerk reaction) announced that Government would introduce a comprehensive package of key regulatory measures to 'make our streets safer', including a new 'State-wide 10pm closing time for bottle shops and liquor stores', to commence from late February 2014.

Despite all the Government had said previously, this WAS A 'ONE SIZE FITS ALL' approach, WAS A 'BLANKET MEASURE', and DID PUNISH RESPONSIBLE LICENSEES AND PATRONS. Furthermore, introducing a number of measures at the same time makes it near impossible to determine which specific measure/s were more or less successful than others.

Government response to the Liquor Act Review:

In Government's response to the review, published in August 2014, the recommendation to maintain traditional trading hours for packaged liquor licences was not supported, however recognised that this restriction may have an impact on some businesses, customers and their communities.

Pleasingly the Government committed to review the impact of the State-wide 10pm closure restriction after it had been in place for 12 months (i.e. after February 2015), to ensure seasonal and other variables are properly considered.

2. AUSTRALIA'S CHANGING DRINKING HABITS

Alcohol is a legal product and has a legitimate place in society when consumed responsibly and in moderation. Reducing alcohol abuse and associated harm has been an ongoing commitment from industry and governments through education and enforcement strategies.

In January 2015, the Australian Liquor Stores Association (ALSA) released a report called [*Australia's Changing Drinking Habits: the facts about Australia's alcohol usage*](#), which analysed official government figures to uncover the following facts about Australia's alcohol consumption:

1. Alcohol consumption has declined by 25% since the 1970s

In 1974-75 Australians consumed the equivalent of 13.1 litres per person. This has fallen considerably since the early 80s, decreasing to 9.7 litres in the most recent report year 2013-14¹.

2. More teenagers under legal drinking age are abstaining from drinking alcohol

Over the past six years there has been a significant increase in abstention amongst Australia's youth, with the total proportion of young people abstaining rising from 56% in 2007 to 72% in 2013.

3. Alcohol related violence is decreasing

Encouragingly alcohol-related assaults in NSW have decreased by 33% in the last six years.

4. Australians support targeted measures rather than whole of population control measures to curb alcohol abuse

Population wide measures to reduce alcohol related problems receive the lowest level of community support with only 28% favouring an increase in the price of alcohol, compared to targeted measures which are strongly supported such as greater enforcement of penalties for drink drivers (85%), enforcement against supplying minors (84%) and enforcement against serving intoxicated customers (82%).

5. An increase in packaged liquor licences has not led to an increase in alcohol consumption

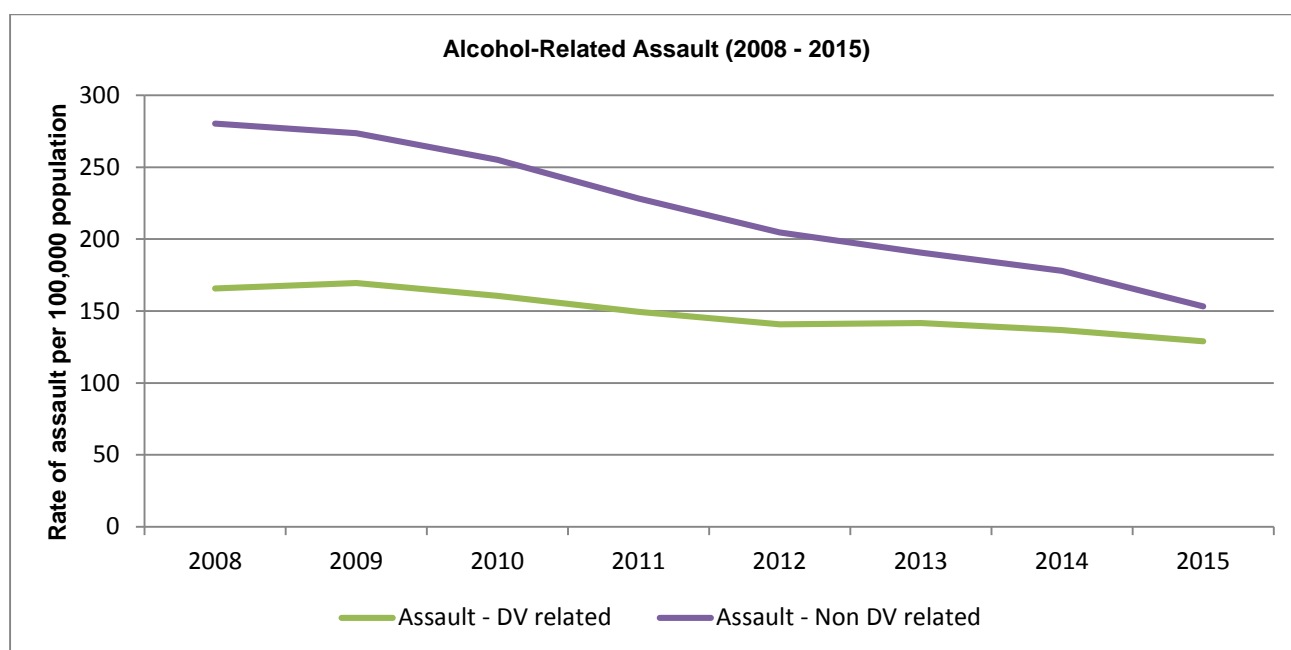
Alcohol consumption per capita has declined over the same period that packaged liquor licences have been increasing (refer to graph on page 7). What this means is that consumption is falling at a time of significantly greater footprint of liquor store outlets in Australia.

¹ Source ABS: *Apparent Consumption of Alcohol, 2013-14* (released 06 May 2015)

3. ALCOHOL-RELATED VIOLENCE

Common social misconception is that alcohol-fuelled violence and assault are on the increase. In fact the opposite is true with declines in both areas trending down substantially over the past six years and while any alcohol-related violence is unacceptable, it's encouraging that alcohol-related incidents in NSW have decreased by 33% (March 2009 – March 2015).

The [NSW Bureau of Crime Statistics and Research \(BOCSAR\)](#) collects robust data to measure the crime statistics of alcohol-related domestic and non-domestic assaults.



²

Since March 2009, there has been a 41% fall in alcohol-related public (non-domestic) assaults along with a 20% fall in alcohol-related domestic assaults.

What Government was saying just prior to the introduction of the State-wide 10pm restriction – excerpt of the media release issued by Minister Souris on the 30th December 2013:

“Of the 770 approvals in 2013, which has been highlighted by the media, 649 licences were for either ‘on premises’ (470) or bottle shops (179). Between 2008 and 2012 there has been significant reductions in violent incidents on licensed premises (-28%); alcohol-related assaults on police (-35%); alcohol-related domestic assaults (-12%); alcohol-related non-domestic assaults (-28%); and hospital emergency department attendance rates for acute alcohol problems (-9%).”

The most recent BOCSAR statistics, released in June 2015 reported that for the period March 2014 to March 2015 (i.e. one year since the State-wide 10pm take-away sales restriction commenced), non-domestic and domestic assaults continued their downward trend at -14% and -5.6% respectively, which actually closely align with the six year trends.

² Source: Bureau of Crime Statistics & Research

Given the fact that the rate of alcohol-related assault across NSW has been in consistent decline for the past six years, LSA NSW questions the need for the introduction of the State-wide 10pm measure in the first place.

Of real concern however is that non-alcohol related domestic assault continues to increase at +5.4% per year, and that the number of arrests for amphetamine-related offences, including methamphetamine or 'ice' (+40.1%) in the two year period until March 2015. Significant increases were also recorded in cocaine possession/use (+45.3%), narcotics possession/use (+17.7%) and cannabis possession/use (+14.5%).

LSA NSW wants to see Government investing more resources on these issues, rather than add further regulation and restrictions on licensees, and inconvenience the majority of people who consume alcohol responsibly. Our members are concerned, as growing illicit drug use often brings with it the need for quick cash or secondary items such as alcohol or cigarettes and our stores provide access to all three, placing staff in harms' way as they deal with desperate drug addicts.

4. MARKET OVERVIEW

NSW Packaged Liquor Sector:

The NSW retail packaged liquor sector turns over in excess of \$7 billion, generates employment of over 17,000 people, and generates indirect taxes of around \$2 billion.

The sector comprises retailers of independently owned and operated liquor stores, licensed general stores and/or supermarkets (operating under their own brand or banner groups such as Cellarbrations, Little Bottler, Liquor Stax, Liquor Legends, Local Liquor and more), corporate chain owned and operated liquor stores (BWS, Dan Murphy's, Liquorland, Vintage Cellars, First Choice and ALDI Stores), as well as online-only liquor retailers.

It is a vibrant, diverse and competitive market whose members operate in a professional, responsible and sustainable manner, mindful of the communities they serve. Retailers in this industry sell alcohol products for consumption away from the licensed premises primarily in the safety and comfort of their own homes or in a friend's home.

There are currently over 2,450 packaged liquor licences in NSW. Recent regulatory changes have led to an increase in the total number of packaged liquor licences of over 45% since 2008.

Packaged liquor licences with a 'no walk-up sales' condition (i.e. online-only liquor retailers) has been most significant contributor to this growth, increasing from just six in 2008 to now representing over 16% of the total number of packaged liquor licences in NSW.

Breakdown of NSW Packaged Liquor Licences (by type, approximate):

Region	Independent Retailer	Chain Retailer	Online-only Retailer	Total
Regional NSW	630	300	70	1000 (40%)
Sydney Metro	620	500	330	1450 (60%)
Total	1,250 (51%)	800 (33%)	400 (16%)	2,450 (100%)

Note – the Sydney Metro area includes the local government areas (LGA) of Blue Mountains, Wollondilly, Gosford, Wyong, Newcastle, Lake Macquarie and Wollongong.

Convenience:

Liquor stores in local shopping strips or near supermarkets provide ‘one-stop shopping convenience’ as many customers wish to purchase alcohol whilst doing their milk, bread, newspaper or grocery shopping.

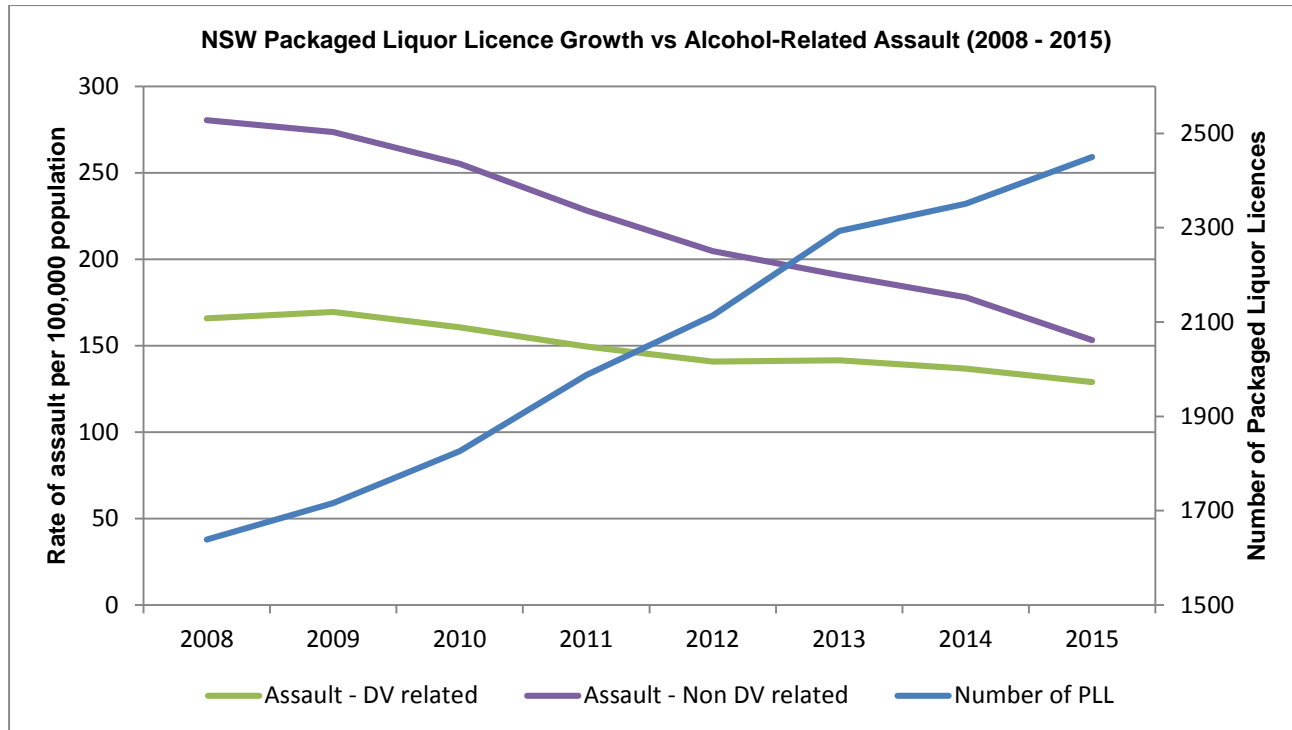
The convenience factor is of paramount importance to many people balancing busy lifestyles. Restaurant strips have a large number of BYO restaurants where their customers are able to purchase from conveniently located bottle shops.

Industry performance and outlook:

Declining per capita alcohol consumption, rising health awareness and competitive pressures have weighed heavily on the packaged liquor sector in recent years. The major driver of industry growth over this period has been the increasing customer demand for higher value, premium beverages, and this remains the focus across the industry.

As consumption continues to decline, manufacturers embrace premiumisation as a method for maintaining profitability, while consumers are drinking less in terms of quantity, but of a better perceived quality. This has led to a rise in demand for craft beer, cider, and super premium spirits.

Contrary to many opinions, there is no correlation in the increased amount of liquor licences and alcohol-related violence incidents. At the same time as violence, assault rates and consumption has been falling, there has been a significant increase in the total number of liquor licences in NSW.



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³ Source: NSW Bureau of Crime Statistics & Research, and the NSW Office of Liquor, Gaming & Racing

5. STAKEHOLDER INSIGHT & FEEDBACK

To assist in the preparation of our submission, to ensure the response to Government was accurate, evidence-based, and representative of the views of our members and stakeholders, LSA NSW has engaged extensively with the NSW retail liquor sector. Key insights and feedback are as follows:

Regional NSW:

- Prior to the introduction of the restriction, the vast majority of liquor stores in regional NSW did not regularly trade beyond 10:00pm – some never traded beyond 10:00pm, others would trade beyond 10:00pm on a case-by-case basis;
- Liquor stores in regional NSW trading beyond 10:00pm on a case-by-case basis did so predominantly during specific occasions, including trading periods of higher customer / community demand (Christmas/New Year, Easter or other holiday periods), or occasions applicable to their local community (e.g. local show, local footy finals, special events, etc);
- Without exception, every stakeholder in regional NSW communicated their support to maintain the right for liquor stores to be able to trade beyond 10:00pm, whether their business did so on an ad-hoc, regular basis, or never;
- Liquor stores in regional NSW that were trading beyond 10:00pm on a case-by-case basis, have missed out on this traditional income, and the opportunity to service their community during key periods of increased demand, as they had done for many years.

Example 1 – Liquor Store on the Mid-South Coast:

- *Traded beyond 10pm only during key periods (School Holidays) until 11pm*
- *Customers included tourists to the area, as well as local residents and shift workers within the community*
- *Since 10pm closure, sales turnover during key periods was down by 12% (\$15,000)*

Example 2 – Liquor Store on the NSW/VIC border:

- *Typically would trade most Friday & Saturday nights until 11pm*
- *Regular customers included local residents and shift workers within the community*
- *Since 10pm closure, sales turnover is down an average of 6% (\$1,000 per week)*
- *Store is situated close to NSW/VIC border, and has lost business to licensed outlets over the border in VIC*

Example 3 – Liquor Store in the Blue Mountains:

- *Traded beyond 10pm one day of the year (Christmas Eve) until 11pm or later on demand;*
- *Customers included local residents and tourists / holiday-makers;*
- *Since 10pm closure, sales turnover was down by over \$1,000 on Christmas Eve 2014.*

Other adverse impacts of the State-wide 10:00pm take-away sales restriction:

- Increases in customer confusion, frustration, aggression and intimidation toward staff, and reported increases in theft (grab & run), and an increased risk and exposure to staff workplace health & safety (WHS) issues;

- Decrease in service and convenience for consumers;
- Forced reduction in staffing (i.e. unemployment) and labour hours (i.e. take-home pay) due to reduction in trading hours;
- Additional and unforeseen trading restrictions (e.g. some stores are having to close earlier (9:45pm), to avoid resultant in-store issues with customers who are not able to have the necessary time to browse, ask questions and make a considered purchase prior to 10:00pm;
- The common sale beyond 10:00pm is a 4 or 6-pack of beer or ready-to-drink spirits, or a bottle of wine, where gross margin is typically higher (i.e. more profitable) as opposed to a case of beer or ready-to-drink spirits;
- Unnecessary loss of business to cross-border towns (NSW-ACT, NSW-VIC), as well as the increased risk of encouraging consumers to drive from NSW to another State / Territory to make a purchase after 10:00pm;
- Reported instances of situations whereby liquor store customers, initially seeking/intending to make a take-away alcohol purchase to return home to consume, have no other alternative but to go to an on premise environment;

Online-only packaged liquor retailers:

Almost all of the 400 or so online-only packaged liquor retailers operating in NSW do not have a need to trade and fulfil the sale or transaction (i.e. delivery) beyond 10:00pm.

However in recent years we have seen an emergence of a small, but growing number of online-only packaged liquor retailers who have found a niche market, and successfully built a business model around an online alcohol delivery service (e.g. Jimmy Brings), primarily servicing consumers within the Sydney CBD and city fringe areas as they are heavily populated LGA's with a high proportion of resident and tourist accommodation, and are significantly more reliant on the night-time economy, tourism and BYO restaurant entertainment than other LGA's.

As stage 1 of the review considers regional NSW, LSA NSW will provide specific policy recommendations for online-only packaged liquor retailers as part of our submission for stage 2.

6. POLICY RECOMMENDATIONS

LSA NSW supports Government interventions, particularly where those interventions are evidence-based and proven to have real impact on reducing harms from misuse of alcohol, not simply placing more economic pressure on retailers through the regulatory environment.

Again, the NSW Liquor Act 2007 review report recommended that '*current standard trading hours for packaged licences should remain unchanged*' and that this report was to effectively be 'the blueprint' for future alcohol policy.

Given the rate of alcohol-related assault across NSW has been in consistent decline for the past six years, at the same time packaged liquor licence numbers have increased, LSA NSW does question why the State-wide 10pm take-away sales restriction was introduced in the first place.

This measure was the only 'one-size fits all' blanket measure blended into a suite of other regulatory measures introduced to specifically address alcohol-related issues in the Sydney CBD and Kings Cross trading precincts.

LSA NSW does appreciate that that the vast majority of packaged liquor retailers across NSW do not regularly trade beyond 10:00pm, however those that did have been adversely impacted – some significantly, particularly in the Sydney CBD and city fringe trading precincts, and unfortunately are now on the verge of business failure.

If Government were to decide against the reversal of the State-wide 10:00pm take-away sales restriction, LSA NSW would strongly encourage Government's adoption of a common-sense approach, with consideration given to the following recommendations.

Recommendation 1: Automatic provision for all take-away packaged liquor licences in regional NSW to be entitled to up to twelve (12) extended trading occasions (until 12:00am) per year for take-away alcohol sales:

- (a) Under this provision, licensees would pre-determine / nominate (by means of written notification to the Regulator, as well as to local Police and other community stakeholders) which specific occasion/s they wished to apply the extended trading;
- (b) There should be no fee under this provisional arrangement, however should Government determine a fee must apply, then it should be minimal;
- (c) The existence of this provision supports those individual businesses who typically sold take-away alcohol beyond 10:00pm (prior to the restriction), whether this be for just one night, or more occasions, depending on their specific local community needs or requirements;
- (d) The existence of such a provision would not impact those individual licensees who had never traded beyond 10:00pm for take-away alcohol sales.

Recommendation 2: Provision for all take-away packaged liquor licences in regional NSW to be entitled to an exemption to trade beyond 10:00pm, on application, where there was a demonstrated need for more than twelve (12) occasions per year:

- (a) Under this provision, licensees with a need to trade beyond 10:00pm more than twelve (12) occasions per year would be able to apply for an exemption for additional extended trading days;
- (b) An application fee would be applicable under this provisional exemption process;
- (c) The existence of this provision supports those individual businesses who would typically have a need to sell take-away alcohol beyond 10:00pm on more than twelve (12) occasions per year, whether this be for one additional night, or more, depending on their specific local community needs or requirements;
- (d) The existence of such a provision would not impact those individual licensees who had never traded beyond 10:00pm for take-away alcohol sales.

Individual & social responsibility:

LSA NSW believes that measures to address individual responsibility in the context of alcohol consumption generally fall broadly under the two following areas:

- *Require* individuals through regulation, sanctions and policing of existing legislation to take personal responsibility for their behaviour when consuming alcohol or supplying liquor to others, and also while on or in the vicinity of licensed premises and in public places; and
- *Promote and encourage* individuals and communities to take responsibility for alcohol consumption and behave in socially appropriate ways – achieved through education, harm minimisation and treatment initiatives, aimed at intervening early to avoid problematic drinking and associated violence as well as to prevent the recurrence of these behaviours;

It is proposed that the focus of individual and social responsibility be on the '*promote and encourage*' area of focus above, in line with the following objectives:

- To consider and develop strategies that increase individuals' awareness of their obligations under the law and legal, social and other ramifications of non-compliance;
- To reduce anti-social behaviour and alcohol-related violence by developing strategies that educate and encourage individuals to be accountable for their behaviour and actions.