



8 April 2020

Mr Ross Kennedy  
Chairperson, Victorian Commission for Gambling and Liquor Regulation  
Level 3, 12 Shelley Street,  
RICHMOND VIC 3121

Dear Mr Kennedy

## **REGULATORY IMPACT STATEMENT FOR DESIGNATED AREA ORDERS 2020**

I would like to thank the staff at the Victorian Commission for Gambling and Liquor Regulation (the Commission) for working with my team on the preparation of the Regulatory Impact Statement (RIS) for five proposed Designated Area Orders 2020 (the Orders), replacing existing Orders. These Orders are proposed to be made under the *Liquor Control Reform Act 1998* (the Act).

As you know, under section 10 of the *Subordinate Legislation Act 1994* (the SLA), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 24 March 2020 meets the adequacy requirements of the SLA.

### **Background**

Under section 147 of the Act, the Commission may declare an area to be a designated area if it believes that alcohol-related violence or disorder has occurred in the vicinity of licensed premises and that the powers under the Order are likely to be an effective means of reducing or preventing its occurrence. The Commission must consult with the Chief Commissioner of Victoria Police before declaring an area.

Once an area has been declared to be a designated area, police officers may issue a notice banning a person from the area, or from all licensed premises in the area, for up to 72 hours if they suspect the person has committed a specified offence. In addition, the court may make an order to exclude a person who has committed a specified offence from a designated area for up to twelve months.

Since 2011, RISs are required to be prepared for legislative instruments, such as Orders, unless they are exempt. The Subordinate Legislation (Legislative Instruments) Regulations 2011 exempt Orders made for less than 12 months duration. Of the 20 designated areas in Victoria, 5 were declared since 2011. It has been the practice of the Commission to make Orders for less than 12 months and then to remake them on an annual basis. This negatively affects the long-term certainty for local policing policy in the relevant areas and is administratively burdensome for both the Commission and for Victoria Police.

The 5 Orders considered in this RIS apply to the Central Business Districts (CBDs) of Mildura, Footscray, Colac, Mornington and Sunshine.

### **Analysis**

The analysis notes that the power to declare areas sits within the Act, as does the requirement that the Commission must exercise its powers “with due regard to harm minimisation and the risks associated with the misuse and abuse of alcohol”. The RIS argues that due to the high level of harms associated with misuse and abuse of alcohol, and the geographical concentration of these harms, that declaring areas is an important policy mechanism available to the Commission. Analysis of crime statistics in the RIS suggest that Orders lower the amount of assault and related offences relative to if no Order had been made.

The RIS also notes that restricting movement has human rights implications, however that these have been considered in the making of the Act, and that these are balanced by annual reporting. The geographical design of Orders reflect consultation with Victoria Police, who operationalise the powers under the Orders.

Therefore, in practice, the key decision to be made with regards to the Orders is the length that the Orders will be made for. In making this decision, the RIS examines qualitatively the additional certainty of making Orders for a longer period of time, as well as the reduced administrative burden on the Commission and on Victoria Police. There is a risk that Orders could remain in place when no longer required. However, the Commission has committed to continuing to monitor the situation in designated areas and retains the ability to revoke Orders at any time if the grounds for their making no longer exist. These measures mitigate the risk that Orders will remain in place when no longer required.

### **Preferred option, Implementation and Evaluation**

Based on the analysis presented, the preferred option is to remake the existing 5 Orders covering the CBDs of Mildura, Footscray, Colac, Mornington and Sunshine for a period of ten years.

The Commission has committed to continuing existing monitoring programs, including monitoring crime statistics and continuing to work with Victoria Police on a joint enforcement strategy.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 9092 5800.

Yours sincerely



**Anna Cronin**  
Commissioner for Better Regulation  
Red Tape Commissioner