

Government's response to the review of the *Liquor Control Act 1988*

In 2012 the Government established an independent committee to undertake a review of the *Liquor Control Act 1988*. The Minister subsequently appointed Mr John Atkins (chair), Ms Nicole Roocke and Mr Ian Stanley to undertake the review.

The review, presented to the Minister in January 2014, contains 141 recommendations and was compiled following a significant consultation process. The review's Terms of Reference, consultation process and list of submissions can be found at www.rgl.wa.gov.au.

Following receipt of the report, the Minister undertook a further series of consultations with industry stakeholder groups. The Government's response has subsequently been developed and is contained within the attached table.

The table provides a clear and precise response to each of the Committee's recommendations. Responsibilities for identified actions and an indicative timetable for legislative reform are also provided. These actions fall into the following broad categories:

1. **Support** – *Legislation – 1st stage*

Issues that the Government intends to legislate for as a priority. These issues have strong cross-industry and community support.

2. **Support** – *Legislation – 2nd stage*

Issues that the Government intends to legislate for but have varying degrees of consequence for business, community and government and will require further refinement prior to being introduced as legislation.

3. **Support** – *Regulation*

Issues that require regulatory change. These items will be progressed following the normal regulatory process.

4. **Support in principle** – *Agency responsibility*

Government supports the recommendation, noting that primary responsibility for actioning is at agency level. Progress achieved against these recommendations will be monitored on an ongoing basis.

5. **Note Intent** – *Current provisions sufficient*

The Government acknowledges the intent of the recommendation, but considers that existing legislation or policy is sufficient.

6. **Note Intent** – *Further work required*

The principle of the recommendation is noted, but further work is required to support change.

7. **Note / Monitor**

Issues that the Government will continue to monitor and where relevant, note the information for use in determining future policy positions.

8. **Not supported**

Issues that the Government has no intent to pursue any further.

In addition, many industry groups have identified issues that were not necessarily considered or recommended by the Committee. The Government is committed to working with industry and community groups to address these issues in the second stage of legislative reform where deemed necessary.

The Government thanks the many organisations and individuals that contributed to the review. Your input has been vital and will provide a lasting legacy to liquor licensing regulation in Western Australia over many years.

The Government also thanks the members of review committee, together with their executive officer, Ms Donna Kennedy for their tireless work which has provided the Government with a well-researched, professional document that will act as a catalyst for significant policy reform in an extremely complex environment.

A handwritten signature in black ink, appearing to read 'Terry Waldron', written in a cursive style.

Hon Terry Waldron MLA
Minister for Racing and Gaming
18 November 2014

**GOVERNMENT RESPONSE
REVIEW OF LIQUOR CONTROL ACT**

Recommendation	Relates to...	Response	Comments	Action Required
ALCOHOL AND THE COMMUNITY				
Recommendation 1 The Minister implements ongoing extensive education campaigns targeting cultural change.	Education campaign	Note intent (further work required)	The Government supports the use of education campaigns to target cultural change. The Drug and Alcohol Office (DAO) is currently undertaking a desktop assessment of Government programs addressing alcohol. This review will inform future Government education campaigns. In addition, the Government has recently launched a program targeting cultural change in sporting clubs in relation to alcohol.	Monitor
Recommendation 2 Amend section 67 of the Act to introduce a requirement for applicants for high risk (Category A) licences to lodge a Community Impact Statement with an application.	High risk venues must produce Community Impact Statement in application	Note intent (further work required)	There is merit in introducing a Community Impact Statement where it reduces the level of red tape in the application process. An outcome that produces any duplication or unnecessary complication is not supported. See response to Recommendation 45.	Legislation 2 nd Stage
Recommendation 3 Amend section 38(4) of the Act to include the consideration of the outcome of community consultation conducted by way of a Community Impact Statement.	Changing the Act if CIS are introduced			
Recommendation 4 Amend section 73 and 74 of the Act to enable stakeholders to lodge either a submission or an objection. A submission can be in support of, or opposed, to an application and will not be required to be 'made out'.	Allowing "support" and "objection" submissions	Support	There is clear community support to be able to make a "submission". However, in introducing this initiative, it is important to acknowledge that decision-making can only remain evidence based.	Legislation 2 nd Stage
Recommendation 5 The licensing authority amend the Notice of Objection form to make it more user friendly. In particular a list of the grounds of objection should be included to make it easier for objectors to identify or nominate their ground of objection.	Making objection process more user friendly	Support in Principle	This form has been amended and updated to make it more user friendly.	Agency Responsibility
Recommendation 6 Amend section 74(4) of the Act to require the Director to serve all objections/submissions within 14 days of the last objection date.	Requires Director to serve objections / submissions rather than applicants	Support	It is acknowledged that this amendment will be implemented with the underlying principle that the Director must adhere to procedural fairness.	Legislation 2 nd Stage
Recommendation 7 Amend section 74(4) of the Act to require the Director to notify an applicant if an objection is struck out.		Support		Legislation 2 nd Stage

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 8 The licensing authority should implement an ongoing series of education sessions to assist community members in the procedure and the process for lodging and verifying an objection.	Community education on "objections" process	Support in Principle	Education sessions have been established and are being conducted across the State.	Agency Responsibility
Recommendation 9 The Act be amended to require that new licence applications must be advertised in the relevant local/community newspaper.	Advertising applications	Not Supported	The Government believes existing practices are sufficient with discretion on advertising requirements best left with the Director to determine.	None
Recommendation 10 The licensing authority review the onsite advertising requirements to ensure they are adequate and clearly visible to passers-by.	Advertising applications	Support in Principle	The requirements have been reviewed and deemed adequate.	Agency Responsibility
Recommendation 11 Amend section 65B of the Act to enable regulations to be made to prohibit or restrict:- a) promotional activity which is likely to impact on children; and b) activities such as promotions or discounting that could encourage the irresponsible consumption of liquor or is otherwise not in the public interest.	Restrict advertising that affects children	Note intent (current provisions sufficient)	Support principle but advertising regulation sits appropriately within Federal Government responsibilities. The Federal Department of Health (via now defunct ANPHA) recently conducted a review of current co-regulatory system and have made a number of recommendations.	None
Recommendation 12 Members of the Australian Liquor Licensing Authority Conference (ALLAC) should work towards developing and implementing consistent legislation across all jurisdictions which can prohibit the inappropriate advertising of liquor.		Note	This is a matter for ALLAC to address.	Agency Responsibility
Recommendation 13 Amend regulation 14AD to introduce a requirement for licensed crowd controllers who undertake duties associated with controlling entry and exits to, and monitoring behaviour in, licensed premises to complete the nationally accredited unit of Responsible Service of Alcohol training.	Crowd controllers doing RSA	Support		Regulation
Recommendation 14 The licensing authority engage with the Hospitality & Tourism Industry Training Council to review and develop further the standard of Responsible Service of Liquor training.	Review RSA	Support in Principle	Note correct name - FutureNow. Government supports any intent to improve RSA practices.	Agency Responsibility
Recommendation 15 The members of the Australian Liquor Licensing Authority Conference (ALLAC) should work towards developing and implementing a nationally recognised unit of training in the responsible service of alcohol.	National unit of RSA training	Note	This is a matter for ALLAC to address.	Agency Responsibility
Recommendation 16 Amend section 103A of the Act to specify that a register which records the details of Responsible Service of Liquor training must be maintained by a licensee for a period of four years.	Register of RSA training for 4 years	Support	Broad industry support.	Legislation 1 st Stage

Recommendation	Relates to...	Response	Comments	Action Required
<p>Recommendation 17 Repeal section 126D(4) of the Act.</p>	<p>Removes requirement to consult before removing "undesirable products"</p>	<p>Not Supported</p>	<p>No reason to repeal. If a product is proposed to be removed, manufacturers and liquor industry deserve right to comment.</p>	<p>None</p>
<p>Recommendation 18 Retain the existing provisions of section 64 of the Act which allows the licensing authority to impose a condition prohibiting the sale of liquor mixed with energy drinks on a case-by-case basis.</p>	<p>Energy drinks</p>	<p>Support</p>	<p>Current system adequate.</p>	<p>None</p>
<p>OBJECTS OF THE ACT</p>				
<p>Recommendation 19 Amend the objects of the Act to read:- Objects of Act</p> <p>(1) The primary objects of this Act are —</p> <p>(a) to regulate the sale, supply and consumption of liquor; and</p> <p>(b) to minimise harm or ill-health caused to people, or any group of people, due to the sale, supply or consumption of liquor; and</p> <p>(c) to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor consistent with the interests and reasonable requirements of the community; and</p> <p>(d) to facilitate the responsible development of liquor and related industries, such as the live music, entertainment, tourism and hospitality industries in the State and the responsible use and development of licensed facilities.</p> <p>(2) In carrying out its functions under this Act, the licensing authority shall have regard to the primary objects of this Act and also to the following secondary objects —</p> <p>(a) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and</p> <p>(b) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act.</p> <p>(3) If, in carrying out any of its functions under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence.</p>	<p>Having greater regard for harm minimisation in objects of the Act</p>	<p>Not Supported</p>	<p>Existing objects provide good balance between harm minimisation, industry, tourism and consumers. Note: To provide greater focus, Government will incorporate committee's recommendation (1) (c) into the Secondary objects of Act.</p>	<p>Legislation 2nd Stage</p>

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 20 Amend sections 38(4), 64(3)(cc), 69(8b) and 74(1)(b) to replace 'due to the use of liquor' with 'due to the sale, supply or consumption of liquor'	Changes objects to facilitate advertising recommendation	Not Supported	See above	None
JUVENILES AND YOUNG ADULTS				
Recommendation 21 The legal drinking age should remain as 18 years old.	Legal drinking age	Support	No compelling reason to change.	None
Recommendation 22 Amend section 121 of the Act to introduce an offence for a person to supply liquor to a juvenile on unlicensed premises. It should be a defence if the relevant person is a parent or guardian of the juvenile or were authorised by a parent or guardian of the juvenile to supply the liquor to the juvenile.	Secondary Supply	Support	Government strongly supports Secondary Supply legislation and will introduce legislation to enact.	Legislation 1 st Stage
Recommendation 23 Amend section 121 of the Act to introduce a new provision so that where a person is authorised to supply liquor to a juvenile by the parent or guardian, the person must not supply liquor to the juvenile unless the supply is consistent with the responsible supervision of the juvenile. Factors to be considered in relation to responsible supervision should include— a) whether the person is unduly intoxicated; b) whether the juvenile is unduly intoxicated; c) the age of the juvenile; d) whether the juvenile is consuming the liquor supplied with food; e) whether the person is responsibly supervising the juvenile's consumption of the liquor supplied; and f) the quantity of liquor supplied and the period over which liquor was supplied.				
Recommendation 24 Amend section 121 of the Act to include a definition of the term unlicensed premises as any place other than licensed or regulated premises and including residential premises.				
Recommendation 25 Amend the Act to allow WA Police to undertake controlled purchase operations on licensed premises where packaged liquor is sold subject to:- a) an agreed set of operating standards being developed by WA Police and approved by the Minister for Racing and Gaming regarding the use of WA Police cadets only, physical appearance and procedures to be followed; b) WA Police being required to publically report annually on the results of their operations; and c) WA Police being required to notify the industry of their intention to run a controlled purchase operation/campaign and the duration of the operation/campaign.	Controlled purchase operations	Not Supported	The Government has previously determined not to support the use of juveniles in compliance operations	

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 26 Amend the Act to require licensees who are authorised to sell packaged liquor to request proof of age from patrons who appear to be under the age of 25.	Introduces offence for serving under 25	Not Supported	Government not supportive of legislative change but encourages industry to implement as best practice.	Liquor industry matter
Recommendation 27 Amend section 155 of the Act to authorise WA Police to seize any liquor in the possession of a juvenile who is contravening any provision of the Act.	Allows police to dispose of liquor seized from juveniles	Support		Legislation 1 st Stage
Recommendation 28 The Act be amended to include a definition of the term 'loco parentis'.	Definition of "responsible adult"	Support		Legislation 2 nd Stage
Recommendation 29 Amend section 65 of the Act to require licensees to comply with conditions prescribed in the Regulations/Code of Practice in relation to the delivery of liquor with similar provisions to section 114 of NSW Liquor Act 2007.	Prevents delivery and introduces offence for online liquor orders to juveniles	Support		Legislation 2 nd Stage
Recommendation 30 Amend the relevant exemptions prescribed in the Act and Regulations to require that any person delivering liquor must comply with conditions prescribed in the Regulations/Code of Practice in relation to the delivery of liquor.	Prevents delivery and introduces offence for online liquor orders to juveniles	Support		Legislation 2 nd Stage
Recommendation 31 Amend the Act to make it a criminal offence for any person to deliver liquor to a juvenile in Western Australia. The offence provision should apply to both the person delivering the liquor and the licensee who sold the liquor.				
Recommendation 32 Amend section 126 of the Act to introduce offences for a person to:- <ul style="list-style-type: none"> a) Give an evidence of age document to another; b) Deface/interfere with an evidence of age document; c) Knowingly make a false evidence of age document; d) Knowingly give a false evidence of age document to another; e) Supply false documents to obtain an evidence of age document; f) Pass on any documents or material that does not relate to him or her for the purposes of an evidence of age document; and g) Give a document or material to another person to support an application for a proof of age card that contains information that is false/misleading. Each offence should have a maximum penalty of \$2,000.	Introduce offences for "false IDs"	Support		Legislation 1 st Stage
Recommendation 33 Amend section 167 of the Act to enable WA Police to use an alcohol intervention program as an alternative to issuing an infringement notice for minor offences committed by juveniles.	Issuing alcohol intervention program in place of infringement notice	Support		Legislation 1 st Stage

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 34 The Young Offenders Act 1994 be amended as necessary to enable Recommendation 33 to be implemented.				
PUBLIC INTEREST				
Recommendation 35 The licensing authority should develop a comprehensive Code of Practice to assist applicants in preparing a public interest assessment to replace the existing public interest assessment policy and should undertake a review of all other policies, guidelines, fact sheets and other material, in conjunction with industry, to ensure they are accurate, relevant and are meeting the needs of users.	Code of Practice to assist applicants prepare PIA	Support in Principle	Government strongly supports a review and development of appropriate materials to guide applicants through the public interest assessment process.	Agency Responsibility
Recommendation 36 All public interest assessments should be made publicly available on the licensing authority's website.	PIA's being posted on DRGL website	Support	While this is existing operational practice, legislation will be enacted to support this practice.	Legislation 2 nd Stage
Recommendation 37 Amend section 38(4) of the Act to include consideration of submissions in support of, or opposed to, an application as matters the licensing authority may have regard to in determining if an application is in the public interest.	Allows consideration of positive and negative submissions in PIA	Support		Legislation 2 nd Stage
Recommendation 38 Amend section 38(1) of the Act to allow the Director the discretion to consider a removal application without having to consider the public interest provisions.	No PIA requirement to move a licence a short distance	Support	Support amendment to allow discretion for removal applications and also extending exemption discretion for redefinition / alteration applications.	Legislation 2 nd Stage
Recommendation 39 The licensing authority should ensure that matters relied on in public interest assessment submissions and which are deemed persuasive in granting a licence are imposed as conditions of the licence.	PIA considerations imposed as conditions of licence	Note intent (current provisions sufficient)	Note - Director already has discretion to do this.	None
Recommendation 40 Amend section 38(4)(b) of the Act to read '...the amenity, quiet or good order of the locality...' to reflect the wording of section 74(1)(g)(ii).	Technical amendment	Support		Legislation 2 nd Stage
Recommendation 41 Amend section 38(4) of the Act to include the number, type and nature of any existing and proposed licensed premises in the relevant locality as a matter the licensing authority may have regard to in assessing the public interest.	Outlet density as part of PIA	Note intent (further work required)	Consideration of outlet density as part of a public interest assessment has merit but it is noted that density is currently a consideration of public interest. Government will undertake further assessment of unintended consequences before deciding whether to introduce legislation.	Legislation 2 nd Stage
Recommendation 42 The Minister should monitor and assess the outcomes of the New South Wales trial of an Environmental and Venue Assessment Tool (EVAT).	NSW tool to evaluate location and venue "risk" using a matrix system	Note		Monitor

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 43 The Minister should monitor the progress of and assess the Outlet Density Tool currently being developed by the WA Drug and Alcohol Office.	Outlet Density tool	Note		Monitor
Recommendation 44 Amend section 38 of the Act so that, unless exceptional circumstances apply, a liquor licence should not be granted within 400 metres of a school.	No licences within 400m of school	Note intent (current provisions sufficient)	Support intent, but very difficult to "draw a line". The existing system enables the Director to consider impact on a school in assessing public interest. The current provisions are hence considered sufficient.	None
LICENCES				
Recommendation 45 Amend section 38 of the Act to provide a distinction between Category A and Category B licences. A high risk Category A licence would include the classes:- <ul style="list-style-type: none"> • Hotel (including Tavern) • Nightclub • Liquor Store • Casino • Special Facility (unless otherwise prescribed) A low risk Category B licence would include the classes:- <ul style="list-style-type: none"> • Club and Club Restricted • Restaurant • Small Bar (Refer Recommendation 49) • Producer • Wholesaler 	New categories of licence - "high" vs "low" risk	Note intent (further work required)	The principle of categorising via risk is supported, but should be established by providing flexibility to enable the Director to determine if a licence application poses a "higher" or "lower" risk rather than defining by category type. The Government proposes a "pre-application" process analysed against a risk matrix to enable greater flexibility, appropriate levels of scrutiny and reduced levels of red tape. The Government also supports the licensing authority having the ability to grant a different licence type if rejecting another eg grant restaurant if small bar unsuccessful.	Legislation 2 nd Stage
Recommendation 46 Section 38(5) of the Act should not be amended.	Not being able to reapply for rejected licence for 3 years	Not Supported	The Government supports a shorter (or nil) period.	Legislation 2 nd Stage
Recommendation 47 No additional licence class of licence is required for a direct sales or online liquor business.	Licences for online liquor business with no retail presence	Note intent (current provisions sufficient)	There is currently provision with the 'Special Facility Licence' category to introduce this licence type. Ongoing demand and applicability via this avenue will be monitored.	Regulation
Recommendation 48 Members of the Australian Liquor Licensing Authority Conference (ALLAC) work towards introducing consistent delivery provisions in all jurisdictions.		Note	This is a matter for ALLAC to address.	Agency Responsibility

Recommendation	Relates to...	Response	Comments	Action Required
<p>Recommendation 49 Amend the Act to introduce a new class of licence for Small Bars with the current provisions in relation to licence conditions and permitted trading hours, including the amendment proposed under Recommendation 71, being retained.</p>	New standalone category of "small bar"	Support	Support new category, but clarification will be provided to ensure small bar limit is 120 "patrons", not "persons".	Legislation 2 nd Stage
<p>Recommendation 50 All special facility licences should be reviewed to ensure the prescribed class of licence is still valid and relevant with a view to converting inappropriate licences to a more appropriate class of licence.</p>	Review SFL's	Note intent (current provisions sufficient)	Section 46B of the Act provides a mechanism for this to occur and is undertaken as required.	Agency Responsibility
<p>Recommendation 51 Amend section 128 of the Act to:-</p> <ul style="list-style-type: none"> • allow a base licence fee for Category A and B licences to be prescribed in the Regulations; • include the size of a licensed premises in section 128(2)(a) as a criteria on which licence fees can be prescribed; <ul style="list-style-type: none"> a) include a provision that where a Category A licence has a licensed area which is greater than a prescribed size (200 m²), a surcharge per square metre will be payable (\$10 per m²); b) require the money collected from the surcharge (fee per square metre) to be allocated to an appropriate current government body or bodies and be strictly quarantined for community education purposes only in accordance with guidelines and procedures determined by the Minister; and c) allow a board of experts be established to advise the Minister on initiatives to fund. 	Setting base fees for low and high risk licence categories. Setting fees based on venue size and dedicating to community education	Not Supported	Legislative provisions to apply differential fees already exist. The Government does not support fees being based on the size of a licensed premise.	None
<p>Recommendation 52 The Act be amended to enable Codes of Practice to be developed and prescribed in the Regulations.</p>	Introducing codes of practice to make existing "Director policy" arrangement clearer	Support	The Government supports the intent of Codes of Practice to make the licence application process clearer. Code to be developed.	Legislation 2 nd Stage
<p>Recommendation 53 The licensing authority ensure the regulatory framework consists of the Act, Regulations, Codes of Practices and Guidelines and information provided to industry ensure clarity on the legal status of each document.</p>	Regulatory Framework	Support in Principle		Agency Responsibility
<p>Recommendation 54 Amend section 64(1a) of the Act to allow the Commissioner of Police, the Executive Director Public Health and parties to a liquor accord to request the licensing authority to impose, vary or cancel conditions.</p>	Formally allowing various parties to request a s64 condition	Note intent (current provisions sufficient)	Existing provisions of Act are adequate.	None

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 55 Amend 64(2b) of the Act to require the licensing authority to invite the affected community to show cause why the proposed restrictive conditions should not be imposed as part of an enquiry under section 64.	Formally asking community to show cause why S64 inquiries shouldn't be imposed	Support	Support consultation provisions where appropriate, similar to those utilised under S175 1(b), b) and c).	Legislation 1 st Stage
Recommendation 56 In relation to liquor restrictions imposed under section 64 of the Act, the licensing authority should notify the relevant government agencies in relation to the potential need for relevant support services before the introduction of liquor restrictions.	Requiring department to notify Government agencies that a s64 will be in place	Support in Principle		Agency Responsibility
Recommendation 57 Amend section 64(1b) of the Act to include a new subsection requiring that a liquor accord must be developed in consultation with representatives of the local community.	Community must be consulted in development of Accord	Note intent (current provisions sufficient)	Government supports liquor accords, but does not wish to prescribe the manner in which the community must be consulted in their development.	None
No Recommendation Glassware	Retaining uptake of tempered glassware as voluntary	Support	Industry uptake of tempered glassware suggests voluntary system working well.	Monitor
Recommendation 58 The maximum capacity of a licensed premises set by the relevant local government authority, should be imposed as a condition on the licence. Transitional provisions should apply to this recommendation.	Max capacity set by LG imposed as condition of licence	Note intent (current provisions sufficient)	This practice is already undertaken where appropriate.	None
Recommendation 59 Amend section 48(5) of the Act to allow clubs to sell and supply liquor to persons assisting a guest/competing club.	Allows club to accept a person that helps another club	Support		Legislation 2 nd Stage
Recommendation 60 Amend section 48(2) of the Act and or section 60(4)(cb) to allow clubs to hold up to 12 non-member functions per year without the need to apply for an extended trading permit. (eg. notification system only). The Director should have the power to disallow a club from utilising these provisions.	Currently clubs require ETP to conduct 12 non-member functions / year. This retains 12, but removes need to get ETP.	Support	Government supports this provision, but no further reform in relation to Clubs	Legislation 2 nd Stage
Recommendation 61 The licensing authority develop and distribute a guideline/fact sheet specifically relating to the requirements in relation to approved managers for club and club restricted licences.	Fact sheet for approved managers in clubs	Support in Principle		Agency Responsibility
Recommendation 62 Amend section 47(2) of the Act to remove the reference to 'free' sample to allow licensees of liquor stores to charge a fee for tastings.	Allows liquor stores to charge for samples	Not Supported	The basis for this change is not supported.	None

Recommendation	Relates to...	Response	Comments	Action Required
<p>Recommendation 63 Amend section 50 of the Act to:-</p> <p>a) remove the requirement for liquor to be supplied ancillary to a meal supplied by the licensee during the following hours:-</p> <ul style="list-style-type: none"> • Monday to Saturday between the hours of 6.00 am and 12.00 midnight; and • Sunday from 10.00 am to 10.00 pm. <p>b) On Christmas Day, Good Friday or before noon on ANZAC Day, liquor may only be supplied ancillary to a meal;</p> <p>c) retain all other existing provisions relating to liquor being consumed while seated sitting at a table and the predominant purpose of the business being the supply of meals;</p> <p>d) specify that patrons are able to purchase liquor from a bar or servery and carry it to a table; and</p> <p>e) clarify the amended provisions apply to any area covered by an extended trading permit issued for the purpose of Alfresco Dining (subject to local government authority approval).</p>	<p>Allowing ALL restaurants to serve liquor without a meal. Allows patrons to take liquor from bar to table.</p>	<p>Support (only to 120 patrons limit)</p>	<p>Support recommendation, but only for restaurants up to 120 patrons limit, making the provision consistent with that of small bars. This supports the interim changes implemented following the 2013 election.</p>	<p>Legislation 2nd Stage</p>
<p>Recommendation 64 Amend section 55 of the Act to include the authorisation for beer producers to sell liquor for consumption on a part of the licensed premises approved for the purpose by the Director between the hours of 10.00 am and 10.00 pm.</p>	<p>Beer producers can only currently sell on-site samples or packaged. This would allow patrons to purchase product in standard size servings</p>	<p>Support</p>		<p>Legislation 1st Stage</p>
<p>Recommendation 65 Amend section 55 of the Act to allow wine producers to establish a collective cellar door retail outlet within the same wine region as their production facilities.</p>	<p>Collective cellar door by wine producers</p>	<p>Support</p>	<p>Support. Consistent with South Australian provisions, this capacity will be also be extended to beer producers.</p>	<p>Legislation 1st Stage</p>
<p>Recommendation 66 Amend section 55 of the Act to allow producers to conduct online and telephone sales from a place other than the licensed premises, provided the delivery of liquor is from the licensed premises or from an approved offsite storage facility.</p>	<p>Producers being able to distribute orders from an off-site facility</p>	<p>Support</p>		<p>Legislation 1st Stage</p>
<p>Recommendation 67 Amend section 55 of the Act to allow producers to sell liquor other than their own, if sold ancillary to a meal in a designated dining area which forms part of their licensed premises or an area the subject of an extended trading permit or for the purpose of comparative tastings.</p>	<p>Being able to sell someone else's product ancillary to a meal on their own licensed premises</p>	<p>Support</p>	<p>Meets consumer expectations and reduces red tape for producers wishing to operate a food service.</p>	<p>Legislation 1st Stage</p>

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 68 Amend regulation 8D(2)(a) of the Regulations to:- a) allow wine producers to attend any farmer's markets; b) replace 2.5 litres with 9 litres; c) remove requirement for samples to be provide free of charge; and d) establish a process that requires licensees to seek approval from the licensing authority at the beginning of each year of their proposed attendance at events such as farmers markets and food and wine festivals.	Freeing up provisions for producers at farmers markets	Support (not part (c) or (d))	Support a) and b). Do not support c) - . No compelling reason to support charging for samples. Support d) but a more practical process for producers to advise the licensing authority of their attendance at events will be determined.	Regulations
Recommendation 69 Amend section 58(1) of the Act to replace 9 litres with 4.5 litres.	Existing provision based on minimum of 12 King Browns. This enables wholesalers to sell 12 stubbies.	Support	Support, but replace with 3.96L instead of 4.5L to provide for increasingly common 330ml bottles.	Legislation 1 st Stage
No Recommendation Committee believes current limit of wholesalers being able to sell greater than 10% of total turnover is appropriate.		Support	Agree with committee - insufficient evidence to progress.	None
PERMITTED TRADING HOURS				
No Recommendation No reduction in broad trading hours.		Support		None
Recommendation 70 Amend section 98D of the Act to authorise all liquor stores to trade on Sundays between 10.00 am and 10.00 pm. The authorisation to trade on Sundays must not apply where liquor restrictions are in place or where it would impact on a liquor accord.	ALL liquor stores trading on a Sunday	Support	Supported in part – will be applied in respect of liquor stores in major regional centres only.	Legislation 2 nd Stage
Recommendation 71 Amend section 98 of the Act to authorise hotel, tavern and small bar licences to trade until 12.00 midnight on Sunday evenings preceding a gazetted public holiday which falls on a Monday.	Trading hours extended to midnight on long weekends, but not in general	Support (extending to ALL Sundays)	Government supports modern consumer expectations of hospitality trading hours on Sundays. Government will extend the provision to all Sundays.	Legislation 2 nd Stage
Recommendation 72 The current permitted trading hours for nightclubs should be retained.	Nightclub hours being retained	Not Supported	In keeping with recommendation 71 response, Government will extend Nightclub trading hours to 2am on Sunday nights.	Legislation 2 nd Stage
Recommendation 73 The provisions of section 60 of the Act relating to extended trading permits should be retained without amendment.	Continue requirement to renew ETP every 2-5 years	Not Supported	ETP renewal will remain at 5 years, but no PIA will be required unless the Director determines otherwise.	Legislation 2 nd Stage
Recommendation 74 The licensing authority should consider the previous performance of a licensee and the compliance history of the premises when considering applications (new and renewal) under section 60(4)(g) of the Act.	Consider compliance and past performance in considering ETPs	Note intent (current provisions sufficient)	Support, noting that this is current practice.	Agency Responsibility

Recommendation	Relates to...	Response	Comments	Action Required
<p>Recommendation 75</p> <p>The proposed Code of Practice on public interest assessments should include a section dedicated to extended trading permits which includes addressing the existing criteria in relation to harm, impact on amenity and offence and annoyance, the current trading hours and extended trading permits of other licensed premises in the locality, as a factor to be considered in the determination of an application for an ongoing hours permit under section 60(4)(g) of the Act.</p>	Incorporating ETP guidance into Code of Practice	Support in Principle		Agency Responsibility
CONSTITUTION OF THE LICENSING AUTHORITY				
<p>Recommendation 76</p> <p>The current structure of the Liquor Commission should be maintained.</p>	Liquor Commission structure	Support		None
<p>Recommendation 77</p> <p>The Liquor Commission should undertake a comprehensive review of the rules and processes for determining contested and uncontested applications. This should include input from industry and the legal fraternity and should examine issues such as process mapping, timelines and establishment of performance standards.</p>	Review of Liquor Commission processes	Support in principle		Agency Responsibility
<p>Recommendation 78</p> <p>The Minister should establish a full-time position to assist with writing decisions for the Liquor Commission.</p>	Additional FTE for decision writing	Note	Will be considered as part of the review detailed in recommendation 77	None
<p>Recommendation 79</p> <p>Amend section 24 of the Act to provide appropriate timeframes within which the Director may refer applications to the Liquor Commission.</p>	Director to refer to Commission within set timeframes	Not Supported	If implemented, such an amendment could result in unintended consequences. Evidence indicates very low incidence of delayed referrals to the Commission.	None
<p>Recommendation 80</p> <p>Amend section 13(6) and 16(8) of the Act so all hearings are public unless the Director or the Liquor Commission determine otherwise.</p>	Making all hearings public, unless determined otherwise. Situation currently the reverse.	Support (Commission only)	Support Liquor Commission hearings being made public. Director's hearings will remain as is.	Legislation 2 nd Stage
COMPLIANCE AND ENFORCEMENT				
<p>Recommendation 81</p> <p>Amend sections 95 and 96 of the Act to transfer the responsibility for disciplinary action from the Liquor Commission to the Director (with adequate resourcing).</p>	Director issues disciplinary action rather than LC	Not Supported	The Government believes responsibility for disciplinary action should remain with the Commission. However, the Act will be amended to empower the Director to suspend a licence pending the determination of an application lodged with the Commission for disciplinary action.	Legislation 2 nd Stage
<p>Recommendation 82</p> <p>Any decision or determination made by the Director in relation to sections 95 and 96 of the Act (other than a decision to suspend a licence or permit for up to 7 days for disciplinary reasons) should be subject to review by the Liquor Commission.</p>				

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 83 Amend section 91 of the Act to allow the Director to suspend a licence or permit for up to 7 days for disciplinary reasons. This decision should not be subject to review by the Liquor Commission.				
Recommendation 84 Amend section 95 of the Act to:- a) prescribe that a complaint must be commenced to be heard within three months of it being made, unless the parties agree otherwise; and b) require the Director to make a determination on whether a complaint will be heard or struck out within 21 days of lodgement.	Introducing timelines within which complaints must be heard	Not Supported		None
Recommendation 85 Amend section 95 of the Act to specify that hearings held by the Commission in relation to a complaint under section 95 should be open to the public, unless the Director determines otherwise.	Making all hearings public, unless determined otherwise. Situation currently the reverse.	Support	Support, as per recommendation 80.	Legislation 2 nd Stage
Recommendation 86 The current definition of ‘drunk’ in section 3A of the Act should be retained.	No change to definition of drunk	Support		None
Recommendation 87 Amend section 115(5)(c) of the Act to increase the maximum penalty for failure to leave a licensed premises to \$5,000.	Stronger penalty for not leaving premises	Support		Legislation 2 nd Stage
Recommendation 88 Amend section 115(6) of the Act to increase the maximum penalty for remaining in the vicinity of a licensed premises to \$5,000.	Stronger penalty for hanging around a licensed premises	Support		Legislation 2 nd Stage
Recommendation 89 Amend section 115 of the Act to introduce a defence for a licensee to permit a drunk patron to remain on the licensed premises in circumstances where:- <ul style="list-style-type: none"> • the patron is not unruly – they must be behaving in an orderly manner and not causing any disturbance; • the licensee, manager or employee must not serve or supply them with any liquor or allow them to be supplied with any liquor. In this regard, an education campaign would be required to ensure the public are aware that offence provisions exist for obtaining liquor for a drunk person; • the approved manager should be notified of the person’s presence; • the patron should be identified so that all staff and other patrons know they are drunk and should not be served or supplied with any more liquor; • the presence of the patron is recorded in the incident register; and • offence provisions should apply if these conditions are not met. 	Introducing a defence for licensee leaving a drunk person on licensed premises	Not Supported	Government understands the intent, but is concerned with unintended consequences.	None
Recommendation 90 Amend section 110(3) of the Act to provide a defence for both the licensee and the patron if patrons are moving between separate areas of a licensed premises.	Election commitment - taking drink across alfresco area	Support	Meets election commitment	Legislation 1 st Stage

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 91 In relation to wine producers licences only, amend the provisions of section 110(3) of the Act to allow patrons to move between two licensed premises, provided the licensee holds both licences.	Moving between licensed areas at a wine producer	Support	Supports election commitment	Legislation 1 st Stage
Recommendation 92 Amend section 65(1) of the Act to include an offence for selling liquor in circumstances in which it is reasonably suspected that the liquor will be consumed unlawfully.	Creating offence for selling liquor if licensee thinks it will be consumed unlawfully	Not Supported	Government understands the intent, but concerned with unintended consequences.	None
Recommendation 93 a) Amend section 115AA(2) of the Act so that a person exhibiting the prescribed behaviour in the vicinity of a licensed premises can be issued with a barring notice. b) Amend section 115AA of the Act to provide a definition of 'vicinity of licensed premises for the purposes of section 115AA(2).	Extending barring notices to be applied in 'vicinity'	Support	Supportive, but clear definition of 'vicinity' required.	Legislation 2 nd Stage
Recommendation 94 Amend regulation 27 of the Regulations so that an offence under section 115AE of the Act can be dealt with by way of an infringement notice.	Infringement notice instead of an offence	Support		Regulations
Recommendation 95 Amend section 115AA (7A) of the Act to specify the circumstances when it is acceptable for the recipient of a barring notice to enter and remain on licensed premises.	Clarify when a person with a barring notice can enter eg certain work	Support		Legislation 2 nd Stage
Recommendation 96 Amend section 115AC(1) of the Act to include a requirement that a barred persons date of birth is published on the secure webpage.	Publishes dob details on secure website	Support	Makes provisions consistent with Prohibition orders	Legislation 2 nd Stage
Recommendation 97 Amend section 115AE of the Act to provide a defence if section 115AA(7A) applies.	Provides defence if in vicinity but there for work	Support	Links with recommendation 93	Legislation 2 nd Stage
Recommendation 98 Amend the Act to require that all new licences of a prescribed type or types or in a prescribed location or precinct (high risk venues, entertainment precincts) must utilise suitable ID scanning technology for all patrons entering the licensed premises. The Regulations should also allow the Minister to apply this requirement to existing licences of a prescribed type or types in a prescribed location or precinct (high risk venues, entertainment precincts).	Making ID scanning compulsory for 'high risk' licenses	Note intent (current provisions sufficient)	Support intent, but best left to industry to deliver as part of best practice. Will continue to monitor NSW outcomes.	Monitor
Recommendation 99 The Act be reviewed and amended where necessary to ensure compliance with the Guidelines for applying the COAG Principles in relation to Personal Liability for Corporate Fault.	Meeting COAG principles for personal liability / corporate fault	Support	Will be reviewed and considered as part of broader review of applicable legislation being undertaken by the Attorney-General.	Legislation 2 nd Stage

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 100 If the licensing authority's new IT system has the capability to enable a yearly licensee detail verification process, the period for commencing a prosecution should be reduced to two years.	Reduces period to bring about prosecution from 4 to 2 years	Not Supported	Current 4 year period is appropriate.	None
Recommendation 101 Amend the Act to allow the Director to revoke the approval of a licensee or approved manager if they are found guilty of a prescribed disqualifying offence.	Allowing Director to revoke approval of licensee based on certain offences	Support		Legislation 1 st Stage
Recommendation 102 Amend section 152O(1) of the Act to introduce offences for a person:- a) attempting to convey liquor onto a liquor restricted premises; and b) attempting to cause liquor to be conveyed onto a liquor restricted premises.	Offence for attempting to take or facilitate liquor onto restricted premise	Support	This change will further develop the positive outcomes this measure has already delivered.	Legislation 1 st Stage
Recommendation 103 Amend section 175(1a)(b) of the Act to include offences for a person:- a) attempting to bring liquor into a restricted area; and b) attempting to possess liquor in a restricted area; and c) consuming liquor in the vicinity of a restricted area.	Offence for attempting to take or facilitate liquor onto s175 area. Also creating offence in vicinity of s175 area.	Support (not part (c))	Support a) and b). Not support c) as principle of this provision is to define an area where liquor is restricted - not the "vicinity".	Legislation 1 st Stage
Recommendation 104 Include a definition of vicinity of a restricted area for the purposes of section 175(1a)(b) of the Act.	Allows rec 103 c) to occur	Not Supported	Irrelevant as Recommendation 103 c) is not supported.	None
Recommendation 105 Amend the Act to exempt government agencies or departments from the requirements of section 152S of the Act.	Exempts Government agencies from liability under section 152S	Support		Legislation 1 st Stage
Recommendation 106 Amend regulation 27 of the Regulations to include offences under sections 152S(1) and section 175(1a) of the Act.	Offences for damaging / removing signage at restricted premises / s175	Support		Regulations
Recommendation 107 Amend section 122 of the Act to:- a) expand the definition of a regulated premises to include public events where entertainment is at, or from which, can be viewed or heard; and b) remove the reference to a building or covered enclosure to enable outdoor events to be captured.	Expands regulated premises to include public events in open space	Not Supported	Implications would be far ranging and could potentially impact local community events. Government believes this issue should more appropriately be managed as part of an individual event risk management strategy.	None

Recommendation	Relates to...	Response	Comments	Action Required
<p>No Recommendation No need for a Banned Drinkers' Register.</p>		Support	Government has previously determined not to pursue a Banned Drinkers Register. It is acknowledged that various localities continue to consider ways of implementing localised "card" solutions and Government will monitor those developments.	None
APPROPRIATENESS OF PENALTIES CONTAINED IN THE ACT				
<p>Recommendation 108 Amend section 167 of the Act on increase the modified penalty to 20% of the maximum fine.</p>	Increase infringements to 20% from 10%	Not Supported	Government believes existing modified penalties are adequate.	None
<p>Recommendation 109 The Minister monitor the outcomes and effectiveness of the Demerit Point System and 5 Star Rating systems which have been introduced in Victoria with a view to introducing similar systems in Western Australia.</p>	Provide incentives for compliant licensees eg reduced annual fees	Note		Monitor
EXEMPTIONS				
<p>Recommendation 110 Amend the Regulations to provide for an exemption for the sale and supply of liquor by accredited tour operators in prescribed circumstances.</p>	Allows tour operators to serve alcohol	Support	Government is supportive, with strict limitations.	Regulations
TRANSPARENCY AND PROCESS				
<p>Recommendation 111 Section 33 of the Act should remain unchanged.</p>	Leaving licensing authority discretion	Support		None
<p>Recommendation 112 The Directors policies and other guidance material be comprehensively reviewed and revised to ensure they are accurate and provide practical, clear and concise information for stakeholders.</p>	Review of Director's policies	Support in Principle	Director's policies have been reviewed and revised where appropriate.	Agency Responsibility
<p>Recommendation 113 The licensing authority continue with and expand the process of consulting stakeholders and industry representatives in relation to proposed changes to the Director's policies.</p>	Consulting stakeholders and industry when Director's policies change	Support in Principle		Agency Responsibility
<p>Recommendation 114 The licensing authority review and revise the current application processes and procedures in collaboration with all stakeholders</p>	Review current application process	Support in Principle		Agency Responsibility
<p>Recommendation 115 The licensing authority work in consultation with stakeholders and industry participants to establish agreeable Key Performance Indicators for the licensing authority.</p>	Work with industry to establish KPIs	Support (only as guideline)	The Government is supportive of the licensing authority establishing best practice benchmarks eg if no extenuating circumstances, application will take "x" days. The authority will continue to be accountable to Government via legislative KPI's eg budget.	Agency Responsibility

Recommendation	Relates to...	Response	Comments	Action Required
<p>Recommendation 116</p> <p>The licensing authority should publish a quarterly report of application statistics including but not limited to pending applications, applications granted and refused, time taken to process applications and whether these are within agreed timeframes (KPI's) and the number of interventions and by whom.</p>	Publish quarterly statistics on licensing	Support (period to be determined)	Government supports regular reporting of licensing statistics, with an appropriate format and time period to be determined.	Agency Responsibility
<p>Recommendation 117</p> <p>An online tracking system should be a mandatory feature of the information technology program being developed by the licensing authority.</p>	Online tracking of applications	Support		Agency Responsibility
<p>Recommendation 118</p> <p>The Liquor Industry Advisory Committee, WALGA and the licensing authority progress the implementation of parallel processing of applications as a matter of priority.</p>	Parallel processing of LG and licensing authority requirements	Support	The Act will be amended to facilitate parallel processing.	Legislation 1 st Stage
<p>Recommendation 119</p> <p>The licensing authority review and revise the current application processes and procedures for applications relating to large events.</p>	Review application process for large events	Support in Principle	This application process has been reviewed and updated.	Agency Responsibility
<p>Recommendation 120</p> <p>The licensing authority introduce a system which allows the outcomes of previous events to be taken into account when subsequent applications are lodged.</p>	Allows consideration of previous events in assessing event applications	Support in Principle		Agency Responsibility
<p>Recommendation 121</p> <p>The licensing authority, in consultation with the Country Racing Association of WA and WA Police, develop a policy in relation to the requirement for licensed crowd controllers at major race club events.</p>	Develop policy for crowd controller requirements at major racing events	Support in Principle	Guidelines will be reviewed and updated accordingly.	Agency Responsibility
<p>Recommendation 122</p> <p>Amend section 81 of the Act to enable, unless the Director otherwise determines, the removal of a licence within 500 metres of the existing premises to be dealt with administratively.</p>	Moving licence within short distance	Note	Government supports the intent, but considers response to recommendation 38 will address this issue.	
<p>Recommendation 123</p> <p>Amend section 69(12) of the Act so the Commissioner of Police is required to lodge a notice of intervention not later than the last day on which objections should be lodged, or with leave of the Director, before the day appointed for the hearing of the application.</p>	Giving a time limit for police interventions	Support	This will provide consistency across all bodies with the right to intervene.	Legislation 1 st Stage
<p>Recommendation 124</p> <p>The Commissioner of Police and the Executive Director Public should publish a report outlining the body of knowledge on the impact of alcohol on public health and the agreed commonly accepted level of harm in the community. This report should then be considered as part of each application where an intervention is lodged, together with specific submissions demonstrating the impact to the local community in which the premises is located.</p>	Police and Health publishing alcohol impacts on community and then using that as part of intervention process	Note intent (current provisions sufficient)	Government notes the intent, but questions the validity of currency and applicability to specific localities in assessing applications.	None

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 125 The licensing authority publish details of the interventions lodged in each financial year in the Department of Racing, Gaming and Liquor Annual Report.	Publishing intervention stats in annual report	Support in Principle		Agency Responsibility
TECHNICAL AMENDMENTS				
Recommendation 126 The licensing authority review the content and layout of the section 39 and section 40 certificate forms.	Review s39 and s40 forms	Support in Principle	These forms have been reviewed and updated.	Agency Responsibility
Recommendation 127 The licensing authority and the Western Australian Local Government Association undertake a program to educate local government authorities in their roles, responsibilities and capacity for participation under the Act.	Education program for Local government	Support in Principle		Agency Responsibility
Recommendation 128 The licensing authority's information technology system should contain the functionality to integrate with local government authorities, WA Police and the Executive Director Public Health.	Linking DRGL, Police and EDPH systems	Note intent (further work required)	Has merit, but very difficult to achieve. To be considered by relevant departments as appropriate	Relevant agencies
Recommendation 129 Combine the provisions of section 36A and 65A into one section of the Act.	Clarity around liquor not being sold from petrol stations	Support		Legislation 2 nd Stage
Recommendation 130 The licensing authority's new information technology should contain the functionality to enable individuals to update their details in the system with the additional functionality for the system to notify the relevant officer in the licensing authority for appropriate action.	Being able to update details in IT system	Support in Principle		Agency Responsibility
Recommendation 131 Amend section 37A of the Act to require an individual to notify the Director of a conviction in writing.	Requiring people to notify of convictions in writing	Note intent (current provisions sufficient)	Government notes the intent, but this requirement becomes superfluous once new IT system is functioning.	None
Recommendation 132 Amend section 103A of the Act to specify the register:- a) must be retained for a period of four years; and b) may be maintained in an electronic format.	Removes silence on how long register must be kept for	Support		Legislation 1 st Stage
Recommendation 133 WA Police should not take into account the number of 'refused entry' or 'managed drunk' incidents when examining and reporting on the number of incidents at a licensed premises, as this should be seen as a positive measure by the licensee and should not be seen as an incident of concern.	Incident register not being used as a negative on licensees	Support	There may be confusion in the industry surrounding requirements to report 'refused entries', possibly relating to amendments made in 2010 to the definition. Efforts will be undertaken to ensure licensees are aware of their obligations.	None

Recommendation	Relates to...	Response	Comments	Action Required
Recommendation 134 Section 116A of the Act be amended to allow for the licensee's incident register and the crowd controller agent incident register to be maintained as one register.	Licensee and Crowd Controller Incident register to be one and same	Support	This will require a consequent amendment to the Security and Related Activities (Control) Regulations 1997.	Legislation 2 nd Stage
Recommendation 135 Section 116A of the Act/Regulation 18EB of the Regulations be amended to specify that the incident register may be maintained in an electronic form, provided it is accessible at all times as required by subsection (3).	Allowing Incident register to be electronic	Support		Legislation 1 st Stage
Recommendation 136 Section 116A of the Act be amended to specify that licensees must retain the incident register for four years.	Requirement to maintain Incident register for 4 years	Support		Legislation 1 st Stage
Recommendation 137 The Minister should monitor the outcomes of the National Alcohol Sales Data Project, with a view to improving the accuracy of the data collected.	Monitor National Sales project	Note		Monitor
Recommendation 138 Amend the Act and or Regulations to ensure that sales data in relation to cider is collected.	Separate cider as separate reportable sale	Not Supported	Government considers the additional administrative burden to capture this data does not warrant the information derived.	None
Recommendation 139 The licensing authority's new information technology system should contain the functionality to allow licensee's to lodge liquor returns online or electronically.	Allowing liquor returns to be lodged electronically	Support in Principle		Agency Responsibility
Recommendation 140 Amend section 160 of the Act to reflect the provisions of section 16 of the Criminal Investigation (Identifying People) Act 2002.		Support		Legislation 1 st Stage
LIQUOR INDUSTRY ADVISORY COUNCIL				
Recommendation 141 Amend the Act to establish a Liquor Industry Advisory Committee comprising a person nominated by the Minister as independent chairperson, the Director, the Commissioner of Police, the Executive Director Public Health, a representative each from the Australian Hotels Association (WA) and the Liquor Stores Association of WA and three experts in matters relating to liquor licensing who shall be nominated for appointment by the Minister after consultation with the bodies referred to above.	Establish Liquor Industry Advisory Committee	Not Supported	Advisory groups can be established as and when needed.	None