

City of Fremantle submission - Review of the Liquor Control Act

Balancing the requirements of consumers for liquor and related services with minimizing harm or ill-health to people or groups of people, due to the use of liquor

- An opportunity exists to reform Western Australia's Liquor Control Act and create the framework for a first class hospitality industry that is progressive and visionary, meeting the demands and expectations of locals and tourists who wish to experience safe, diverse, flexible and vibrant day-time, evening and late-night drinking and dining experiences.
- Western Australia is ready to adopt a more responsible drinking culture and new strategies need to be considered to initiate behavioural change. The City of Fremantle's philosophy of promoting flexibility in liquor licensing for low risk licensed premises (restaurants and small bars) and limiting high risk licensed premises (hotels and nightclubs) should be incorporated into the Liquor Control Act and Department of Racing, Gaming & Liquor policies.
- The Perth 2011 Sailing World Championships 'Special Event' in Fremantle was a successful case study in how a flexible and less prescript liquor licensing regime can facilitate a safe, more mature and international style of liquor consumption in low risk licensed venues in Western Australia.
- The City of Fremantle demonstrated its community has the maturity to embrace the concept of standing and consuming alcohol in restaurants that possess liquor without a meal extended trading permits during the 4 week Perth 2011 Sailing World Championships.
- Licensed restaurant patrons should have the ability to stand, purchase and consume liquor at a bar, provided the business conducted at the licensed premises consists primarily and predominantly of the regular supply of meals to customers for consumption on the premises.
- Licensed restaurants are low risk venues and liquor without a meal provisions should exist as of right.
- In September 2011, Minister Waldron signed a Special Event Notice under section 126E of the Liquor Control Act declaring Perth 2011 Sailing World Championships a Special Event from 26 November to 24 December 2011.
- During a 12 month pre-event consultation phase facilitated by [REDACTED], the City of Fremantle demonstrated to Minister Waldron the merit of introducing flexibility in liquor licensing not typically afforded under the provisions of the Liquor Control Act. Support for liquor licensing flexibility in Fremantle during the 4 week international sailing event was received from WA Police Commissioner Karl O'Callaghan and Assistant Commissioner Gary Budge, Deputy Chief Health Officer Dr. Andrew Robertson and Director Liquor Licensing Janine Belling. Clause 3(1)
- On 30 January 2012, following the successful relaxation of liquor licensing laws in Fremantle during the Perth 2011 Sailing World Championships, [REDACTED] requested Minister Waldron consider making a permanent amendment to the Liquor Control Act and Liquor Licensing Regulations to allow patrons permission to consume liquor while standing in restaurants that hold a *liquor without a meal* permit. Clause 3(1)
- Minister Waldron's written response dated 7 March 2012 stated:

"Your suggestion of permanently implementing the relaxation of liquor licensing laws as experienced during the 2011 ISAF World Sailing Championships would be a significant shift in liquor regulation that, without careful consideration, could potentially undermine the present licence classification system. As considerable amendments to the Act would be necessary to introduce your proposal, it would be better considered when the Act next undergoes a major consultative review."
- An opportunity exists to build on the positive momentum generated in Fremantle during the Perth 2011 Sailing World Championships and amend Western Australia's liquor laws to provide additional flexibility for patrons and improve licensees' ability to meet the needs of their customers, while promoting public

health through responsible service of alcohol and harm minimization principles, in low risk licensed venues such as restaurants and small bars.

- Between 26 November and 24 December 2011, under the conditions of the Special Event Notice for the Perth 2011 Sailing World Championships, 14 Fremantle licensees possessing liquor without a meal permits successfully served liquor in a responsible manner to many thousands of patrons that elected to stand while consuming liquor in their restaurant.
- The Fremantle community, Western Australian public and national and international visitors to Western Australia enjoyed the flexibility of being able to stand and responsibly consume liquor in a non-threatening restaurant setting. This was undoubtedly one of the major successes of the Perth 2011 Sailing World Championships.
- Fremantle's 14 participating restaurant licensees derived economic benefit, positive publicity and attracted a broader customer base without compromising alcohol harm minimization practices or detracting from their duty to ensure responsible liquor service and consumption.
- The City of Fremantle received widespread positive feedback on the relaxed liquor laws from the public, business community, WA Police, Perth 2011 ISAF event organisers and media throughout the event. There were no reported incidents of excessive consumption of alcohol, anti-social behaviour, violence or property damage following the relaxation of liquor laws under the Special Event Notice.

Public interests criteria for low risk venues versus high risk venues

- Promoting low risk licensed venues (restaurants and small bars) and allowing them to trade in direct competition with high risk licensed venues (hotels and nightclubs) offers greater choice for the public and stimulates a move away from the traditional 'beer barn' drinking environments.
- The City of Fremantle contends that each liquor licence application should be assessed on its merits. Low risk venues such as restaurants and small bars typically possess less potential for a negative impact on the amenity, quiet or good order of the locality than high risk venues such as hotels and nightclubs.
- The City of Fremantle recommends the public interest criteria for low risk venues should be streamlined and made considerably less onerous than the public interest criteria for high risk venues.
- The City of Fremantle is concerned that some government agencies, including the WA Police, automatically object to liquor licence applications irrespective of potential risk. In the interest of procedural fairness, applicants should have open and unrestricted access to local crime statistics, hospital admission statistics and health statistics that some government agencies, including the WA Police, use as the basis for their automatic objections to liquor licence applications.
- Anti-clustering and saturation provisions could be written into the Liquor Control Act to control high risk licensed venue density and prevent nightclubs or hotels operating side by side. This approach is successful in Paris, New York and Vancouver and has been introduced in the City of Westminster, London.
- To streamline the planning approval process for low risk licensed venues, the City of Fremantle has commenced an amendment to its Local Planning Scheme (scheme amendment 52) to allow restaurants and small bars in the mixed use and local centre zones to be permitted, without further planning approval, a change of use from an already approved restaurant to a small bar, and vice versa, subject to the new use operating in accordance with previously approved hours of operation.
- Anecdotal evidence in Fremantle indicates responsibly managed licensed restaurants, alfresco areas and small bars enhance the image and amenity of Fremantle; facilitate vibrant street interaction; encourage night-time community ownership of Fremantle; increase the number of families and responsible local residents walking the streets after 9pm; and, improve standards of behaviour in Fremantle due to the positive peer pressure exerted by an overwhelming number of well-behaved people in the CBD.

Small bar licence as a category of hotel licence and the viability of 120 person limit

- A small bar licence should not be categorized as a type of hotel licence. It should be categorized as a unique, low risk, liquor licence.
- The economic viability and marketability of 120 patron maximum small bars would be significantly enhanced with increased flexibility in licence conditions, as of right hours of operation to 1am and the ability to provide (or not provide) food or music entertainment without the need to vary license conditions.
- A new "micro bar" licence category is recommended under the Liquor Control Act incorporating an innovative approach to the provision of toilets. Floor space is often a limiting factor and public toilets occupy a significant footprint within the envelope of a building. As an incentive for prospective licensees, it is recommended that the Liquor Control Act mandates "micro bars" only require 1 unisex disabled access toilet facility and are limited to a maximum of 50 patrons.

Appropriateness of the current restrictions - liquor without a meal in restaurants

- Licensed restaurant patrons should have the ability to stand, purchase and consume liquor at a bar, provided the business conducted at the licensed premises consists primarily and predominantly of the regular supply of meals to customers for consumption on the premises.
- Licensed restaurants are low risk venues and liquor without a meal provisions should exist as of right.

Trading hours of hotels, extended trading permits and the distinction between services offered by hotels and nightclubs

- Hotels and nightclubs are high risk licensed venues.
- Hotels provide accommodation and, on this basis, they should be subject to earlier closing times than nightclubs which do not. The point of difference for a nightclub is the requirement to provide continuous entertainment by a DJ or at least 1 live artist.
- The City of Fremantle typically does not object to applications for 1am extended trading permits submitted by hotel licensees that demonstrate a history of responsible service of alcohol and a commitment to harm minimization principles.
- The City of Fremantle recommends 4am closing times for nightclubs, a one hour reduction in operating hours.
- 4am closing times for nightclubs will provide entertainment precincts the ability to clean and refresh before the start of the next day. This is not atypical in major international cities. Venues close at 2-3am in Vancouver, 3-4am in Edinburgh, 4am in New York, 4-5am in London and 4-5am in Amsterdam.

Appropriateness of penalties contained within the Act

- The City of Fremantle recommends the following amendment to section 119 of the Liquor Control Act to assist the WA Police control street drinking:

119. *Unlicensed premises etc., offences as to*

A person who consumes liquor or has in their possession an open container of liquor in any place or on any premises, including any park or reserve, without the consent of the occupier, or of the person or authority having control, of that place or those premises commits an offence.