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25 February 2013

Executive Officer
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By Email: LiqActReview@rql.wa.gov.au

Dear Members of the Review Committee

Review of the Liquor Control Act 1988 - submissions on behalf of Clubs WA

Lavan Legal represents Clubs WA Inc, the representative body of licensed clubs in Western Australia.

We enclose:

- 1 One page summary of submissions.
- 2 'Submissions to Review Committee on Behalf of Clubs WA Inc', dated 25 February 2013 prepared by Lavan Legal.
- 3 The attachment referred to within the Lavan Legal document, namely 'Review of the Liquor Control Act 1988, Stronger Clubs, Stronger Communities, Western Australian Clubs: "An underdeveloped resource", February 2013' prepared by Clubs WA Inc.

Should you have any queries please do not hesitate to contact either of us. Our client is available and willing to discuss any aspect of the submissions. If there is to be any opportunity to make oral submissions to the Review Committee please let us know.

Yours sincerely

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Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.



Summary of Lavan Legal Submissions to the Review Committee on behalf of Clubs WA Inc

- 1 Licensed clubs contribute enormously to the Western Australian community as a whole and in respect of individual local communities.
- 2 The Liquor Control Act in its current form and as it is currently interpreted by the licensing authority, obstructs licensed clubs and threatens their future capacity to meet consumer demand and to fulfil their important role within the community.
- 3 Legislative amendments are sought to alleviate existing legislative restrictions which diminish the value and impede the role of licensed clubs and are out of touch with consumer demand. The amendments proposed are not designed to alter the nature of licensed clubs and their role in the community but only are sought to provide flexibility for licensed clubs in respect to:
 - 3.1 Conducting of functions.
 - 3.2 Enabling clubs to serve the needs of tourists.
 - 3.3 Temporary membership for "a person assisting or supporting" a visiting club.
- 4 The accompanying sets of submissions prepared by Lavan Legal dated 25 February 2013 and Clubs WA dated February 2013 should be read in conjunction with each other and with this one-page summary.



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Review of the Liquor Control Act 1988 (the Act)

25 February 2013

**SUBMISSIONS TO REVIEW COMMITTEE ON BEHALF OF
CLUBS WA INC**



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1 Introduction and background

- 1.1 These submissions are made on behalf of Clubs WA Inc (**Clubs WA**). These submissions should be read in conjunction with the **attached** detailed document prepared by Clubs WA titled *'Review of the Liquor Control Act 1988, Stronger Clubs, Stronger Communities, Western Australian Clubs: "An underdeveloped resource", February 2013'* (**Clubs WA Document**). The Clubs WA Document contains commentary, statistics and other information to support propositions made in these submissions and it contains other material relating to the nature of clubs, the history of clubs, their role within the community and reasons why changes are needed to the Act.
- 1.2 Clubs WA is a non-profit incorporated association representing the interests of non-profit licensed clubs in Western Australia. Clubs WA has counterparts in other Australian states and territories and forms part of the national Clubs Australia body.
- 1.3 Legislative amendments are sought to alleviate existing legislative restrictions which diminish the value and impede the role of licensed clubs and are out of touch with consumer demand. The amendments proposed are not designed to alter the nature of licensed clubs and their role in the community but only are sought to provide flexibility for licensed clubs in respect to:
- 1.3.1 Conducting of functions.
 - 1.3.2 Enabling clubs to serve the needs of tourists.
 - 1.3.3 Temporary membership for "a person assisting or supporting" a visiting club.

- 1.4 There are approximately 1,000 clubs in Western Australia licensed with either a 'club' or 'club restricted' licence¹ located throughout the whole State. Almost all of these are members of Clubs WA.
- 1.5 Statistics relating to membership of and visitors to the licensed clubs that are affiliated with Clubs WA are contained in the Clubs WA Document². Clearly a very large section of the public enjoys patronising licensed club premises.
- 1.6 Licensed clubs are very different from other licensed premises in several respects. Those differences, which are highlighted in this document, support the need for clubs to be treated differently by the legislation.
- 1.7 Licensed clubs play an essential role within the community. They are places where communities gather and where people who share common beliefs, interests and goals come together.
- 1.8 Clubs traditionally provide safe, comfortable and low risk premises. These features are particularly poignant in today's society and in the context of liquor licensing generally where issues associated with alcohol-related harm and ill-health and impact of licensed premises are prevalent and dominate licensing matters. The licensing authority recognises that there is a distinction between low and high impact licence types and has in fact identified that clubs have lesser adverse impact³. The Clubs WA Document addresses this issue further⁴ and the point is also referred to further on in this document.

¹ www.rgl.wa.gov.au – accessed 1/2/13

² At page 6

³ Policy of the Director of Liquor Licensing, 'Public Interest Assessment Pursuant to section 38 of the Liquor Control Act 1988' last amended 19 December 2012, at page 3

⁴ Section 4

- 1.9 Community needs and attitudes relating to the accessibility of liquor and related services as sold and supplied by licensed clubs are changing. Those changes need to be taken into account in the legislation. Other States and Territories have developed more flexible licensing regimes which better accommodate licensed clubs. Western Australia lags behind.
- 1.10 Compared to the other States and Territories, WA clubs have significant disadvantages due to the lack of gaming revenue. Consequently it is all the more critical that licensed clubs in WA be permitted to provide adequate levels of services and facilities at their premises by the licensing laws due to the inability to raise funds from gaming so as to ensure viability of WA clubs.
- 1.11 It is imperative in the best interests of the Western Australian community as a whole that licensed clubs are able to operate at their optimum level in order to be able to fulfil their highly valuable roles both now and into the future. It is also imperative that the community of Western Australia have the same opportunities to utilise their licensed clubs as people living elsewhere in Australia do.
- 1.12 Further, the array of licensing restrictions applicable to clubs is confusing to the public and difficult for clubs to control and manage with their modest budgets and volunteer management.
- 1.13 At present licensed clubs in Western Australia are constrained and struggling as a consequence of licensing law restrictions and they cannot operate in accordance with reasonable consumer requirements. In this respect the Act does not operate appropriately and effectively in respect of licensed clubs.
- 1.14 It is acknowledged that clubs should not enjoy the same broad licensing privileges as any hotel class of licence referred to in section 41 of the Act. There is no intention to facilitate change which would make club licences akin or equivalent to hotel licences. This document highlights that clubs are indeed very different from hotel operations and are designed to serve distinctly different purposes. The legislative amendments

which are sought herein for clubs are far from sweeping. Should the conservative amendments sought be adopted and come into effect, the existing distinction between club licences and other licences would be unaffected.

- 1.15 This submission supports proposed changes to the Act that will address the key licensing problems faced by licensed clubs in a manner which would allow clubs to continue to operate in their own particular unique and special way, in keeping with changing community needs and attitudes today and with far less ambiguity.

2 The nature of clubs

- 2.1 In order for the Review Committee to have a proper understanding of the changing community needs and attitudes relating to the accessibility of liquor and related services in respect of clubs, it is important to highlight the nature of clubs.
- 2.2 Licensed clubs are non-profit, community focused organisations. They are created for the purpose of providing for the collective common interests of like-minded groups of people who form the membership base to pursue common purposes. The purposes are specified in the objects clauses of the constitutions or rules of the respective organisations. The objects are the reason for their being. The objects are never to operate as a commercial enterprise selling and supplying liquor to the general public. Other comments addressing these points are contained in the Clubs WA Document⁵.
- 2.3 Clubs establish premises designed specifically to accommodate and provide for the common interests of the members and the objects of the organisation. The following simple example highlights this fact. The liquor component is always just an ancillary factor.

⁵ For example, page 4

For example, yacht clubs are situated near waterways and provide boating infrastructure such as marina berths/pens. Football clubs comprise ovals for playing of football games, change rooms and gymnasiums. Golf clubs have greens and a golf course to play golf on.

- 2.4 Clearly clubs are very different from other licensed premises. As they serve a different purpose they fill an otherwise void and play a different role in the community. Clubs are formed out of a desire by a group of people to share common interests and to create somewhere to get-together for the purpose of living, pursuing and enjoying those common interests together. Those common interests may be of a sporting, religious, artistic, social or other particular nature which is a non-commercial activity.
- 2.5 Other bodies on the other hand, which are not clubs, are created to pursue commercial goals through conducting businesses. They are motivated by the commercial desire to generate a profit. Those businesses may be dedicated to providing services to the public and to catering for public needs. They are run and operated in a very different way to licensed clubs. Ultimately the main aims of commercial enterprises and the decisions made within them are driven by a need to make a profit. To ensure commercial success those businesses are promoted or marketed to the general public and are often subject to changes in their style of operation, purpose, theme and manner of trade in order to maintain and pursue custom. They chase market share to ensure ongoing profitability. Such businesses are focused on competing with each other in the market place. These features are not applicable to clubs.
- 2.6 The very nature of clubs and the objects pursuant to which they exist, ensure that the liquor services they provide are ancillary and incidental to the sporting, religious, artistic or other non-commercial purpose upon which they are created. The liquor is very much a secondary feature. This is distinctly different from most other classes of licence. Bar areas at clubs are usually adorned with club memorabilia, historical club records, club notices, team photographs and other material which takes away the focus on liquor itself and clearly indicate to patrons that non-liquor activities are the

core of the operation. These aspects are highly relevant to the role of clubs as low impact, low risk operations.

2.7 Collectively licensed clubs generate a large amount of turnover within the State's economy which stays within the community. This turnover is not distributed to shareholders and nor is it shipped out to another economy. Their profit is invested back into the club to continue its operations and to further its specified objects. Detailed statistical information of such income is provided in the Clubs WA Document together with other useful information about the operating expenditure and assets of licensed clubs⁶.

2.8 Licensed clubs also make a significant social contribution to the community. The following are examples of this:

- 2.8.1 Clubs draw like-minded people together.
- 2.8.2 Many clubs are specifically designed to cater for families to enjoy together.
- 2.8.3 Clubs provide low impact, homely socialising environments.
- 2.8.4 Sporting related clubs encourage health and fitness through sports and competition.
- 2.8.5 Clubs create collegial atmospheres and camaraderie amongst members who are loyal and supportive of their club.
- 2.8.6 Clubs foster community cohesion.
- 2.8.7 Clubs set a positive example in terms of providing safe and passive drinking environments.

⁶ Sections 5, 6 and 7, from page 8

Further reference to the social contribution of clubs is addressed in the Clubs WA Document⁷.

2.9 The following table summarises some of the key differences between licensed clubs and most other businesses licensed under the Act:

Item no.	Feature	Licensed clubs	Most other licensed businesses
2.9.1	Non-profit incorporated bodies (not private commercial enterprise)	✓	✗
2.9.2	100% of profit directed back into the operation of the organisation	✓	✗
2.9.3	The conduct of business under the licence is not driven by profit	✓	✗
2.9.4	Established on the basis of and operating for the purposes of, particular specified objects	✓	✗
2.9.5	Requirement for a membership base	✓	✗
2.9.6	Requirement for a set of detailed rules by which the organisation must operate and patrons must comply	✓	✗
2.9.7	General public generally excluded from entry	✓	✗
2.9.8	Accountable to patrons for conduct of the business under the licence	✓	✗
2.9.9	Premises which are designed physically to accommodate the particular objects of the club, such as having sporting facilities	✓	✗
2.9.10	Patrons make decisions about the conduct of business as voting members	✓	✗
2.9.11	Liquor is an ancillary service, secondary to the clubs' objects	✓	✗
2.9.12	In-house sanctions apply for patrons who are non-compliant with club rules (eg disorderly or anti-social)	✓	✗
2.9.13	Enormous social contribution to members and the particular local community	✓	✗

⁷ Sections 9 and 10, from page 13

2.9.14	Staff and management include volunteers	✓	x
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2.10 Clubs provide sporting and other facilities to local communities, saving the cost for government. In this respect, but for clubs, local, state and federal governments would have a much greater burden to fund such infrastructure. This point is referred to further in the Clubs WA Document⁸.

2.11 Also, clubs sometimes take on the responsibility of town services and facilities in regional locations where such services and facilities are poorly maintained or are going to be closed down in order to ensure the local community has the services and facilities it requires.

For example, the Wagin District Club set up a TAB outlet after the local hotel closed its TAB service. Also, sometimes in small country towns where there are no bank branches clubs provide the only banking services through EFTPOS facilities.

2.12 Further in respect of sporting clubs in particular, they provide significant value to members and the wider community generally in terms of essential health, fitness and well-being through the provision of opportunities for people to learn, undertake and compete in sport. This point is referred to further in the Clubs WA Document⁹.

2.13 One of the key factors distinguishing licensed clubs from many other licensed operations is the characteristic of clubs as low risk low impact licensed premises. This factor, together with the various others referred to in this document and the Clubs WA Document provide compelling reasons why licensed clubs should be supported and encouraged to thrive.

⁸ Section 13, page 17

⁹ Section 11, from page 15

- 2.14 In terms of the low risk characteristic, licensed clubs are very well placed to set the benchmark in the liquor and hospitality industry in terms of balancing requirements of consumers for liquor and related services whilst minimising harm or ill-health due to the use of liquor. This important positive factor is specifically relevant to the Terms of Reference.
- 2.15 Clubs provide self-regulation in terms of member behaviour and conduct. The Clubs WA Document refers to disciplinary action which can arise under club constitutions and rules¹⁰. This aspect of clubs provides for high level management and control which clearly endorses them as indeed being low risk operations. It is a compelling factor in support of clubs.
- 2.16 Partly due to the low risk element of clubs, but also in terms of some particular types of clubs, many of them provide excellent services for elderly people. In so doing they support this important section of the community.

For example, bowling clubs are often popular destinations for elderly people. Such clubs provide appropriate premises, often with particular health and safety design features such as extra hand-railing and offer opportunities for low impact exercise and mature socialising suitable for such members of the community.

Further comments regarding this valuable contribution made by clubs is addressed in the Clubs WA Document¹¹.

- 2.17 The preceding sub-paragraphs outlining the nature of clubs and their valuable contributions to society, highlight the essential roles they play and the obvious need to preserve them to ensure their valuable contributions are maintained.
- 2.18 Many other factors relevant to the nature of clubs and the role they place are referred to throughout the Clubs WA Document¹²

¹⁰ Refer to page 7

¹¹ Section 11, from page 15

3 Operating obstacles for clubs

- 3.1 The Act in its present form severely inhibits licensed clubs both directly and indirectly. It does this directly, in terms of the inability to conduct particular activities which are not authorised including the prohibition on selling and supplying liquor to particular people. It does this indirectly, through the loss of income required to maintain club premises and services as a consequence of the direct inhibitions and prohibitions.
- 3.2 The current legislative provisions restrict or totally prevent licensed clubs from the following:
- 3.2.1 Catering for functions for people or organisations from within the local community which do not involve an existing club member acting as the host.
 - 3.2.2 Catering for as many functions as may be demanded of a club.
 - 3.2.3 Allowing guests of a function to purchase their own liquor of choice at a function.
 - 3.2.4 Allowing tourists to consume liquor at the premises.
 - 3.2.5 Allowing people assisting a visiting club to be a temporary member of the host club.
- 3.3 The obstacles faced by clubs are further explained by way of hypothetical examples referred to throughout this document.
- 3.4 The existing Western Australian liquor laws in relation to licensed clubs are unique. They do not apply elsewhere in Australia or overseas. This fact is unfair for Western Australians who are discriminated against in this regard and also for people from

¹² For example, see page 3

other States, Territories or overseas who should be entitled to be able to enjoy licensed clubs in the same way in WA as they are elsewhere.

- 3.5 Whilst private commercial interests of licensees are not relevant factors under the Act and not included in the Review Committee's Terms of Reference, it is highly relevant to consider the viability of clubs in today's times and how they may continue into the future to properly provide for their members and community needs. Their ability to so provide is largely dependent upon their ongoing viability.
- 3.6 As the attached Clubs WA Document addresses¹³, licensed clubs in Western Australia do not enjoy the financial injection of gaming which their counterparts elsewhere in Australia do. It is therefore, critical that liquor and related services are provided at WA licensed clubs at such a level and on such terms as can enable WA clubs to generate income to support and preserve themselves.
- 3.7 Clubs' main sources of income are membership fees and food and beverage services¹⁴. If a club cannot cater to the demand for its liquor and related services by the public because of licensing restrictions, then the club may not attract the income it requires to provide its other services such as to maintain and upgrade facilities. Facilities which, in many cases, would otherwise have to be funded by government.
- 3.8 Obtaining an alternative, more flexible class of licence to try to get around the limitations of club licences is neither necessarily an option open to clubs or desirable in the public interest. This is partly because doing so would change the nature of the organisation and potentially jeopardise the club's status for taxation purposes as a non-profit body. Further, the general spirit of the alternative hotel classes of licence is at odds with the nature of licensed clubs and would lead to the proliferation of drinking establishments.

¹³ Section 5, from page 8

¹⁴ Clubs WA Document at page 8

- 3.9 For all of the reasons summarised in preceding sub-paragraphs, legislative change is needed in order to preserve licensed clubs in this State.

4 The proposed amendments

- 4.1 This submission document is intended to facilitate amendments to the Act.
- 4.2 The following are the marked-up amendments to section 48 which this submission urges the Review Committee to recommend:

(2) Subject to this Act a club licence authorises the sale, during permitted hours, of liquor —

(a) to a member and to the guests of that member in the company of that member —

(i) for consumption on the licensed premises, subject to subsection (4)(b); or

(ii) ancillary to a meal supplied at the club by or on behalf of the club to a member and to each of the guests of that member (without limitation as to number), being guests of whose attendance prior notice was given to the club in accordance with rules approved by the Director; or

(iii) for consumption on the licensed premises at a club function if in accordance with rules approved by the Director.

~~(b) to a member, for consumption by the guests of that member (without limitation as to number) at a function held by or on behalf of that member at the club if in accordance with rules approved by the Director; to a tourist for consumption on the licensed premises.~~

(2a) In this section —

club function means a function as defined in section 3 of the Act, at which members and their guests may attend without limitation as to number of guests, in a specified part of the club premises, which function is of a cultural, educational, religious, patriotic, professional, charitable, political, literary, sporting, athletic, industrial or community nature. A club function may include weddings or other private club member functions as well as non-private club member functions arranged by other community associations.

tourist means a person who is —

(a) staying at a place that is at least 40 km from his or her usual place of residence for a period of at least one night; and

(b) not in the course of travelling on a regular journey between his or her usual place of residence and his or her place of work or education; and

(c) travelling in the course of a holiday or for leisure, business, to visit friends or relatives or for any other reason.

.....
(4) Every club licence is subject to the conditions that —

....

(b) the authority to sell liquor for consumption by the guests of a member, otherwise than ancillary to a meal or at a club function under subsection (2)(b)(a), extends only to such persons, not exceeding 5 or such lesser number as may be permitted by rules approved by the Director, as are introduced as the guests of that member on that day;

(5) Subject to subsection (6), a person who is on any day visiting a club (the *host club*) as a member, ~~or an official of,~~ or person assisting or supporting another club —

4.3 The amendments proposed have been carefully considered. They are narrowly focused so as to address only the key issues faced by licensed clubs in this State. There is no desire to obtain broad or sweeping changes to the legislation or to alter the inherent nature of clubs.

4.4 Each amendment proposed has particular background and reasons supporting and justifying the changes as addressed in the following sub-paragraphs and the Clubs WA Document.

Functions

4.5 Licensed clubs are a popular choice by the general community as venues for functions.

4.6 Either because of their particular style of premises, particular location, history, connection with the community, particular type of atmosphere, lack of commercial, private or political orientation or whatever other reason, clubs do present as ideal function venues.

4.7 Unfortunately though, licensed clubs are very limited under the Act in terms of the type and number of functions they can accommodate. They are limited as to allowing non-member functions and numbers of those functions.

- 4.8 The public demand in respect to use of club facilities for functions is totally thwarted by the current Act.
- 4.9 The requirements of consumers are not being met. The liquor, tourism and hospitality industries in the State are not developing properly as a consequence. The Terms of Reference require the Review Committee to have particular regard for these issues.
- 4.10 These factors generate problems for licensed clubs, which are as follows:

- 4.10.1 At present, the legislation restricts non-member functions. Non-member functions require separate approval from the licensing authority by way of a permit for the particular event. Such permits are limited. The demand for non-member functions often exceeds the amount which the licensing authority will approve. Policy of the Director of Liquor Licensing allows only a maximum of 12 permits per year for approval to conduct non-member functions. Such permits need to be applied for well in advance of the function, leaving no scope for such functions to be held at short notice. Further, there is the uncertainty of approval associated with a pending application for a permit.

For example, if a local member for parliament wishes to celebrate winning a seat at an election and wish to host a function at a local club with party officials, family and friends, but none of them is a member then the function will not be authorised without obtaining a prior permit. The club in question may not have time to obtain that permit within the specified policy period, particularly if there is a spontaneous element to the event. Or, the club may not be able to obtain the permit because the quota of 12 has already been used.

- 4.10.2 The administration and cost associated with having to apply for a permit to be approved to conduct a non-member function is a considerable burden for a lot of clubs, particularly smaller ones and those where volunteers are required to spend their personal time and effort to work through the application process for each permit.

- 4.10.3 For various reasons guests at a function may want or need the ability to purchase the liquor they consume at the function. Under the law currently, this is unauthorised.

For example, if a guest of a function wants a particular type of liquor not included in the host's function package, or if the bar tab arranged by the host runs out, or if a guest has a particular preference to pay for their own drinks, or if the host leaves the function early and the guests wish to have another drink, the guests are not authorised to do so.

- 4.11 These problems are very real, are not understood by the public, are out of touch with consumer demand and do indeed inhibit the operation and development of licensed clubs. These problems do not serve the public interest.
- 4.12 Clubs WA seeks amendments to the legislation as proposed, to resolve these problems.
- 4.13 A club specific function definition is proposed. This is designed to reflect the intention of the reference to functions in a licensed club context. The intention is to create greater flexibility than exists now, which is mostly from an administrative perspective but to narrow the scope and to reflect the nature of clubs, so as not to conflict with the flexibility available through other classes of licence.

Tourists

- 4.14 The Western Australian tourism industry is a major segment of the State's economy and the broader community.
- 4.15 1,805,100 inbound visitors to Western Australia were recorded in 2011/12 from interstate and international sources¹⁵.

¹⁵ Tourism Western Australia, Annual Report 2001/12, at page 23

- 4.16 "The State Government Strategy for Tourism in Western Australia 2020 is a broad strategy for tourism in the State, with the goal to double the value of tourism in Western Australia from \$6 billion in 2010 to \$12 billion by 2020"¹⁶.
- 4.17 The importance of tourism in Western Australia was recently highlighted at State Government level with both major political parties announcing funding as part of their 2013 election campaigns and formally identifying the need to provide for the industry¹⁷.
- 4.18 The role of the tourism industry is clearly recognised under the Act¹⁸. However, this recognition is qualified and restricted in respect of licensed clubs.
- 4.19 The Review Committee is to have particular regard to the interests and needs of the tourism industry.
- 4.20 Clubs cannot lawfully cater for tourists in the way other licensed premises can. In this regard clubs are discriminated against under the legislation. The result is adverse consequences for both clubs and tourists.

For example, a sailing enthusiast from Sydney who has travelled to Perth for business may be interested in patronising say Hillarys Yacht Club Inc. Under the current legislation, that person is not free to do so. He must either know a member who is able to invite him as a guest, or be an invited guest of a function, or somehow qualify as a temporary member. The Sydney tourist is otherwise not permitted to experience and enjoy the services and facilities of this or any other yacht club whilst in Western Australia.

¹⁶ Tourism Western Australia, Annual Report 2001/12, at page 14

¹⁷ Tourism Council Media Release dated 8 February 2013

¹⁸ Section 5(1)(c)

For example, an elderly couple traveling around regional Western Australia in their caravan may drive through a small town such as Jurien Bay, in which the only licensed premises open on that day are the Jurien Bay Bowling Club and the Jurien Bay Hotel. The couple may not feel comfortable patronising the Hotel with its young, mainly male, local crowd and would prefer to utilise the services of the bowling club which is occupied by members of similar age. They are not free to do so.

- 4.21 Clubs WA recently undertook a survey of members in respect to issues relating to tourists¹⁹. The following issues and attitudes emerged from the several clubs that responded:
- 4.21.1 There are clubs located in areas regarded as being designated "tourist areas".
 - 4.21.2 Clubs consider themselves as potentially being "tourist facilities".
 - 4.21.3 Clubs do attract tourists seeking use of club services.
 - 4.21.4 Clubs experience problems associated with the requirement for tourists to be guests of a member.
 - 4.21.5 There is unanimous and sometimes particularly strong support from clubs for changes to the liquor laws to in relation to clubs and tourists.
 - 4.21.6 Clubs would work with local tourist centres to attract tourists if their licences enabled them to cater for tourists.
 - 4.21.7 Some clubs are located in places where there is a lack of services and facilities for tourists and their clubs could be made available to resolve that situation if licensing changes were introduced.
- 4.22 When the role and value of the tourism industry is considered in conjunction with the role and value of the licensed clubs industry, a logical and inevitable conclusion

¹⁹ Emails sent 18 February 2013 from Clubs WA

arises. The two should be able to accommodate and complement each other, for the benefit of all concerned.

- 4.23 The Act should be amended to achieve this by authorising licensed clubs to cater for tourists.

Temporary membership to include “persons assisting or supporting”

- 4.24 Clubs often compete and interact with each other. In doing so, one club will visit the premises of a host club. Such activities are entirely consistent with the philosophy of clubs and often facilitate the pursuit of their respective objects.

For example, a team of cricketers from the Kingsley-Woodvale Cricket Club can be scheduled to play a cricket match at North Beach Cricket Club.

- 4.25 Under the former Liquor Licensing Act 1988 (WA), licensed clubs were authorised pursuant to section 48(5) of that Act to extend temporary membership to “a person assisting” another club – the ‘visiting’ club which is involved in activities at the premises of the ‘host’ club offering the temporary membership.

- 4.26 For unknown reasons, this privilege was removed as part of the 2007 amendments to the Act.

For example, a person providing the drinks and other back-up equipment for the players of the Kingsley-Woodvale Cricket Club team would not qualify as a temporary member at the North Beach Cricket Club.

- 4.27 It is submitted the former legislative provision should be restored.
- 4.28 Subsequent to the 2007 amendments, Clubs WA raised the issue with the State Government and Department of Racing, Gaming & Liquor. Consequently a Policy of

the Director of Liquor Licensing was introduced to say that “people who are assisting a visiting club” could qualify for temporary membership²⁰.

4.29 The Director’s Policy is helpful to some extent, however, it is cause for confusion and uncertainty given that it is only policy, not law and is subject to the disclaimer on page 1 of the Policy document²¹.

4.30 The legislation should be amended to reinstate the provision that “a person assisting” has temporary membership status. To clarify this provision for clubs and the licensing authority interpreting it, the amendment should include reference to a person who is “supporting” the visiting club.

5 Conclusion

5.1 Licensed clubs engender many important values, provide multiple vital services and contribute enormously, in many different ways, to the Western Australian community as a whole and as individual clubs, to their respective local communities. This submission document, together with the Clubs WA Document, has highlighted these essential factors.

5.2 Licensed clubs benefit the whole of the Western Australian community generally.

5.3 The Act in its current form is causing a range of operating problems for licensed clubs and inhibiting their ability to properly cater for their members and the modern demands for licensed club services.

5.4 In its current form, the operation and effectiveness of the Act is sorely inhibited in respect of provisions relating to licensed clubs.

²⁰ Policy of the Director of Liquor Licensing, ‘Club Constitutions – Club and Club Restricted Licences’, last amended 2 July 2012, at page 3: “Subject to the Act, a person who is on any day visiting a club (the “host club”) as a member or an official of another club (which includes people who are assisting a visiting club)...”.

²¹ “This Policy is designed to provide information in regard to the subject matter covered, and with the understanding that the Director of Liquor Licensing is not passing legal opinion or interpretation or other professional advice. The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents”

- 5.5 Legislative change is required to resolve the situation.
- 5.6 Clubs are low impact and low risk licensed premises which should be encouraged and supported through legislative change.
- 5.7 The changes proposed by this document have been very carefully considered and developed so as to ensure that, if implemented, a vibrant and successful licensed club culture in Western Australia will ensue.

Dated 25 February 2013

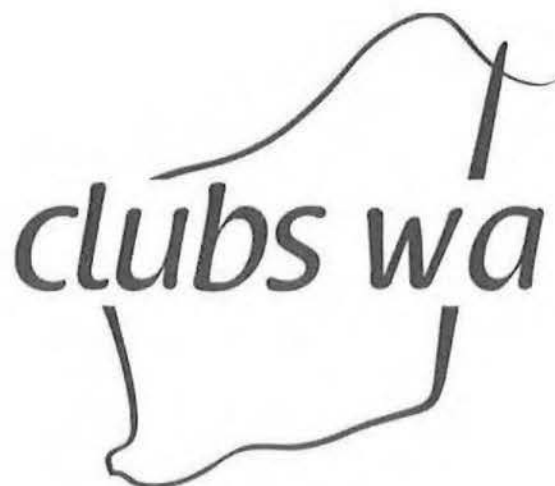
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Lavan Legal
Lawyers for Clubs WA Inc

Reference : [Redacted reference text]

Clause 3(1)



Review of the LIQUOR CONTROL ACT 1988

**Stronger Clubs,
Stronger Communities**

**Western Australian Clubs:
*“An underdeveloped resource”***

February 2013

Clause 3(1)

EXECUTIVE SUMMARY - [REDACTED]

Western Australia is currently the only state in which clubs are not permitted to engage in a broad range of trading opportunities and accordingly their revenue streams are intrinsically different in capacity, sources and variety despite the need to generate revenues for community benefit being consistent across Australia. This submission will include references to interstate club activity which will be a reminder of the pressure clubs in Western Australia are under to run effective community and tourism businesses and how more strategic Liquor Legislation and Regulation designed to assist a community controlled business structure could grow the role played by licensed clubs.

Clubs are *unique, democratic community organisations* that make important social and economic contributions in Western Australia and across the country. They provide affordable entertainment, facilities and services and promote social connection. As not-for-profits they are driven by member and community benefit, not shareholder return.

A stronger club industry in Western Australia would *bring benefits to all*. It would increase club viability and expand the benefits they could provide to their communities, including:

- Allowing clubs to increase their community support and charitable activity
- Enhancing tourism outcomes.
- Maintaining and expanding a hospitality sector that is relatively free of alcohol induced incidents.

A robust club sector would also ease pressure on state and local governments to provide sporting facilities and social support for locals and tourists alike. *Clubs are genuine providers of state wide facilities for social exchange, and offer a safer trading environment - but they need to be viable businesses. Currently the sustainability of licensed clubs in Western Australia is under severe threat; local clubs are replacing staff with rotating volunteers and reducing their community contribution.*

It is important to also understand that community clubs do far more than just provide vital recreational facilities in their local communities. In the case of sporting clubs, for instance, the intangible dimensions include development of social values (such as "working as a team" or "caring for each other") and codes of behaviour (such as "compliance with rules" and "respect for authority e.g. coach/referee"). These are essential life skills which impact positively on young people throughout their lives. Also fitting that life skill experience is the need for new club members (including junior members) to comply with rules and an ethos which has been determined and controlled by their peers but is what they ultimately inherit.

Primarily, our submission for change will revolve around a need for liquor laws and regulation to better reflect community benefit and expectation from the club sector along with clear determinations on a range of trading activity that is or can be stymied by bureaucratic interpretation.

Current liquor laws and regulation relating to licensed clubs in this state are restrictive and thwart with a capacity for misinterpretation and that has a dramatic negative effect on licensed clubs that seek to fulfil a genuine and much relied on core role in their respective regions.

Both Local and State Government, on behalf of their state wide community, should look to be reflective of their residents' concerns over the use of alcohol and the effect that has on normal day to day activity including social exchange. A review of Liquor Laws in WA should indicate that Liquor Licensing laws need to be more contemporary to allow for the survival of community clubs and encourage the role that clubs play in responsible drinking through socialisation in a safe and

cohesive environment. Regulation that continues to restrict the trading capacity of the largest sector of liquor licensees, the one owned and operated by the community and the one that has relatively little or no history of harm caused by the misuse of alcohol, has been an ineffective strategy.

Better trading terms are required for the club industry to remain viable. This would be reflected in a revision of the Liquor Act to provide greater opportunities for clubs to meet community expectations with regards to tourism and accommodating local functions and celebrations along with more support offered to charity events.

A revision of Liquor Licensing requirements to support a vibrant club industry would provide a flow on effect to the community and government of Western Australia through:

1. Increased services provided to local communities
2. Increased support of community projects, reducing the load on state and local governments
3. Increased employment
4. Increased training
5. Higher levels of sport participation and involvement with less antisocial behaviour
6. Greater opportunities for entertainment and live music
7. Increased aged care facilities and services
8. Greater community cohesion and socialisation in a safe environment

Minor amendments to liquor licensing laws would have significant impact on the sustainability of clubs and the long term positive effects on the health and wellbeing of the Western Australian community.

WA CLUBS: AN UNDER-DEVELOPED RESOURCE

1. Clubs are unique

- a) Clubs are democratic, community-based organisations that have become a fundamental part of Australian social life. They are formed by groups of people who share a common interest, coming together to provide facilities to promote and pursue that interest. This common interest can be related to a sport, religion, ethnic identity, political affiliation occupation.
- b) Clubs form an important part of the *social fabric* of the community. They provide a wide range of social, entertainment, lifestyle and community-focused services to their members and to the broader population. Clubs provide affordable facilities and services, and promote friendship, volunteering, self-esteem and a supportive social environment for people of all ages. Any link to clubs helping with reducing depression?
- c) The club movement also contributes to the *economy* through job creation, training, investment in community and sporting infrastructure, spending money in the community and the payment of taxes to governments.
- d) Registered clubs are not-for-profit organisations whose mutual basis is recognised by the Australian Taxation Office. Members contribute to a common fund created and controlled by them for a common purpose (sport, cultural, and so on). As these contributing members are essentially the same as those who participate in and benefit the fund, member contributions and expenditure in the club are not treated as taxable income by the ATO.
- e) Unlike casinos and hotels, registered clubs are not driven by shareholder return. Ongoing viability is of course crucial, but members only benefit from profitability in the continuation of their club and the improvement of facilities, services and products offered.
- f) Without the commercial driver of the bottom line, clubs' first priority is thus to meet the needs of their members and of the community. However, Western Australian clubs are limited in their ability to meet these needs and remain sustainable like their interstate cousins, due to the lack of revenue streams.

2. About Western Australia's clubs

Clubs WA represents around 1,000 licensed clubs in Western Australia. Of these, 439 have a *full club licence*. These clubs typically own or lease premises, invest in community infrastructure, and employ and train staff. The parent clubs typically represent themselves and an amalgamated group of affiliated smaller clubs that are not licensed but generally operate with the support and assistance of the parent club. These 439 clubs are broken down into the following types:

- Bowling – 66;
- Golf – 78;
- Other sport – 70;
- Community, Ethnic & RSL – 79;
- Multi-activity – 123;
- Other – 23.¹

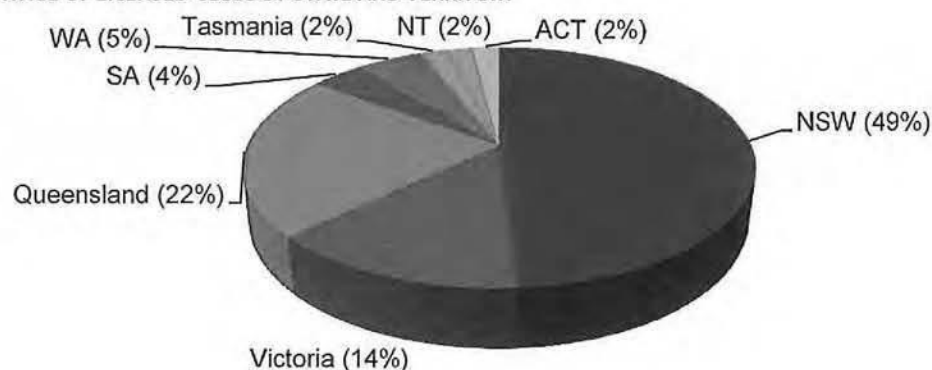
¹ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.13. Please note that throughout this submission, all Western Australian club statistics cited from the Allen Consulting Group report are based on survey data provided by these 439 full-licence and special-facilities licence clubs.

- a) A further 560 clubs operate with a *restricted licence*. These clubs are run almost entirely by volunteers and tend not to employ staff or own premises.
- b) Clubs have almost always been part of the Western Australian landscape, with the longest continually-operating club in existence since 1865.² Despite this long history, the state's industry is very different from other jurisdictions.
- c) Unlike in other jurisdictions, Western Australia's clubs do not provide gaming. As a result, WA's club industry is notably different, comprised mostly of small, volunteer-run clubs. As noted in IPART's landmark review of clubs in NSW, small clubs "typically contribute to the community through their very existence, providing important facilities for their members to pursue their common social purpose."³ The small clubs of Western Australia thus serve a unique and important role in the state, despite their size.
- d) As this submission will outline, however, the state's clubs are limited in the services and facilities they can provide, including limitations created by current restrictive liquor licensing laws and regulation than applies elsewhere in Australia. This section outlines the social and economic contribution of Western Australian clubs and provides a comparison to clubs in other jurisdictions.
- e) The relative scale of the Western Australian industry can be seen in the figure below. On a numbers (and revenue) basis, the industry is dominated by those states where gaming options, along with more liberal liquor laws are available in clubs: New South Wales, Queensland, Victoria and the ACT comprise 87 per cent of clubs by number. Despite Western Australia comprising 10.2 per cent of the Australian population⁴ it accounts for only five per cent of all clubs.

² Ibid, p.51.

³ Independent Pricing and Regulatory Tribunal of New South Wales, *Review of the Registered Clubs Industry in NSW*, 2008, p.36.

⁴ Australian Bureau of Statistics, 3101.0 – *Australian Demographic Statistics*, December 2009, accessed at <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0>

PERCENTAGE OF LICENSED CLUBS BY STATE AND TERRITORY⁵

About 55 per cent of the State's clubs are located in regional Western Australia; the remainder are located in the Perth metropolitan area.

GEOGRAPHIC DISTRIBUTION OF CLUBS IN WESTERN AUSTRALIA⁶

Club Type	Perth	South Western	Great Southern	South East & Midlands	Central	Pilbara & Kimberley	Total
Bowling	26	10	10	10	9	1	66 (15.0%)
Golf	21	19	13	19	4	2	78 (17.8%)
Other sport	42	12	6	5	4	1	70 (15.9%)
Community, Ethnic & RSL	45	8	5	14	3	4	79 (18.0%)
Multi-activity	52	14	15	18	10	14	123 (28.0%)
Other	11	6	1	5	-	-	23 (5.2%)
Total	197	69	50	71	30	22	439

These regional clubs represent a particularly underdeveloped resource; while in many cases they are a social hub for their local population, and can play a valued role in safe options for local and tourists they are not able to play as sizeable a role in their community as clubs in other jurisdictions.

While clubs have a natural place as gathering points, if they were able to provide a broader range of community options, like being a locally owned function centre and tourism leader better utilizing its sporting and recreational facilities. The club would not only provide an better local social outlet in itself, but the additional revenue both from the flow-on growth in club patronage would enable clubs to provide additional entertainment and tourism options.

3. Membership

Over 310,000 Western Australians hold membership in the 439 fully licensed clubs, representing about 14 per cent of the State's population.⁷ Some clubs have membership bases of over 1,000 (the largest club by membership reported a membership base of 4,600) while other clubs have less than 50 members. On average, fully licensed clubs in Western Australia have about 600 members.⁸ This membership base is effectively the driver and supporter of a whole myriad of other organisations that might feed off a licensed club. A study released in 2009 estimated that In 2007/2008 these clubs

⁵ Source: ABS 2005; in the Allen Consulting Group, *Socio-Economic Impact Study of Clubs in the Australian Capital Territory 2008*, Sydney 2008, Figure 2.4, p.9.

⁶ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, Table 2.1, p.15.

⁷ Ibid, p.14.

⁸ Ibid.

attracted 1.9 million visits by guests and over 20,000 bookings of club facilities were made by community groups for a nominal fee or no charge.

4. Clubs – safe venues

- a) It is important that policy-makers recognise that registered clubs are widely recognised as safe, family friendly, member based venues. Clubs have a high regard for the wellbeing of their members and the community at large, and they carefully monitor and self-regulate their activities to prohibit the excessive consumption of alcohol and associated alcohol related harm. Unlike other venues, where you are essentially anonymous, strict constitution requirements and codes of conduct – by which members must abide or face disciplinary action – means that clubs can and do more effectively control patron behaviour. Disciplinary clauses are a mandatory requirement in all licensed club constitutions in Western Australia with all new and revised constitutions needing to be approved by the regulators Consumer Protection and Director of Liquor Licensing.
- b) The proud history and superior safety record of registered clubs is affirmed by the amount of attention paid by police and other agencies with regards to attending alcohol related incidence, noting that police call out records do not have a category for licensed clubs as aside from the large numbers and ever increasing need for them to attend other licensed venues. Available police information indicate that the casino and other alcohol related assault hot spot venues in the Northbridge entertainment precinct plus other varied hotels and taverns require a worrying amount of police and health service professionals time and resources.
- c) It is clear that in some areas of the hospitality industry, responsible services of alcohol practices are not being followed. However, this is demonstrably not the case with registered clubs.

Clause 3(1)

- d) A presentation by [REDACTED] with Clubs Queensland to a Law Justice and Safety forum adds relevance to why licensed clubs share a point of difference and I quote:

While service of alcohol is just one of the many offerings in community clubs, it is an important one because it provides an avenue for socialisation and recreation of members, guests and bona fide visitors - something that has been happening for decades in clubland without incident in the majority of community clubs.

One has to ask why this has been the norm rather than the exception? The answer is three-fold:

- Community clubs do not have private owners, so they do not explicitly trade for profit (but a surplus to sustain their operation). Their sole purpose of existence is the pursuit and promotion of their constitutional objects as decided by the collective membership.
- Community clubs have stringent entry rules that prevent unbridled access to the clubs from the general public. In addition, community clubs are member-based associations. The potential consequence of suspension or termination of membership acts as a strong deterrent in containing aggression or other undesirable behaviours.

- Community clubs rarely (most never) trade after midnight when most of the glassing's or other violent assaults and incidents are likely to occur.

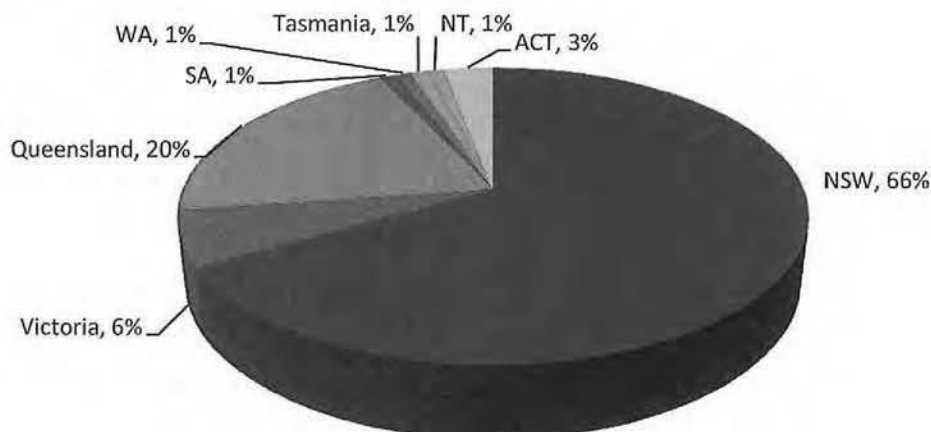
These three factors are critical in understanding why community clubs are low risk venues, compared to other liquor-licensed venues, because the community club model actively discourages risky behaviour by being responsive to the needs of members and the local community. The 'classic' example is the weekend cricket matches or netball fixtures which are 'family-friendly' affairs within the club environs.

5. Club revenue

- a) Western Australian clubs earned about \$396 million in operating income during 2007-08, with an average club earning \$700,000.⁹
- b) Across Australia, the Australian Bureau of Statistics Report 8687.0 – *Clubs, Pubs, Taverns and Bars, Australia 2004/05* found the nation's 2,116 'hospitality' clubs generated income of \$7,374.7 million. This represented an average of \$3.5 million per club: five times the industry average in Western Australia.¹⁰ Take out the estimated average of 60% of club revenues generated by gaming in other states and you can determine that in comparison, average revenue earned by clubs in NSW was around still \$1.4 million in 2007. Accordingly, non-gaming revenue from clubs in NSW was still 2 times the total revenue earned by clubs in WA.
- c) The figure below shows the division of income between jurisdictions. It is relevant to note the extent to which Western Australia has little income, relative to the number of clubs in that jurisdiction, as opposed to other states. The key reason for this difference is Western Australia's absence of the benefits that apply to larger clubs with better or a different trading environment, even after removing the % attributed to gaming.

⁹ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.14

¹⁰ This figure represents only part of the club industry and thus is a significant underestimation of the Club Movement's full contribution: "hospitality clubs" are defined as those which provide drinking facilities, meals, gambling and other hospitality services; this excludes clubs whose main purpose is providing sporting services. It should also be noted that income in 2004/05 excluded GST paid by consumers to hospitality clubs.

DIVISION OF INCOME ACROSS THE STATES AND TERRITORIES¹¹

According to the ABS, the main source of income for Australia's hospitality clubs in 2004/05 was from gambling (\$4,305.1 million or 58.4 per cent of total income). Other major income items were sales of liquor and other beverages, which accounted for 21.7 per cent (\$1,600.8 million) of total income, and takings from sales of meals and food, which accounted for 9.9 per cent (\$726.4 million).¹²

The relative importance of gambling products to Australian club income can thus be plainly seen. This also means that Western Australian clubs are drastically underrepresented for income and employment, relative to the number of clubs in the state and compared to other jurisdictions. As seen in the figure below, Western Australia has more clubs than South Australia, Tasmania, the NT and ACT, but it has one of the lowest rates of income – just 0.9 per cent of the national total, according to the ABS – and employment – just 1.3 per cent.

STATE AND TERRITORY COMPARISONS ON KEY STATISTICS FOR CLUBS (HOSPITALITY)¹³

		NSW	Vic	Qld	SA	WA	Tas	NT	ACT	Australia
Organisations	no.	1,044	287	475	80	103	48	43	36	2,116
	%	49.4	13.5	22.4	3.7	4.9	2.0	2.0	1.7	100.0
Employment	no.	39,170	6,529	13,006	1,047	851	331	750	2,051	63,734
	%	61.5	10.2	20.4	1.6	1.3	0.5	1.2	3.2	100.0
Total income	no.	4862.5	475.9	1498.4	84.2	63.5	29.6	92.2	268.5	7374.7
	%	65.9	6.5	20.3	1.1	0.9	0.4	1.3	3.6	100.0

Western Australian clubs earn about 50 per cent of their income from bar and food sales. Other significant forms of income for Western Australian clubs are membership fees (22 per cent of total income) and facilities and venue rental (6 per cent of total income).

¹¹ ClubsAustralia, *Submission to the Productivity Commission Review of Australia's Gambling Industries*, April 2009, Figure 5.2.

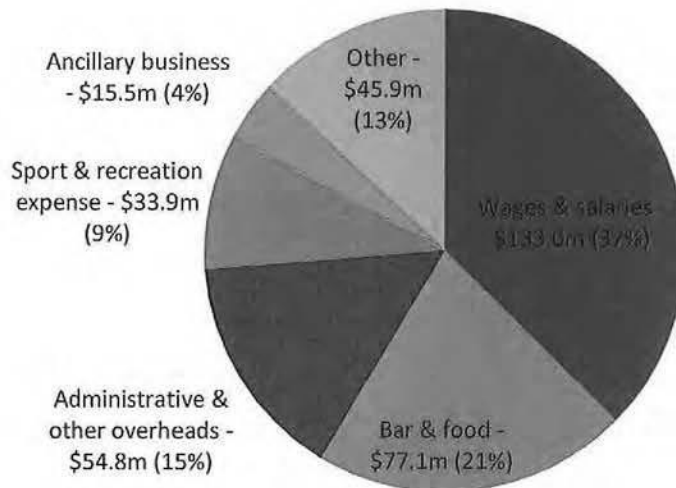
¹² Ibid, Figure 5.3.

¹³ Australian Bureau of Statistics, *8687.0 – Clubs, Pubs, Taverns and Bars 2004-05*, 4 July 2006, accessed at [http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/98006EE6FB741DC7CA2571A00013F3EA/\\$File/86870_2004-05.pdf](http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/98006EE6FB741DC7CA2571A00013F3EA/$File/86870_2004-05.pdf)

6. Club operating expenditure

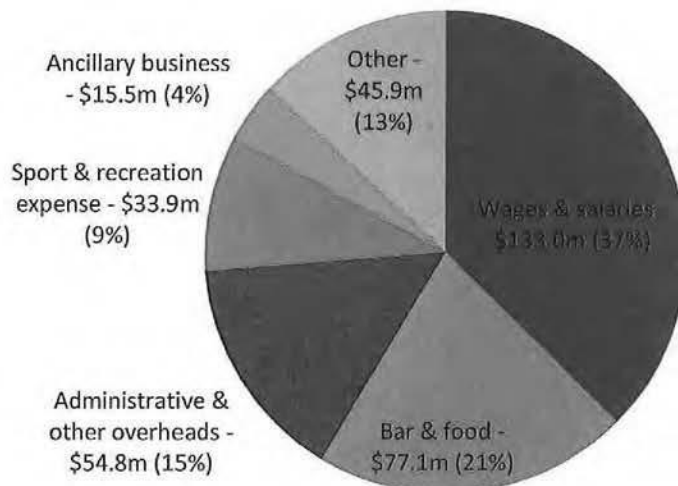
Clubs make a considerable contribution to the Western Australian economy. The state's clubs had total operating expenditure of about \$360 million in 2007 – 08, broken down as follows.

Western Australia



OPERATING EXPENDITURE OF CLUBS¹⁴

Western Australia



About 78 per cent of total club expenditure was made by clubs located in the Perth area, while clubs in regional areas accounted for 22 per cent or \$78.4 million.

¹⁴ Ibid, p.24.

As the Allen Consulting Group noted, the majority of Western Australian clubs' expenditure was spent within the state's economy, supporting local industry:

While not all expenditure made in a particular region necessarily stays in a region, it is expected that a large proportion of the money spent by regional clubs would stay in the local area – thus benefitting local businesses.¹⁵

7. Capital expenditure and assets

The state's clubs reported capital expenditure of \$110 million in 2007-08. Sporting facilities accounted for three quarters of the total capital expenditure made by clubs:

- sporting infrastructure – 50 per cent (or \$55 million) of total capital expenditure;
 - sporting fields – 17 per cent (or \$19 million) of total capital expenditure; and
 - sporting equipment – 8 per cent (or \$9 million) of total capital expenditure.
- a) Other items of capital expenditure included club buildings and extensions, refurbishments of buildings and motor vehicles. In 2008, 72 per cent of Western Australian clubs reported plans to develop or expand club buildings and facilities over the next three years. It is estimated that clubs will spend over \$266 million on future development over this period, with average per-club expenditure of slightly above \$600,000 per club.¹⁶
- b) The total value of assets (buildings, equipment and investments) held by clubs in Western Australia at the end of 2007-08 is estimated at about \$860 million.¹⁷
- c) The lower revenue base experienced by clubs in the West means they are unable to provide facilities to the same scale as other states, and clubs with Keno and other forms of gambling have much higher asset holdings. In NSW, total capital expenditure was around \$858 million in 2007. Clubs planned to invest \$3.3 billion over the next three years,¹⁸ and held capital assets worth \$6.2 billion in 2007 – nearly three-quarters of which were held in club buildings and facilities.¹⁹ Queensland clubs hold total assets of \$2.424 billion; of this, \$1.776 billion (at replacement value) is made up of community assets for public use, such as sporting fields, memorials, dressing sheds, swimming pools, and bowling greens.²⁰

8. Employment

- a) Western Australian clubs employed 5,895 people in 2007-08. Given the hospitality-based nature of the industry it is unsurprising that the most common form of employment was casual employment (accounting for 44 per cent of total, or 2,596 people). Full-time staff comprised 1,709 positions (29 per cent), while part-time workers accounted for a further 1,352 (23 per cent). Seventy per cent of club employees (or 4,149 people) are located in the Perth metropolitan area. The remaining 1,745 employees are located in regional areas.²¹

¹⁵ Ibid, p.23.

¹⁶ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.39.

¹⁷ Ibid, p.26; this estimate excludes land value, as in the majority of cases clubs do not own the land on which the club is located. Ownership is usually vested in municipal councils or the State.

¹⁸ Allen Consulting Group, *Socio-Economic Impact of Clubs in NSW (2007)*, February 2008, pp. 39, 57.

¹⁹ Ibid, p.22.

²⁰ Clubs Queensland, *Socio-Economic Contributions of Community Clubs to Queensland*, 2008.

²¹ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.22.

- b) Clubs in Western Australia paid about \$133 million in wages and salaries (including superannuation) to employees during 2007-08. Average wages and salaries paid per employee equated to about \$22,600.²²
- c) As previously outlined in section 2.4, Western Australia's clubs employ far fewer people than in other states. In NSW, clubs had 43,300 employees in 2007 and paid \$1.27 billion to employees in wages and entitlements, and an additional \$235 million to contractors.²³ Queensland clubs directly employed 26,900 staff and 3,400 contractors, paying \$480 million in net wages and superannuation in 2008.²⁴

Clubs WA believes that clubs in Western Australia could hire more employees if better trading terms were available for their businesses to meet community expectations with regards to tourism and accommodating local functions and celebrations along with more support offered to charity events.

Training

- a) In 2007/08, clubs in Western Australia employed 79 trainees and 158 apprentices and provided formal training to over 2,700 people. In total, clubs spent approximately \$920,000 on formal training for employees at an average cost of about \$280 per person that received training.²⁵
- b) Clubs in other states with other revenue options were able to spend dramatically more on training, indicating that the industry in other states is, overall better skilled. Clubs in New South Wales spent more than 25 times as much as Western Australia on training, totalling \$24.7 million in 2007.²⁶ And despite the ACT having dramatically fewer clubs and fewer employees than Western Australia,²⁷ club training expenditure totalled \$2.5 million in 2007.²⁸
- c) If Western Australian clubs were able to spend more on training the industry would become more professional in its operation – improving services and marketability, especially to tourists – and both employees and the state would benefit from an overall increase in the hospitality sector's skill base.

²² Ibid, p.20.

²³ Allen Consulting Group, *Socio-Economic Impact of Clubs in NSW (2007)*, February 2008, pp.33, 36.

²⁴ Clubs Queensland, *Socio-Economic Contributions of Community Clubs to Queensland*, 2008.

²⁵ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, pp.19, 22.

²⁶ Allen Consulting Group, *Socio-Economic Impact of Clubs in NSW (2007)*, February 2008, p.37.

²⁷ ACT clubs have only 53 club venues compared to WA's 1,000, and 2,177 employees, according to the Allen Consulting Group, *Socio-Economic Impact Study of Clubs in the Australian Capital Territory 2008*, Sydney 2008, pp.3,9.

²⁸ Ibid, p.28.

Live Music

Many successful entertainment careers have been launched from the club circuit. While many hotels and performance venues have cut back significantly on live acts, clubs continue to provide significant opportunities for local entertainers and bands to advance their talents. According to the ABS, in 2004/05, hospitality clubs across Australia provided 114,082 paid live performances. According to APRA (Australasian Performing Right Association), most clubs are licensed for live music, including in Western Australia, where 57 per cent of clubs provide live entertainment.²⁹

However, the figure below indicates that while Western Australian clubs account for 4 per cent of clubs licensed for live music (and 1.5 per cent of all music venues), they make up only 1 per cent of club industry expenditure on live music.

AMOUNT SPENT ON LIVE MUSIC BY JURISDICTION³⁰

Estimated \$ spend on live music	ACT	NT	NSW	QLD	SA	TAS	VIC	WA	National
Hotels/bars/nightclubs	769,708	2,017,029	23,164,363	19,194,706	7,127,004	1,879,785	19,833,955	12,545,356	86,541,854
Clubs	1,376,339	567,034	51,630,356	14,940,661	769,301	59,536	4,677,217	1,087,648	75,108,090
Restaurants/cafes	86,635	64,305	1,037,655	1,772,520	223,457	200,615	1,551,766	851,511	5,788,464
TOTAL	2,232,682	2,648,368	75,832,373	35,907,887	8,119,762	2,139,936	26,062,937	14,484,515	167,438,407

Clubs WA believes that clubs in Western Australia would provide more live music opportunities if better trading terms were available for their businesses with regards to meeting community expectations with more liberal support for accommodating local functions and celebrations along with more charity events.

9. Social contribution

Clubs provide a range of social contributions to the Western Australian community. As noted by IPART:

Clubs... provide considerable intangible social benefits that are impossible to quantify but should not be ignored. These include the sense of belonging that some club members feel and the greater social cohesion a community might experience as a result of having a club where people can meet and mix.³¹

IPART divides clubs' social contributions into three categories:

- 1 In-house contributions for the club's primary purpose.** These contributions are for the exclusive benefit of club members and their guests, and relate to achieving the club's primary purpose. Examples include a bowling club's provision of bowling greens, and a golf

²⁹ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.27.

³⁰ ClubsAustralia, *Submission to the Productivity Commission Review of Australia's Gambling Industries*, April 2009, Figure 5.35.

³¹ Independent Pricing and Regulatory Tribunal of New South Wales, *Review of the Registered Clubs Industry in NSW*, 2008, Executive Summary, p.2.

- club's provision of a golf course. While members may be charged to use these facilities, the charge is usually less than the commercial rate;
- 2 **In-house contributions for general member benefit.** These contributions are also for the exclusive benefit of club members and their guests, but they do not relate to the club's primary purpose. Examples include restaurants, bars, pool tables, professional entertainment, function rooms, opportunities for social interaction, and a sense of belonging. Again, members may have to pay to use these services and facilities, but generally pay less than a commercial rate.
- 3 **External contributions for community benefit.** These contributions benefit the wider local community within which the club is located. They can include support for community groups, such as sporting teams, schools, charities and welfare groups.³²

Clubs WA believes that clubs in Western Australia would generate significantly more social contribution to their region and vastly expand the capacity of their facility and its uses if better trading terms were available for their businesses with regards to meeting community expectations towards tourism and accommodating local functions and celebrations along with more support offered to charity events.

10. Sport

- a) One of the major areas in which clubs contribute to both social infrastructure and the broader economy is through their support of sport – be it junior, amateur or professional.
- b) The provision of affordable and accessible facilities is at the core of club operation, and the financial and organisational structure supports this. Although members pay for the use of these types of sporting facilities, the charges are mostly below the full cost of provision. The difference, however, is made up from income earned from other parts of clubs' operations. In aggregate terms across clubs, the total charge for providing these facilities does not cover the costs of provision.
- c) Although cash outflows on non-professional sport are greater than the related inflows, clubs accept that the provision of sporting services and facilities to the community provides a valuable social contribution to the health and well-being of the community and is fundamental to their core purpose.

Community benefits

Non-professional sport plays a vital role in the community by providing a means for individuals to become more physically active, and to establish social networks within their community. The benefits of participation in sport are diverse and include those relating directly to the participant, as well as to the broader community, including:

- Physical and psychological benefits for individuals by improving their health status through exercise and increased social interaction;
- Community benefits from reduced healthcare costs due to the improved health status of participants; and
- Enhancement of community identity and promotion of community integration along socio-economic and ethnic lines.

³² Ibid, p.42.

Deterrence of antisocial behaviour

Participation in non-professional sport can also have a deterrent effect on antisocial behaviour. Young people involved in organised team sports have substantially higher levels of self-esteem than their peers that don't participate, with a higher likelihood of behaving better in and outside of school. The range of benefits that sport and other physical activities can have in preventing or reducing crime and other antisocial behaviours among young people are widely documented.³³ This reduction in antisocial behaviour brings many benefits to the community, such as reduced vandalism and associated costs and lower truancy rates.

Benefits for indirect participants

Even being a sports spectator is increasingly being acknowledged as a major contributor to social capital. As [REDACTED] observes:

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This increase in sports spectatorship is not a dead loss from the point of view of social capital. Sitting with friends in the bleachers for a Friday night high school football game might be just as productive of community as sitting across a poker table. Moreover, at least for the fans of winning teams, the sense of shared enthusiasm of a common passion can generate a certain sense of community. As long-suffering Red Sox fans know, even shared adversity can build community.³⁴

Clubs WA believes that clubs in Western Australia could massively increase their capacity to support local sport and other healthy activity if better trading terms were available for their businesses with regards to meeting community expectations with regards to tourism and accommodating local functions and celebrations along with more support offered to charity and sporting events.

11. Ageing population

- a) Clubs play a vital role in the lives of older Australians, providing access to facilities and services, and a social network that maintains or even improves the quality of life for many in their later years. The extent of the challenge presented by the ageing of the population is reflected by the Australian Government's Intergenerational Report, which found that the proportion of people aged over 55 is steadily rising.
- b) There are currently just over four million Australians aged 55-plus (or about 21 per cent of the population). This is projected to increase to more than double to around 9.2 million – or around 36 per cent of the total population – by 2042.³⁵
- c) And approximately 13 per cent of the population – some 2.8 million people – is aged 65 years or older. This is expected to rise to 18 per cent by 2021 and to 26 per cent (around 7 million people) in 2051.³⁶

³³ [REDACTED] "Sport, Physical Activity and Antisocial Behaviour in Youth", *Research and Public Policy Series*, Issue 49, Australian Institute of Criminology, Canberra, 2003.

³⁴ [REDACTED] "Bowling Alone: America's Declining Social Capital", *Journal of Democracy*, Volume 6, Issue 1, January 1995, p.113.

³⁵ Commonwealth of Australia, *Intergenerational Report*, Budget Paper 5, May 2002.

³⁶ Commonwealth Minister for Ageing, Media release "Australian Government's Positive and Active Ageing Plan", 23 June 2008, accessed at <http://www.health.gov.au/Internet/ministers/publishing.nsf/Content/mr-yr08-je-je099.htm>

- d) With more leisure time available, this burgeoning demographic group can be expected to increasingly turn to their local club for activities. Clubs play an important role in the lives of older Australians. For example, nearly 40 per cent of bowling club members in Western Australia are aged over 65 years and about 26 per cent of members of multi-activity and other clubs are also within this age bracket.³⁷
- e) The Adelaide Health Development and Social Capital Project found that: *social participation has a strong link with health and that becoming involved in the social life of the local community, therefore, does improve health and it appears to act as a buffer to poorer health as age increases and socio-economic status declines.*³⁸
- f) Their analysis also demonstrates that social participation declines with age or economic means, emphasising the crucial role of clubs where membership is biased towards older people and lower income workers. This has important implications for public policy-makers, particularly in relation to an ageing population and economically disadvantaged areas where levels of social capital may be low and/or declining. The Adelaide researchers conclude: *... the challenge is to build the social capital of communities in a way that encourages the social participation of men and women as they get older, and of people in lower socio-economic groups.*³⁹

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This thesis is supported by recent research conducted by [REDACTED]⁴⁰ on the use of registered clubs by the elderly and the associated health and social benefits. The research found that registered club use enables the elderly to manage the impact of late life transitions on well-being by facilitating social participation, reducing social isolation and enabling access to resources to improve the quality of daily living.

Clubs WA believes that clubs in Western Australia could further support the aspirations and health of the Aging population if better trading terms were available for their businesses with regards to meeting all community expectations with regards to tourism and accommodating local functions and celebrations along with more support offered to charity events.

12. Community donations

- a) In 2007-08, Western Australia's clubs donated approximately \$5.4 million in cash grants to charities and community groups. About 70 per cent of clubs – equivalent to 307 clubs – contributed towards this total. The majority of funding support was provided to education and training.
- b) About 50 per cent of clubs provided 'in-kind' donations of goods to community groups during 2007-08; in most cases, the per-club value of these contributions was less than \$1,000. In rounded terms, the total value of goods donated to the community is estimated to be in the order of \$500,000.⁴¹

³⁷ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.16.

³⁸ [REDACTED] "Chapter 10: Families, social capital and health" in Ian Winter, *Social Capital and Public Policy in Australia*, 2000, p.257

³⁹ Ibid.

⁴⁰ [REDACTED] "Club-going as a strategy for managing change and maintaining social connectedness in later life: an ethnographic account of the day-to-day life of the older club-goer", in [REDACTED] and [REDACTED] *Proceedings of the 5th National Conference of Emerging Researchers in Aging: Research Informing Positive Outcomes in Older Persons*, University of Sydney, 21st November 2006.

⁴¹ Allen Consulting Group & Edith Cowan University, *Social and economic contributions of licensed clubs in Western Australia*, August 2009, p.34.

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- c) Western Australia's clubs also support the community by making their facilities available to community groups at no charge or for a nominal fee. The majority of clubs (74 per cent) reporting making this contribution, with 20,000 'bookings' of club halls, meeting rooms and gyms, among other facilities, in 2007-08.⁴²
- d) Although Western Australian clubs' contribution is sizeable, it cannot compete with the donations made in other states.
- e) In 2007/08, NSW clubs allocated \$58.7 million through the CDSE scheme. This was \$22.7 million in excess of the required amount. However, the vast bulk of clubs' social contributions are made outside mandated programs and reflect the long-term commitment clubs have to their communities. Using an expenditure approach, the Allen Consulting Group estimated the total dollar contribution by clubs in NSW to community causes is around \$1.1 billion per year.
- f) Queensland clubs provide community contributions valued at \$245 million annually, over and above the facilities they provide and maintain in their local communities.⁴³
- g) In 2007/08, clubs in the ACT contributed \$14.6 million in cash and in-kind support to over 1,000 groups. This was more than double the \$7 million required under law, bringing the total contribution to eligible community recipients over the last decade to over \$130 million.⁴⁴ It should not be overlooked that the ACT has less than half the number of clubs found in Western Australia, but nearly three times the donations.
- h) Clubs SA estimates the value of that state's club donations, community contributions (cash and in-kind) and sponsorships at \$17 million per annum,⁴⁵ while clubs in Victoria returned to the community more than \$33 million in gifts, sponsorships, voluntary services and subsidised activities in the financial year ending 2007.

Clubs WA believes that if clubs in Western Australia were able to boost their revenue, it would follow that a proportion of the additional revenue could be used for worthy charitable donations and support for local community groups.

13. Savings to government

- a) As this section has shown, clubs occupy an important place in communities across Western Australia and the rest of the country. While clubs' size and economic capacity can vary greatly between suburbs and states alike, what does not change is the fact that they are community hubs that provide a wide range of valuable services to their members and to the wider population. Monetary valuations can only go so far as to estimate the worth of this infrastructure in the community – it is impossible to put a price on all the flow-on benefits from clubs, and on all the ways they save governments money.
- b) Clubs provide savings to government in terms of opportunity cost by funding and providing important social, sporting and other infrastructure, as outlined above. For example, sporting fields maintained by clubs take pressure off local councils which would otherwise be called on to provide them; clubs that provide kitchens, food and transport for Meals on Wheels mean state disability and ageing departments do not need to subsidise private providers. And their harnessing of millions of volunteer hours means clubs are able to provide services and products at a fraction of the expense that would be incurred should they be provided by a for-profit operator or by government which has to purchase all its labour.

⁴² Ibid, p.35.

⁴³ Clubs Queensland, *Social and Economic Impact Study of Community Clubs in Queensland*, 2008.

⁴⁴ ACT Gambling and Racing Commission, "Community Contributions made by Gaming Machine Licensees, 1 July 2007 to 30 June 2008," October 2008, pp.20, 21, accessed 20 March 2009 at:

<http://www.gamblingandracing.act.gov.au/Documents/Community%20Contributions%20Report%202007-08.pdf>

⁴⁵ Unpublished data provided by Clubs SA.

- c) Quite simply, without clubs, communities would be at a substantial disadvantage and governments would be called on to meet new, costly responsibilities.
- d) In areas where clubs do not exist or are only small, a gap thus arises – and it falls to local and state governments in particular to step in. Whereas in other states clubs are major providers of community facilities and services (particularly in lower socio-economic areas), the Western Australian Government and local councils are required to provide a proportionally higher level of funding for everything from seniors' activities to junior sports.
- e) It is important that clubs be provided with the opportunity to safeguard their own future sustainability. If clubs in Western Australia were extended the right to improved trading terms, this would be an important added revenue stream that would be a 'shot in the arm' to revitalise this important industry in this state, help it to grow and ensure its longevity.
- f) Moreover, it would also pay dividends to the Government and the Western Australian community. A more independent industry in which clubs could provide additional support to their local communities would mean less demand on public resources and facilities. It would increase opportunities for partnerships between clubs and local, state and federal governments to provide facilities, services and public education campaigns, which are far more common in other jurisdictions than in this state.

References sourced from:

- ACT Gambling and Racing Commission, *Community Contributions made by Gaming Machine Licensees, 1 July 2007 to 30 June 2008*
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Clause 3(1) • [REDACTED] "Sport, Physical Activity and Antisocial Behaviour in Youth", *Research and Public Policy Series*, Issue 49, Australian Institute of Criminology, Canberra, 2003

Clause 3(1) • [REDACTED] "Bowling Alone: America's Declining Social Capital", *Journal of Democracy*, Volume 6, Issue 1, January 1995

Clause 3(1) • [REDACTED] "Club-going as a strategy for managing change and maintaining social connectedness in later life: an ethnographic account of the day-to-day life of the older

Clause 3(1) club-goer", in [REDACTED] *Proceedings of the 5th National Conference of Emerging Researchers in Aging: Research Informing Positive Outcomes in Older Persons*, University of Sydney, 21st November 2006

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LAVAN LEGAL
 Leaders in Law

29 May 2013

Ms Donna Kennedy
 Executive Officer
 Liquor Act Review Committee
 PO Box 6119
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 By Email: LiqActReview@rql.wa.gov.au

Dear Ms Kennedy

Review of the Liquor Control Act 1988 – revised submission on behalf of Clubs WA

We refer to our appearance before the Committee on 29 April 2013.

- 1 During the course of the meeting several club issues were discussed, mostly with reference to the proposed legislative amendments which we drafted and set-out in our submission document dated 25 February 2013.
- 2 The main issue which arose at the meeting for the purposes of this letter, involved community-based functions. In practical terms this was the matter dealing with non-members at functions where the discussion centred around the role of clubs within their respective communities as popular community facilities for community gatherings. We also referred to the existing administrative difficulties for clubs associated with obtaining extended trading permits for community-based functions under s60(4)(e) of the Act.
- 3 The important role of clubs within their respective local communities was addressed in our 25 February submission. [REDACTED] Clubs WA [REDACTED] provided some further examples of how community groups and associations require use of club facilities within their area. One example he provided was that of a parliamentary member wishing to celebrate an electoral win with his or her local constituency and requiring suitable non-politically affiliated community-based premises to do so. Clubs can potentially

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provide the perfect premises for a function to celebrate such an occasion. Often, particularly in the country, other suitable venues are not readily available.

- 4 The proposition put in the original submission and reiterated at our meeting is that clubs require both greater capacity and flexibility to cater for community-based functions.
- 5 We also discussed at the meeting the proposed amendment to s48(5) of the Act. Our submission at paragraphs 4.24 to 4.30 sought reinstatement of persons "assisting" to be included in that subsection, as the former Act had done. Our submission also sought that the provision be further amended to extend the authority to include not only persons assisting but also persons "supporting". Members of the Review Committee expressed concern about the potential for "supporting" to have a wide interpretation going beyond the intention of clubs and that there could be scope for club premises to become open to the general public at large. Since our April meeting my client has carefully considered the comments of the Committee members and reassessed this point. My client now wishes to withdraw its requested amendment for persons "supporting" to be included into the provision. We now only seek to have the words "person assisting" reinstated to the provision.
- 6 In the light of the discussion from our meeting and as was suggested at the conclusion of that meeting, we have now redrafted the proposed amendments to the Liquor Control Act to replace those previously submitted to address the key issues from the meeting.
- 7 The following sets out in full the relevant provisions of s48 of the Act together with the revised proposed amendments by way of tracking. The parts sought to be repealed have been struck-through and the parts sought to be introduced underlined.

(2) Subject to this Act a club licence authorises the sale, during permitted hours, of liquor —

(a) to a member and to the guests of that member in the company of that member —

(i) for consumption on the licensed premises, subject to subsection (4)(b);
or

(ii) ancillary to a meal supplied at the club by or on behalf of the club to a member and to each of the guests of that member (without limitation as to number), being guests of whose attendance prior notice was given to the club in accordance with rules approved by the Director; or

(iii) for consumption on the licensed premises at a club function if in accordance with rules approved by the Director.

~~(b) to a member, for consumption by the guests of that member (without limitation as to number) at a function held by or on behalf of that member at the club if in accordance with rules approved by the Director; to a tourist for consumption on the licensed premises; and~~

(c) to people attending a club function, whether members of the club or not, who are associated with a local community group or organisation operating

within the locality in which the club is situated and where the holding of that club function has been pre-arranged and is for purposes connected with that local community group or organisation.

(2a) In this section –

club function means a function as defined in section 3 of the Act, at which members of the club, their guests without limitation as to number of guests, or other people who have been invited to attend a club function in a specified part of the club premises, which is:

- (a) of a cultural, educational, religious, patriotic, professional, charitable, political, literary, sporting, athletic, industrial or community nature; or
- (b) a pre-arranged invitation only wedding or other private member function; or
- (c) a local community function pre-arranged for a particular community group or association.

tourist means a person who is –

- (a) staying at a place that is at least 40 km from his or her usual place of residence for a period of at least one night; and
- (b) not in the course of travelling on a regular journey between his or her usual place of residence and his or her place of work or education; and
- (c) travelling in the course of a holiday or for leisure, business, to visit friends or relatives or for any other reason.

....

(4) Every club licence is subject to the conditions that —

....

(b) the authority to sell liquor for consumption by the guests of a member, otherwise than ancillary to a meal or at a club function under subsection (2)(b)(a), extends only to such persons, not exceeding 5 or such lesser number as may be permitted by rules approved by the Director, as are introduced as the guests of that member on that day;

(5) Subject to subsection (6), a person who is on any day visiting a club (the **host club**) as a member, ~~or an official of,~~ or person assisting another club ...

- 8 If the proposed amendments set-out above were to be introduced in full, so as to allow flexibility for community-based functions, then s60(4)(cb) of the Act may become superfluous and could potentially be repealed because of the new s48(2)(c) which we have proposed. However, we respectfully suggest that any change to s60(4)(cb) would need to be handled carefully to ensure the extended trading permit privilege which is currently available to clubs under that provision is not completely removed from the Act. As we have proposed in the above wording, the privilege will be perpetuated, as limited as it is now, by way of a new s48 provision.

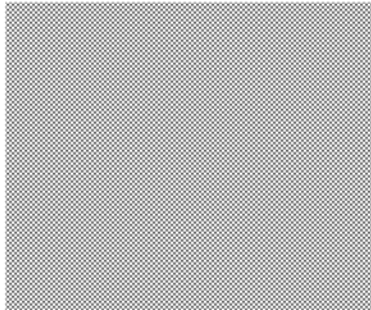
Thank you for the opportunity to make this further submission of proposed amendments to you.

Should you have any queries please do not hesitate to contact either of us.

Yours sincerely



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