

McCusker Centre for Action on Alcohol and Youth
Response to the Recommendations of the Liquor Control Act 1988 Independent
Review Committee

<p><i>Recommendation 1</i> <i>The Minister implements ongoing extensive education campaigns targeting cultural change.</i></p> <p>SUPPORTED Early action recommended Note. Appropriate for evidence-based education campaigns to be run as part of broader alcohol education by the WA Government’s Drug and Alcohol Office.</p>
<p><i>Recommendation 2</i> <i>Amend section 67 of the Act to introduce a requirement for applicants for high risk (Category A) licences to lodge a Community Impact Statement with an application.</i></p> <p>SUPPORTED Note. The Community Impact Statement process should be part of (and not replace) the existing Public Interest Assessment process. Non-participation in the community consultation as part of the Community Impact Statement process should not preclude participation via objection or submission when the application is advertised.</p>
<p><i>Recommendation 3</i> <i>Amend section 38(4) of the Act to include the consideration of the outcome of community consultation conducted by way of a Community Impact Statement.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 4</i> <i>Amend section 73 and 74 of the Act to enable stakeholders to lodge either a submission or an objection. A submission can be in support of, or opposed, to an application and will not be required to be ‘made out’.</i></p> <p>SUPPORTED Early action recommended</p>
<p><i>Recommendation 5</i> <i>The licensing authority amend the Notice of Objection form to make it more user friendly. In particular a list of the grounds of objection should be included to make it easier for objectors to identify or nominate their ground of objection.</i></p> <p>SUPPORTED Early action recommended</p>
<p><i>Recommendation 6</i> <i>Amend section 74(4) of the Act to require the Director to serve all objections/submissions within 14 days of the last objection date.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 7</i> <i>Amend section 74(4) of the Act to require the Director to notify an applicant if an objection is struck out.</i></p> <p>SUPPORTED</p>

<p><i>Recommendation 8</i> <i>The licensing authority should implement an ongoing series of education sessions to assist community members in the procedure and the process for lodging and verifying an objection.</i></p> <p>SUPPORTED</p> <p>Note. Education sessions should be broadly defined to include appropriate online material.</p>
<p><i>Recommendation 9</i> <i>The Act be amended to require that new licence applications must be advertised in the relevant local/community newspaper.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 10</i> <i>The licensing authority review the onsite advertising requirements to ensure they are adequate and clearly visible to passers-by.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 11</i> <i>Amend section 65B of the Act to enable regulations to be made to prohibit or restrict:-</i> <i>a) promotional activity which is likely to impact on children; and</i> <i>b) activities such as promotions or discounting that could encourage the irresponsible consumption of liquor or is otherwise not in the public interest.</i></p> <p>SUPPORTED</p> <p>Early action recommended</p>
<p><i>Recommendation 12</i> <i>Members of the Australian Liquor Licensing Authority Conference (ALLAC) should work towards developing and implementing consistent legislation across all jurisdictions which can prohibit the inappropriate advertising of liquor.</i></p> <p>SUPPORTED</p> <p>Note. Action on alcohol advertising should be part of broader activity to regulate alcohol promotion. WA is encouraged to take early action on alcohol advertising at the state level.</p>
<p><i>Recommendation 13</i> <i>Amend regulation 14AD to introduce a requirement for licensed crowd controllers who undertake duties associated with controlling entry and exits to, and monitoring behaviour in, licensed premises to complete the nationally accredited unit of Responsible Service of Alcohol training.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 14</i> <i>The licensing authority engage with the Hospitality & Tourism Industry Training Council to review and develop further the standard of Responsible Service of Liquor training.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 15</i> <i>The members of the Australian Liquor Licensing Authority Conference (ALLAC) should work towards developing and implementing a nationally recognised unit of training in the responsible service of alcohol.</i></p> <p>SUPPORTED</p>

<p><i>Recommendation 16</i> Amend section 103A of the Act to specify that a register which records the details of Responsible Service of Liquor training must be maintained by a licensee for a period of four years.</p> <p>SUPPORTED</p>
<p><i>Recommendation 17</i> Repeal section 126D(4) of the Act.</p> <p>SUPPORTED</p>
<p><i>Recommendation 18</i> Retain the existing provisions of section 64 of the Act which allows the licensing authority to impose a condition prohibiting the sale of liquor mixed with energy drinks on a case-by-case basis.</p> <p>SUPPORTED</p> <p>Note. Broader restrictions would be preferable; however, maintaining the existing provisions regarding imposing conditions on a case-by-case basis is supported.</p>
<p><i>Recommendation 19</i> Amend the objects of the Act to read:- Objects of Act (1) The primary objects of this Act are — (a) to regulate the sale, supply and consumption of liquor; and (b) to minimise harm or ill-health caused to people, or any group of people, due to the sale, supply or consumption of liquor; and (c) to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor consistent with the interests and reasonable requirements of the community; and (d) to facilitate the responsible development of liquor and related industries, such as the live music, entertainment, tourism and hospitality industries in the State and the responsible use and development of licensed facilities. (2) In carrying out its functions under this Act, the licensing authority shall have regard to the primary objects of this Act and also to the following secondary objects — (a) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and (b) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act. (3) If, in carrying out any of its functions under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence.</p> <p>SUPPORTED</p> <p>Note. While the minimisation of harm or ill-health as the highest priority of the Act would be preferable, the Review Committee’s recommendation is supported.</p>
<p><i>Recommendation 20</i> Amend sections 38(4), 64(3)(cc), 69(8b) and 74(1)(b) to replace ‘due to the use of liquor’ with ‘due to the sale, supply or consumption of liquor’</p> <p>SUPPORTED</p>
<p><i>Recommendation 21</i> The legal drinking age should remain as 18 years old.</p> <p>SUPPORTED</p>

Recommendation 22

Amend section 121 of the Act to introduce an offence for a person to supply liquor to a juvenile on unlicensed premises. It should be a defence if the relevant person is a parent or guardian of the juvenile or were authorised by a parent or guardian of the juvenile to supply the liquor to the juvenile.

SUPPORTED

Early action recommended

Recommendation 23

Amend section 121 of the Act to introduce a new provision so that where a person is authorised to supply liquor to a juvenile by the parent or guardian, the person must not supply liquor to the juvenile unless the supply is consistent with the responsible supervision of the juvenile. Factors to be considered in relation to responsible supervision should include—

- a) whether the person is unduly intoxicated;*
- b) whether the juvenile is unduly intoxicated;*
- c) the age of the juvenile;*
- d) whether the juvenile is consuming the liquor supplied with food;*
- e) whether the person is responsibly supervising the juvenile's consumption of the liquor supplied; and*
- f) the quantity of liquor supplied and the period over which liquor was supplied.*

SUPPORTED

Early action recommended

Recommendation 24

Amend section 121 of the Act to include a definition of the term unlicensed premises as any place other than licensed or regulated premises and including residential premises.

SUPPORTED

Early action recommended

Recommendation 25

Amend the Act to allow WA Police to undertake controlled purchase operations on licensed premises where packaged liquor is sold subject to:-

- a) an agreed set of operating standards being developed by WA Police and approved by the Minister for Racing and Gaming regarding the use of WA Police cadets only, physical appearance and procedures to be followed;*
- b) WA Police being required to publically report annually on the results of their operations;*
- and*
- c) WA Police being required to notify the industry of their intention to run a controlled purchase operation/campaign and the duration of the operation/campaign.*

SUPPORTED

Early action recommended

Recommendation 26

Amend the Act to require licensees who are authorised to sell packaged liquor to request proof of age from patrons who appear to be under the age of 25.

SUPPORTED

Early action recommended

Recommendation 27

Amend section 155 of the Act to authorise WA Police to seize any liquor in the possession of a juvenile who is contravening any provision of the Act.

SUPPORTED

<p><i>Recommendation 28</i> <i>The Act be amended to include a definition of the term 'loco parentis'.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 29</i> <i>Amend section 65 of the Act to require licensees to comply with conditions prescribed in the Regulations/Code of Practice in relation to the delivery of liquor with similar provisions to section 114 of NSW Liquor Act 2007.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 30</i> <i>Amend the relevant exemptions prescribed in the Act and Regulations to require that any person delivering liquor must comply with conditions prescribed in the Regulations/Code of Practice in relation to the delivery of liquor.</i></p> <p>SUPPORTED Early action recommended</p>
<p><i>Recommendation 31</i> <i>Amend the Act to make it a criminal offence for any person to deliver liquor to a juvenile in Western Australia. The offence provision should apply to both the person delivering the liquor and the licensee who sold the liquor.</i></p> <p>SUPPORTED Early action recommended</p>
<p><i>Recommendation 32</i> <i>Amend section 126 of the Act to introduce offences for a person to:-</i></p> <ul style="list-style-type: none"> <i>a) Give an evidence of age document to another;</i> <i>b) Deface/interfere with an evidence of age document;</i> <i>c) Knowingly make a false evidence of age document;</i> <i>d) Knowingly give a false evidence of age document to another;</i> <i>e) Supply false documents to obtain an evidence of age document;</i> <i>f) Pass on any documents or material that does not relate to him or her for the purposes of an evidence of age document; and</i> <i>g) Give a document or material to another person to support an application for a proof of age card that contains information that is false/misleading.</i> <p><i>Each offence should have a maximum penalty of \$2,000.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 33</i> <i>Amend section 167 of the Act to enable WA Police to use an alcohol intervention program as an alternative to issuing an infringement notice for minor offences committed by juveniles.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 34</i> <i>The Young Offenders Act 1994 be amended as necessary to enable Recommendation 33 to be implemented.</i></p> <p>SUPPORTED</p>

<p><i>Recommendation 35</i> <i>The licensing authority should develop a comprehensive Code of Practice to assist applicants in preparing a public interest assessment to replace the existing public interest assessment policy and should undertake a review of all other policies, guidelines, fact sheets and other material, in conjunction with industry, to ensure they are accurate, relevant and are meeting the needs of users.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 36</i> <i>All public interest assessment's should be made publicly available on the licensing authority's website.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 37</i> <i>Amend section 38(4) of the Act to include consideration of submissions in support of, or opposed to, an application as matters the licensing authority may have regard to in determining if an application is in the public interest.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 38</i> <i>Amend section 38(1) of the Act to allow the Director the discretion to consider a removal application without having to consider the public interest provisions.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 39</i> <i>The licensing authority should ensure that matters relied on in public interest assessment submissions and which are deemed persuasive in granting a licence are imposed as conditions of the licence.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 40</i> <i>Amend section 38(4)(b) of the Act to read '...the amenity, quiet or good order of the locality...' to reflect the wording of section 74(1)(g)(ii).</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 41</i> <i>Amend section 38(4) of the Act to include the number, type and nature of any existing and proposed licensed premises in the relevant locality as a matter the licensing authority may have regard to in assessing the public interest.</i></p> <p>SUPPORTED Early action recommended</p>
<p><i>Recommendation 42</i> <i>The Minister should monitor and assess the outcomes of the New South Wales trial of an Environmental and Venue Assessment Tool (EVAT).</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 43</i> <i>The Minister should monitor the progress of and assess the Outlet Density Tool currently being developed by the WA Drug and Alcohol Office.</i></p> <p>SUPPORTED</p>

Recommendation 44

Amend section 38 of the Act so that, unless exceptional circumstances apply, a liquor licence should not be granted within 400 metres of a school.

SUPPORTED

Early action recommended

Recommendation 45

Amend section 38 of the Act to provide a distinction between Category A and Category B licences.

A high risk Category A licence would include the classes:-

- Hotel (including Tavern)*
- Nightclub*
- Liquor Store*
- Casino*
- Special Facility (unless otherwise prescribed)*

A low risk Category B licence would include the classes:-

- Club and Club Restricted*
- Restaurant*
- Small Bar (Refer Recommendation 49)*
- Producer*
- Wholesaler*

NEUTRAL (subject to monitoring)

Note. Any changes to the categorisation of licences should not encourage any proliferation of licences.

Recommendation 46

Section 38(5) of the Act should not be amended.

SUPPORTED

Recommendation 47

No additional licence class of licence is required for a direct sales or online liquor business.

SUPPORTED

Recommendation 48

Members of the Australian Liquor Licensing Authority Conference (ALLAC) work towards introducing consistent delivery provisions in all jurisdictions.

SUPPORTED

Recommendation 49

Amend the Act to introduce a new class of licence for Small Bars with the current provisions in relation to licence conditions and permitted trading hours, including the amendment proposed under Recommendation 71, being retained.

NEUTRAL (subject to monitoring)

Note. Any changes to the categorisation of Small Bar licences should not encourage a proliferation of new liquor sales outlets.

Recommendation 50

All special facility licences should be reviewed to ensure the prescribed class of licence is still valid and relevant with a view to converting inappropriate licences to a more appropriate class of licence.

SUPPORTED

Recommendation 51

Amend section 128 of the Act to:-

allow a base licence fee for Category A and B licences to be prescribed in the Regulations; include the size of a licensed premises in section 128(2)(a) as a criteria on which licence fees can be prescribed;

a) include a provision that where a Category A licence has a licensed area which is greater than a prescribed size (200 m²), a surcharge per square metre will be payable (\$10 per m²);

b) require the money collected from the surcharge (fee per square metre) to be allocated to an appropriate current government body or bodies and be strictly quarantined for community education purposes only in accordance with guidelines and procedures determined by the Minister; and

c) allow a board of experts be established to advise the Minister on initiatives to fund.

SUPPORTED

Note. Consideration required as to the appropriate size of venue for which the surcharge is applicable. The money collected from the surcharge should not be the totality of funding made available for community education purposes.

Recommendation 52

The Act be amended to enable Codes of Practice to be developed and prescribed in the Regulations.

NEUTRAL

Recommendation 53

The licensing authority ensure the regulatory framework consists of the Act, Regulations, Codes of Practices and Guidelines and information provided to industry ensure clarity on the legal status of each document.

NEUTRAL

Recommendation 54

Amend section 64(1a) of the Act to allow the Commissioner of Police, the Executive Director Public Health and parties to a liquor accord to request the licensing authority to impose, vary or cancel conditions.

SUPPORTED

Recommendation 55

Amend 64(2b) of the Act to require the licensing authority to invite the affected community to show cause why the proposed restrictive conditions should not be imposed as part of an enquiry under section 64.

NEUTRAL (subject to monitoring)

Recommendation 56

In relation to liquor restrictions imposed under section 64 of the Act, the licensing authority should notify the relevant government agencies in relation to the potential need for relevant support services before the introduction of liquor restrictions.

SUPPORTED

<p><i>Recommendation 57</i> Amend section 64(1b) of the Act to include a new subsection requiring that a liquor accord must be developed in consultation with representatives of the local community.</p> <p>SUPPORTED</p>
<p><i>Recommendation 58</i> The maximum capacity of a licensed premises set by the relevant local government authority, should be imposed as a condition on the licence. Transitional provisions should apply to this recommendation.</p> <p>SUPPORTED</p>
<p><i>Recommendation 59</i> Amend section 48(5) of the Act to allow clubs to sell and supply liquor to persons assisting a guest/competing club.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 60</i> Amend section 48(2) of the Act and or section 60(4)(cb) to allow clubs to hold up to 12 non-member functions per year without the need to apply for an extended trading permit. (eg. notification system only). The Director should have the power to disallow a club from utilising these provisions.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 61</i> The licensing authority develop and distribute a guideline/fact sheet specifically relating to the requirements in relation to approved managers for club and club restricted licences.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 62</i> Amend section 47(2) of the Act to remove the reference to 'free' sample to allow licensees of liquor stores to charge a fee for tastings.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 63</i> Amend section 50 of the Act to:-</p> <p>a) remove the requirement for liquor to be supplied ancillary to a meal supplied by the licensee during the following hours:-</p> <p><input type="checkbox"/> Monday to Saturday between the hours of 6.00 am and 12.00 midnight; and</p> <p><input type="checkbox"/> Sunday from 10.00 am to 10.00 pm.</p> <p>b) On Christmas Day, Good Friday or before noon on ANZAC Day, liquor may only be supplied ancillary to a meal;</p> <p>c) retain all other existing provisions relating to liquor being consumed while seated sitting at a table and the predominant purpose of the business being the supply of meals;</p> <p>d) specify that patrons are able to purchase liquor from a bar or servery and carry it to a table; and</p> <p>e) clarify the amended provisions apply to any area covered by an extended trading permit issued for the purpose of Alfresco Dining (subject to local government authority approval).</p> <p>NOT SUPPORTED</p> <p>Note. The Review Committee's recommendation extends the WA Government's current liquor without a meal policy. The Review Committee has not restricted liquor without a meal provisions to restaurants with a maximum capacity of 120 persons.</p>

<p><i>Recommendation 64</i> Amend section 55 of the Act to include the authorisation for beer producers to sell liquor for consumption on a part of the licensed premises approved for the purpose by the Director between the hours of 10.00 am and 10.00 pm. NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 65</i> Amend section 55 of the Act to allow wine producers to establish a collective cellar door retail outlet within the same wine region as their production facilities. NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 66</i> Amend section 55 of the Act to allow producers to conduct online and telephone sales from a place other than the licensed premises, provided the delivery of liquor is from the licensed premises or from an approved offsite storage facility. NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 67</i> Amend section 55 of the Act to allow producers to sell liquor other than their own, if sold ancillary to a meal in a designated dining area which forms part of their licensed premises or an area the subject of an extended trading permit or for the purpose of comparative tastings. NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 68</i> Amend regulation 8D(2)(a) of the Regulations to:- a) allow wine producers to attend any farmer's markets; b) replace 2.5 litres with 9 litres; c) remove requirement for samples to be provide free of charge; and d) establish a process that requires licensees to seek approval from the licensing authority at the beginning of each year of their proposed attendance at events such as farmers markets and food and wine festivals. NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 69</i> Amend section 58(1) of the Act to replace 9 litres with 4.5 litres. NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 70</i> Amend section 98D of the Act to authorise all liquor stores to trade on Sundays between 10.00 am and 10.00 pm. The authorisation to trade on Sundays must not apply where liquor restrictions are in place or where it would impact on a liquor accord. NOT SUPPORTED Note. This recommendation would allow non-metropolitan liquor stores to trade on Sundays, thereby increasing the availability of alcohol in regional WA.</p>
<p><i>Recommendation 71</i> Amend section 98 of the Act to authorise hotel, tavern and small bar licences to trade until 12.00 midnight on Sunday evenings preceding a gazetted public holiday which falls on a Monday. NEUTRAL (subject to monitoring)</p>

<p><i>Recommendation 72</i> <i>The current permitted trading hours for nightclubs should be retained.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 73</i> <i>The provisions of section 60 of the Act relating to extended trading permits should be retained without amendment.</i></p> <p>SUPPORTED</p> <p>Note. It would be preferable for extended trading permits to be issued for a maximum of 1-2 years, rather than up to 5 years.</p>
<p><i>Recommendation 74</i> <i>The licensing authority should consider the previous performance of a licensee and the compliance history of the premises when considering applications (new and renewal) under section 60(4)(g) of the Act.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 75</i> <i>The proposed Code of Practice on public interest assessments should include a section dedicated to extended trading permits which includes addressing the existing criteria in relation to harm, impact on amenity and offence and annoyance, the current trading hours and extended trading permits of other licensed premises in the locality, as a factor to be considered in the determination of an application for an ongoing hours permit under section 60(4)(g) of the Act.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 76</i> <i>The current structure of the Liquor Commission should be maintained.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 77</i> <i>The Liquor Commission should undertake a comprehensive review of the rules and processes for determining contested and uncontested applications. This should include input from industry and the legal fraternity and should examine issues such as process mapping, timelines and establishment of performance standards.</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 78</i> <i>The Minister should establish a full-time position to assist with writing decisions for the Liquor Commission.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 79</i> <i>Amend section 24 of the Act to provide appropriate timeframes within which the Director may refer applications to the Liquor Commission.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 80</i> <i>Amend section 13(6) and 16(8) of the Act so all hearings are public unless the Director or the Liquor Commission determine otherwise.</i></p> <p>SUPPORTED</p>

<p><i>Recommendation 81</i> Amend sections 95 and 96 of the Act to transfer the responsibility for disciplinary action from the Liquor Commission to the Director (with adequate resourcing).</p> <p>NEUTRAL</p>
<p><i>Recommendation 82</i> Any decision or determination made by the Director in relation to sections 95 and 96 of the Act (other than a decision to suspend a licence or permit for up to 7 days for disciplinary reasons) should be subject to review by the Liquor Commission.</p> <p>NEUTRAL</p>
<p><i>Recommendation 83</i> Amend section 91 of the Act to allow the Director to suspend a licence or permit for up to 7 days for disciplinary reasons. This decision should not be subject to review by the Liquor Commission.</p> <p>NEUTRAL</p>
<p><i>Recommendation 84</i> Amend section 95 of the Act to:- a) prescribe that a complaint must be commenced to be heard within three months of it being made, unless the parties agree otherwise; and b) require the Director to make a determination on whether a complaint will be heard or struck out within 21 days of lodgement.</p> <p>NEUTRAL</p>
<p><i>Recommendation 85</i> Amend section 95 of the Act to specify that hearings held by the Commission in relation to a complaint under section 95 should be open to the public, unless the Director determines otherwise.</p> <p>NEUTRAL</p>
<p><i>Recommendation 86</i> The current definition of 'drunk' in section 3A of the Act should be retained.</p> <p>NOT SUPPORTED</p> <p>Note. Advice should be taken from WA Police in relation to addressing challenges in identifying or proving a patron is drunk.</p>
<p><i>Recommendation 87</i> Amend section 115(5)(c) of the Act to increase the maximum penalty for failure to leave a licensed premises to \$5,000.</p> <p>NEUTRAL</p>
<p><i>Recommendation 88</i> Amend section 115(6) of the Act to increase the maximum penalty for remaining in the vicinity of a licensed premises to \$5,000.</p> <p>NEUTRAL</p>

Recommendation 89

Amend section 115 of the Act to introduce a defence for a licensee to permit a drunk patron to remain on the licensed premises in circumstances where:-

- the patron is not unruly – they must be behaving in an orderly manner and not causing any disturbance;
- the licensee, manager or employee must not serve or supply them with any liquor or allow them to be supplied with any liquor. In this regard, an education campaign would be required to ensure the public are aware that offence provisions exist for obtaining liquor for a drunk person;
- the approved manager should be notified of the person's presence;
- the patron should be identified so that all staff and other patrons know they are drunk and should not be served or supplied with any more liquor;
- the presence of the patron is recorded in the incident register; and
- offence provisions should apply if these conditions are not met.

NEUTRAL (subject to monitoring)

Note. Any changes of this nature should not impact adversely on effective enforcement of Responsible Service of Alcohol or other provisions of the Act.

Recommendation 90

Amend section 110(3) of the Act to provide a defence for both the licensee and the patron if patrons are moving between separate areas of a licensed premises.

NEUTRAL (subject to monitoring)

Recommendation 91

In relation to wine producers licences only, amend the provisions of section 110(3) of the Act to allow patrons to move between two licensed premises, provided the licensee holds both licences.

NEUTRAL (subject to monitoring)

Recommendation 92

Amend section 65(1) of the Act to include an offence for selling liquor in circumstances in which it is reasonably suspected that the liquor will be consumed unlawfully.

SUPPORTED

Recommendation 93

a) Amend section 115AA(2) of the Act so that a person exhibiting the prescribed behaviour in the vicinity of a licensed premises can be issued with a barring notice.

b) Amend section 115AA of the Act to provide a definition of 'vicinity of licensed premises for the purposes of section 115AA(2).

SUPPORTED

Recommendation 94

Amend regulation 27 of the Regulations so that an offence under section 115AE of the Act can be dealt with by way of an infringement notice.

NEUTRAL (subject to monitoring)

Recommendation 95

Amend section 115AA (7A) of the Act to specify the circumstances when it is acceptable for the recipient of a barring notice to enter and remain on licensed premises.

NEUTRAL (subject to monitoring)

<p><i>Recommendation 96</i> Amend section 115AC(1) of the Act to include a requirement that a barred persons date of birth is published on the secure webpage.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 97</i> Amend section 115AE of the Act to provide a defence if section 115AA(7A) applies.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 98</i> Amend the Act to require that all new licences of a prescribed type or types or in a prescribed location or precinct (high risk venues, entertainment precincts) must utilise suitable ID scanning technology for all patrons entering the licensed premises. The Regulations should also allow the Minister to apply this requirement to existing licences of a prescribed type or types in a prescribed location or precinct (high risk venues, entertainment precincts).</p> <p>SUPPORTED</p>
<p><i>Recommendation 99</i> The Act be reviewed and amended where necessary to ensure compliance with the Guidelines for applying the COAG Principles in relation to Personal Liability for Corporate Fault.</p> <p>NEUTRAL</p>
<p><i>Recommendation 100</i> If the licensing authority's new IT system has the capability to enable a yearly licensee detail verification process, the period for commencing a prosecution should be reduced to two years.</p> <p>NEUTRAL</p>
<p><i>Recommendation 101</i> Amend the Act to allow the Director to revoke the approval of a licensee or approved manager if they are found guilty of a prescribed disqualifying offence.</p> <p>NEUTRAL</p>
<p><i>Recommendation 102</i> Amend section 152O(1) of the Act to introduce offences for a person:- a) attempting to convey liquor onto a liquor restricted premises; and b) attempting to cause liquor to be conveyed onto a liquor restricted premises.</p> <p>SUPPORTED</p>
<p><i>Recommendation 103</i> Amend section 175(1a)(b) of the Act to include offences for a person:- a) attempting to bring liquor into a restricted area; and b) attempting to possess liquor in a restricted area; and c) consuming liquor in the vicinity of a restricted area.</p> <p>SUPPORTED</p>
<p><i>Recommendation 104</i> Include a definition of vicinity of a restricted area for the purposes of section 175(1a)(b) of the Act.</p> <p>SUPPORTED</p>

<p><i>Recommendation 105</i> Amend the Act to exempt government agencies or departments from the requirements of section 152S of the Act.</p> <p>NEUTRAL</p>
<p><i>Recommendation 106</i> Amend regulation 27 of the Regulations to include offences under sections 152S(1) and section 175(1a) of the Act.</p> <p>SUPPORTED</p>
<p><i>Recommendation 107</i> Amend section 122 of the Act to:- a) expand the definition of a regulated premises to include public events where entertainment is at, or from which, can be viewed or heard; and b) remove the reference to a building or covered enclosure to enable outdoor events to be captured.</p> <p>SUPPORTED</p>
<p><i>Recommendation 108</i> Amend section 167 of the Act on increase the modified penalty to 20% of the maximum fine.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 109</i> The Minister monitor the outcomes and effectiveness of the Demerit Point System and 5 Star Rating systems which have been introduced in Victoria with a view to introducing similar systems in Western Australia.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 110</i> Amend the Regulations to provide for an exemption for the sale and supply of liquor by accredited tour operators in prescribed circumstances.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 111</i> Section 33 of the Act should remain unchanged.</p> <p>SUPPORTED</p>
<p><i>Recommendation 112</i> The Directors policies and other guidance material be comprehensively reviewed and revised to ensure they are accurate and provide practical, clear and concise information for stakeholders.</p> <p>SUPPORTED</p>
<p><i>Recommendation 113</i> The licensing authority continue with and expand the process of consulting stakeholders and industry representatives in relation to proposed changes to the Director's policies.</p> <p>SUPPORTED</p> <p>Note. Stakeholders should include health and police groups.</p>

<p><i>Recommendation 114</i> <i>The licensing authority review and revise the current application processes and procedures in collaboration with all stakeholders</i></p> <p>SUPPORTED</p> <p>Note. Stakeholders should include health and police groups and be consistent with the spirit of earlier recommendations.</p>
<p><i>Recommendation 115</i> <i>The licensing authority work in consultation with stakeholders and industry participants to establish agreeable Key Performance Indicators for the licensing authority.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 116</i> <i>The licensing authority should publish a quarterly report of application statistics including but not limited to pending applications, applications granted and refused, time taken to process applications and whether these are within agreed timeframes (KPI's) and the number of interventions and by whom.</i></p> <p>SUPPORTED</p> <p>Note. Consideration required as to the appropriate content and level of detail provided in the quarterly reports.</p>
<p><i>Recommendation 117</i> <i>An online tracking system should be a mandatory feature of the information technology program being developed by the licensing authority.</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 118</i> <i>The Liquor Industry Advisory Committee, WALGA and the licensing authority progress the implementation of parallel processing of applications as a matter of priority.</i></p> <p>SUPPORTED</p> <p>Note. The Review Committee noted that parallel processing should be adopted where it does not compromise health outcomes.</p>
<p><i>Recommendation 119</i> <i>The licensing authority review and revise the current application processes and procedures for applications relating to large events.</i></p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 120</i> <i>The licensing authority introduce a system which allows the outcomes of previous events to be taken into account when subsequent applications are lodged.</i></p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 121</i> <i>The licensing authority, in consultation with the Country Racing Association of WA and WA Police, develop a policy in relation to the requirement for licensed crowd controllers at major race club events.</i></p> <p>SUPPORTED</p>

<p><i>Recommendation 122</i> Amend section 81 of the Act to enable, unless the Director otherwise determines, the removal of a licence within 500 metres of the existing premises to be dealt with administratively.</p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 123</i> Amend section 69(12) of the Act so the Commissioner of Police is required to lodge a notice of intervention not later than the last day on which objections should be lodged, or with leave of the Director, before the day appointed for the hearing of the application.</p> <p>NEUTRAL (subject to monitoring)</p> <p>Note. The Review Committee noted that it is important the Director has the discretion to accept new information that may come to hand during the application process.</p>
<p><i>Recommendation 124</i> The Commissioner of Police and the Executive Director Public should publish a report outlining the body of knowledge on the impact of alcohol on public health and the agreed commonly accepted level of harm in the community. This report should then be considered as part of each application where an intervention is lodged, together with specific submissions demonstrating the impact to the local community in which the premises is located.</p> <p>NOT SUPPORTED</p> <p>Note. Reporting on harms rests with health and police authorities. It would be impossible to identify an accepted level of harm.</p>
<p><i>Recommendation 125</i> The licensing authority publish details of the interventions lodged in each financial year in the Department of Racing, Gaming and Liquor Annual Report.</p> <p>SUPPORTED</p>
<p><i>Recommendation 126</i> The licensing authority review the content and layout of the section 39 and section 40 certificate forms.</p> <p>NEUTRAL</p>
<p><i>Recommendation 127</i> The licensing authority and the Western Australian Local Government Association undertake a program to educate local government authorities in their roles, responsibilities and capacity for participation under the Act.</p> <p>SUPPORTED</p>
<p><i>Recommendation 128</i> The licensing authority's information technology system should contain the functionality to integrate with local government authorities, WA Police and the Executive Director Public Health.</p> <p>SUPPORTED</p>
<p><i>Recommendation 129</i> Combine the provisions of section 36A and 65A into one section of the Act.</p> <p>NEUTRAL</p>

<p><i>Recommendation 130</i> <i>The licensing authority's new information technology should contain the functionality to enable individuals to update their details in the system with the additional functionality for the system to notify the relevant officer in the licensing authority for appropriate action.</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 131</i> <i>Amend section 37A of the Act to require an individual to notify the Director of a conviction in writing.</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 132</i> <i>Amend section 103A of the Act to specify the register:-</i> <i>a) must be retained for a period of four years; and</i> <i>b) may be maintained in an electronic format.</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 133</i> <i>WA Police should not take into account the number of 'refused entry' or 'managed drunk' incidents when examining and reporting on the number of incidents at a licensed premises, as this should be seen as a positive measure by the licensee and should not be seen as an incident of concern.</i></p> <p>NEUTRAL (subject to monitoring)</p>
<p><i>Recommendation 134</i> <i>Section 116A of the Act be amended to allow for the licensee's incident register and the crowd controller agent incident register to be maintained as one register.</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 135</i> <i>Section 116A of the Act/Regulation 18EB of the Regulations be amended to specify that the incident register may be maintained in an electronic form, provided it is accessible at all times as required by subsection (3).</i></p> <p>NEUTRAL</p>
<p><i>Recommendation 136</i> <i>Section 116A of the Act be amended to specify that licensees must retain the incident register for four years.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 137</i> <i>The Minister should monitor the outcomes of the National Alcohol Sales Data Project, with a view to improving the accuracy of the data collected.</i></p> <p>SUPPORTED</p>
<p><i>Recommendation 138</i> <i>Amend the Act and or Regulations to ensure that sales data in relation to cider is collected.</i></p> <p>SUPPORTED Note. Alcohol sales data should be collected for all alcohol sales.</p>
<p><i>Recommendation 139</i> <i>The licensing authority's new information technology system should contain the functionality to allow licensee's to lodge liquor returns online or electronically.</i></p> <p>NEUTRAL</p>

Recommendation 140

Amend section 160 of the Act to reflect the provisions of section 16 of the Criminal Investigation (Identifying People) Act 2002.

NEUTRAL

Recommendation 141

Amend the Act to establish a Liquor Industry Advisory Committee comprising a person nominated by the Minister as independent chairperson, the Director, the Commissioner of Police, the Executive Director Public Health, a representative each from the Australian Hotels Association (WA) and the Liquor Stores Association of WA and three experts in matters relating to liquor licensing who shall be nominated for appointment by the Minister after consultation with the bodies referred to above.

NEUTRAL

Note. It is unclear whether a new committee is required.

Response	No. of recommendations
Supported	83 (59%)
Not supported	4 (3%)
Neutral	54 (38%)
Total	141