

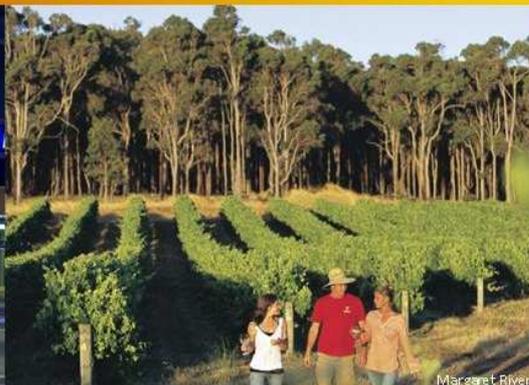
Tourism Council WA Policy Paper



Tourism Response to the Liquor Control Act Review Recommendations



Perth Airport



Margaret River



Burswood Entertainment Complex

Response to the Liquor Control Act Review Recommendations

Background

Tourism in Western Australia

Tourism in Western Australia contributes \$7.6 billion in annual Gross Value Added State Product and generates 89,000 jobs across the state. Tourism earns the state \$2.9 billion p.a. in international exports.

Tourism is also regionally dispersed with approximately 50% of tourism occurring in regional areas. This means tourism is the second largest employer in regional WA after the resources sector. WA tourism is also a major contributor to government revenue delivering approximately \$950 million in net taxation p.a.

State Government Tourism Strategy

The State Government has established a tourism strategy to double direct tourism consumption to \$12 billion by 2020. This strategy relies on significant new investment to develop tourism product, events and hotels to attract and accommodate visitors. This strategy is supported by government measures such as the Hotel Investment Policy, Regional Events funding and regulatory reform such as liquor licensing.

Tourism Council WA

Tourism Council WA is the peak body representing tourism businesses, industries and regions in Western Australia. The Council represent over 1,000 businesses across the state. Tourism Council WA members includes businesses from hotels to wineries which hold all types of liquor licences. However the majority of Tourism Council WA members are tourism businesses that are not licenced.

Tourism Council WA is primarily focused on Western Australia's competitiveness as a destination in the global tourism market. Liquor control legislation is an important policy area for tourism as regulation has a significant impact on the cost of hospitality services and the quality of the customer experience in WA.

Liquor Act Review

An Independent Review of the Liquor Control Act 1988 was conducted in 2013. Tourism Council WA made a substantive submission to the review and met with the review committee. Our submissions focused on the needs of customers and regulatory reforms to improve customer service quality and cost competitiveness.

The review committee delivered its public report and recommendations to the Minister in January 2014. Several proposals in the Tourism Council WA submission have been supported in the review report recommendations. Other tourism proposals have been supported in part and could be enhanced. There are also some recommendations which would have a significant negative impact on tourism.

This policy paper is a subsequent response to the recommendations of the review. The paper analyses the review recommendations impact on tourism and makes recommendations for the State Governments consideration. The paper addresses:

- A. Summary of Tourism Response
- B. Key Recommendations for Tourism
- C. Recommendations Needing Enhancement
- D. Major Concerns for Tourism
- E. Other Recommendations

A. Summary of Tourism Response

This is an overview of the review report recommendations with a notable impact on tourism.

Review Recommendation	Tourism Issue	Tourism Response
Recommendation 4	Licence Application Submissions	Support
Recommendation 19	Removing consumers from the Act	Major Concern
Recommendation 32	Proof of Age Identification	Support
Recommendation 37	Licence Application Submissions	Support
Recommendation 41	Density assessment for licences	Support – needs enhancement
Recommendation 45	Risk categorisation of licence types	Support – with major amendment
Recommendation 49	Small Bars	Support
Recommendation 51	New tax on tourism licensees	Major Concern
Recommendation 59-60	Clubs	Support – needs enhancement
Recommendation 63	Restaurants	Support
Recommendation 65-68	Producers Licence e.g. wineries	Support – needs enhancement
Recommendation 70	Regional Liquor Stores	Support
Recommendation 71	Sunday Trading Hours	Support – needs enhancement
Recommendation 90 - 91	Movement of Patrons	Support – needs enhancement
Recommendation 98	Mandatory ID Scanning	Major Concern
Recommendation 107	New Regulatory Burden on Events	Major Concern
Recommendation 110	Accredited Tour Operators	Support
Recommendation 118	Licence & Planning Approvals	Support – needs enhancement
Recommendation 119	Major event licences	Support
All other recommendations	No specific issue identified	Neutral

B. Key Recommendations for Tourism

The following Review Recommendations were proposed in the Tourism Council WA submission.

B.1 Tour Operators

Review Recommendation 110 would provide an exemption for the sale and supply of liquor by accredited tour operators in prescribed circumstances. This is a major reform which would allow an accredited tourism business to supply limited amounts of alcohol as part of a tourism experience or sell a limited amount of alcohol while on an isolated tour where all meals are provided. For example a beer at the end of an adventure tour, local cider on a regional bus tour, wine in a picnic hamper or a limited bar on intrastate marine cruises or 4WD camping tours.

This proposal by Tourism Council WA builds on the program of using industry accreditation as an alternative to regulation. The Tourism Accreditation program is currently recognised by Tourism WA, Rottnest Island Authority and DPAW; and is in the process of being adopted by the Department of Fisheries.

B.2 Regional Liquor Stores

Recommendation 70 would authorise regional liquor stores to trade on Sundays, the same as hotels selling take away. This will increase competition and enhance choice, service and value for visitors. This measure is especially critical for caravan parks and general stores supplying the caravanning and drive tourism market, who have to deny visitors liquor and refer them to distant hotels.

Tourism Council WA believes this reform measure will add to the viability of caravan park operation and investment and should be considered a reform under the Caravan & Camping Strategy.

B.3 Wineries, Breweries, Distilleries, Restaurants & Small Bars

Recommendation 49 would introduce a new class of licence for Small Bars. Currently Small Bars are a sub category of a hotel licence. Recommendation 63 would enable restaurants to serve alcohol without a meal.

These would substantially improve the tourism experience in WA and meet expectations of interstate and international guests.

Recommendation 64 would authorise beer producers to sell liquor for consumption on the licensed premises. This would allow micro-breweries to serve beer with a producers licence just as a winery can. This will enhance the micro-brewery visitor experience.

Recommendation 65-68 would allow producers to establish a collective regional cellar door retail outlet; enable online and telephone sales offsite from the licenced premises, allow producers to sell liquor other than their own with a meal and allow producers to sell wine at farmers markets. These recommendations will remove expensive red tape burdens and improve regional tourism experiences.

B.4 Tourism Development - Licence Applications

Recommendation 4 & 37 would allow stakeholders to lodge a submission regarding a licence application and would amend the Act so the submissions can be considered by the licensing authority. Currently representations from the tourism industry have no legal standing. This would enable the industry to express support for new tourism product developments. However it should be noted that submissions do not have the same status as objections which continues to weight assessments in favour of police over consumers.

B.5 Events

Recommendation 119 proposes the licensing authority review the application processes relating to large events. Licencing of events is often more onerous than red tape required for the activity on an ongoing basis. This review could assist with the sustainability and compliance costs for tourism events.

B.6 Proof of Age

Recommendation 32 would make it an offence for an individual to make or use fake proof of age identification. This is a worthwhile reform to ensure individuals are responsible for their actions instead of putting all the onus onto licenced premises to control individuals' behaviour. This recommendation would assist curb underage drinking.

Tourism Council WA recommends these measures to support tourism and improve customer service be adopted.

C. Recommendations Needing Enhancement

The following recommendations are of some benefit to tourism but should be enhanced to achieve significant improvements in customer service and tourism.

C.1 Sunday Trading

Recommendation 71 would authorise hotel, tavern and small bar licences to trade until 12.00 midnight (rather than 10pm) on Sunday evenings preceding a gazetted public holiday which falls on a Monday. While this would be an improvement for long weekends it still limits customer services to visitors travelling on most Sundays of the year. There is no harm minimisation value in limiting Sunday trading hours but it does close hotels and bars early when a visitor would like to be served. **Tourism Council WA recommends that Sunday trading hours be extended to match all the trading hours for every other day of the week.**

C.2 Producers Licences: Wineries, Breweries & Distilleries

Recommendation 65, 68 & 91 only refer to wine producers and do not seem to apply to all producers such as distillers and brewers of beer, mead and cider. Consistent with other review recommendations **Tourism Council WA recommends they be equally applied to wineries and breweries.**

C.3 Clubs and Tourism

Recommendation 59 would allow Clubs to sell and supply liquor to persons assisting a guest or a competing club. Recommendation 60 would allow Clubs to hold up to 12 non-member functions per year without the need to apply for an extended trading permit. Clubs are a strong driver of tourism through events and are often the only decent provider of hospitality in some regional areas.

These are a small step forward in allowing clubs provide hospitality for visitors but does not address the primary issue that tourists are not allowed access to Clubs in their own right. Tourists can only enter a Club as a guest of a Club member. They are supposed to be a genuine guest who are known to, in the presence of and leave with the Club member. The law currently prevents clubs from properly serving and promoting their services to visitors. **Tourism Council WA recommends the introduction of temporary membership for any visitor whose residence is more than 40 km from the club.**

C.4 Movement of Patrons

Recommendation 90 would make it a 'defence' if patrons carrying liquor move across separate areas within a licenced premises e.g. crossing a footpath to an alfresco area. This is an improvement but further amendment is needed to enable a patron to move across separate licenced premises in the one venue i.e. where there is the same licensee e.g. moving from a hotel licence area to a restaurant licenced area in the one venue.

Recommendation 91 would allow a patron with alcohol to move between cellar door tasting areas and restaurant areas with separate licences. These recommendations will enhance customer service and significantly reduce compliance costs for tourism businesses. **Tourism Council WA recommends that patrons be able to move freely across and within licenced with a single venue with the one licensee.**

C.5 Tourism Development - Licence Applications

Recommendation 118 supports parallel processing a licence applications with planning approval. This is a step forward in reducing time delays in tourism development however the major recommendation 6.14 of the Red Tape Reduction Group Report to limit approval delays to 6 months was rejected by the review. **Tourism Council WA recommends that applications be deemed approved after 6 months to ensure decisions are made in an appropriate time frame.**

Recommendation 41 would include the local density (number, type and nature) of licences in applying the public interest test. Measuring density of liquor supply would lead to more informed risk based assessments, however liquor demand density should also be assessed. The independent review concludes that the number and type of local consumer (including tourists) should be assessed but did not include this in their recommendation. **Tourism Council WA recommends that the number and type of local consumers and licenced premises be assessed when applying the public interest test.**

C.6 Risk Grading of Licences

Recommendation 45 would split licence types into high risk Category A (Hotels, Nightclub, Liquor Store, Casino & Special Facility) and a low risk Category B (Clubs, Restaurant, Small Bar, Producer and Wholesaler).

The independent review concludes that the lower risk Category B should face lower regulatory burdens including a "*less detailed Public Interest test*", however there is no recommendation to this effect.

The only recommended use of the category system is Recommendation 2 which imposes an additional regulatory burden on Category A licences and Recommendation 51 which would impose a new tax on Category A licences (which is a major concern for tourism). **Tourism Council WA recommends that the categorisation of licences only occurs if it genuinely results in a lower public interest test burden than is currently expected of lower risk licences.**

D. Major Concerns for Tourism

The following recommendations would increase costs and restrictions for consumers and visitors and deter investment in tourism development. They are strongly opposed by Tourism Council WA.

D.1 New Tax on Tourism

Recommendation 51 would impose a new tax on hotels, Nightclub, Liquor Store and the Casino of \$10 per 1m² for licenced premises over 200m². The tax is applied assuming larger premises have greater sales of liquor. This recommendation would impose an additional cost impost on tourism.

The new tax would significantly impact on licenced tourism premises such as:

- High quality hotels that offer more space for patrons e.g. outdoor gardens.
- Hotels that have event space for entertainment, meetings, etc which attract visitors.
- Accommodation hotels which need larger bar areas to cater for the number of rooms.
- Major tourism attractions such as the Casino.

Tourism Council WA contends that this recommendation would result in:

- Higher costs for consumers further contributing to WA being a high cost destination.
- A reduction in tourism investment ROI particularly to expand existing venues with hotel licences or large accommodation hotels.
- Penalising larger establishments such as the Casino that have an excellent record in the responsible service of alcohol due to their resources and professional management.
- An incentive to minimise licenced floor space, increasing the number of patrons per m².
- Double taxation of liquor sales which are already taxed.

Tourism Council WA recommends that no new additional taxes, levies or fees be imposed on the tourism industry through the Act.

D.2 Objects of the Act - Abolishing Consumers Requirements

Recommendation 19 removes “catering for the requirements of consumers” from the objectives of the Act. This recommendation would result in the needs of customers being given no consideration in the application of the Act, particularly in the public interest test.

The Act currently identifies three objectives being:

- i) harm minimisation;
- ii) the requirements of consumers; and
- iii) the proper development of the liquor, tourism and hospitality industries.

These objectives can be competing and are ‘balanced’ in the public interest test for licence applications. Removing consumers from the Act would limit the objectives to only harm minimisation and industry development. The requirements of the consumers are not the same as the industries which supply liquor. The recommendation would entrench the interests of both the health and liquor lobbies at the expense of consumers. For example, greater customer choice and value is not in the interests of either the health lobby or existing liquor suppliers but would be given no weighting in the public interest test.

This recommendation is essentially anti-competitive and will work against licences being granted to new competitors offering better customer service as this would no longer be an objective of the Act. Tourism Council WA contends that this is a further extension of the regulatory regime that already contributes to WA being a high cost state for hospitality services. **Tourism Council WA recommends that the “catering to the requirements of consumers” remains an objective of the Act.**

The Tourism Council also wishes to delineate between the interests of liquor suppliers and the tourism industry. While many tourism businesses also supply liquor (ranging from airlines to hotels) tourism development mainly depends on our competitiveness as a destination. This goes to customer service issues of cost, quality and availability of hospitality services. In essence tourism development depends on the needs of tourism consumers as well as suppliers of hospitality services. **Tourism Council WA further recommends that objectives include “catering to the requirements of consumers and tourists”.**

D.3 Objects of the Act – Tourism Development

Recommendation 19 also significantly amends the terminology of the objectives of the Act in order to “re-balance” the application of the public interest test away from the “proper development” of industries such as tourism.

This recommendation is a blanket measure which would apply to all licence applications, rather than a measure targeted to high risk applications. The only possible outcome of the recommendation would be an across the board reduction in licence approvals. Since a liquor licence is an essential requirement for many tourism developments, this recommendation can only work against tourism development. **Tourism Council WA recommends that the objectives should not be re-balanced against the development of the tourism industry and that policies to improve harm minimisation focus on risk rather than across the board measures.**

D.4 Regulatory Burden on Events

Recommendation 107 would expand the definition of a regulated premises to include public events where entertainment is at or from which, can be viewed or heard; including outdoor event areas. Regulated premises are premises which do not serve or supply alcohol but where the premises becomes legally responsible for the liquor consumption of those on the premises similar to a licenced premises.

The purpose of this recommendation is to shift the onus of responsibility for enforcing the Liquor Act from police onto an event organiser. To comply with this regulation would impose a major cost on event organisers who would be responsible for policing alcohol consumption even though they do not serve or supply alcohol. This would affect Tourism WA’s ability to attract events and undermine many existing events in the states events calendar.

Tourism Council WA recommends that the regulatory burden on events not be increased by shifting policing responsibility onto event organisers.

D.5 Mandatory ID Scanning of Customers at Venues

Recommendation 98 would require some licence holders e.g. in entertainment precincts, to use ID scanning. This requirement would be impractical to implement at large venues such as stadiums, arenas, resorts which have significant movement of patrons e.g. up to 80,000 per weekend at Crown. The requirement would also be prohibitively expensive to implement in equipment and staff time costs.

Again the review has assumed that a certain type or size of a venue is high risk and then recommended costly regulatory burdens on that business. Regulations should assess risk on the basis of performance (e.g. police call outs and incidents) rather than size or type. These proposals would be detrimental to tourism businesses which invest in entertainment and meeting facilities and have an excellent record in the responsible service of alcohol.

Crown for example uses ID scanning at the eve nightclub because it is a valuable and effective tool. In short Crown manages risk where appropriate. The ID scanning should not be applied where it is unnecessary, expensive and an inconvenience to customers.

Tourism Council WA recommends that tourism and entertainment venues not be required to apply ID scanning to customers as it is unnecessary expensive and inconvenient to patrons.

E. Other Recommendations

Tourism Council WA has addressed those recommendations of which we have some understanding and which we believe would impact on tourism in WA.

As with all complex regulation its impact can be unforeseen and unintended, therefore Tourism Council WA makes no comment on the remaining recommendations. Tourism Council WA may make further representations into the future. Tourism Council WA recognises the importance of the review process and generally supports measures to improve the operation of the Act and target high risk areas of harm such as juveniles.

Further comment

Tourism Council WA would be pleased to provide further input and comment. Please contact Mr Evan Hall on 9416 0700 or at ehall@tourismcouncilwa.com.au.



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