



Department of
**Local Government, Sport
and Cultural Industries**

The Next Chapter of WA's Liquor Laws – have your say.



State of Western Australia.

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This document has been designed and written to make it accessible to as many people as possible. Copies of this publication are available in alternative formats upon request.

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Acknowledgement of country and peoples

The DLGSC acknowledges the Aboriginal people throughout Western Australia as the Traditional Owners and Custodians of the lands, waters, and communities in which we operate. The DLGSC is committed to developing strong working relationships with Aboriginal people and is proud to celebrate the cultural diversity, strength and resilience of Aboriginal people, and is deeply grateful for the contributions they make to the State of Western Australia. We pay our respects to all Aboriginal people and their cultures, and to Elders both past and present.

About DLGSC

The DLGSC works with partners across government and within its diverse sectors to enliven the Western Australian community and economy through support for and provision of sporting, recreational, cultural, and artistic policy, programs and activities for locals and visitors to the State. The DLGSC provides regulation and support to local governments and the racing, gaming, and liquor industries to maintain quality and compliance with relevant legislation, for the benefit of all Western Australians.

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Executive summary

Introduction

Western Australia (WA) is home to thriving hospitality, tourism and liquor industries. These industries employ thousands of people across the State. Many of these businesses hold liquor licences.

Effective regulation supports industry development and plays an important role in minimising the harmful effects of alcohol in our community.

The McGowan Government, through the Department of Local Government, Sport and Cultural Industries (DLGSC) is reviewing the *Liquor Control Act 1988* (the Act) and the broader liquor regulatory framework in WA.

The current regulatory framework

Liquor in WA is regulated under the following:

- [Liquor Control Act 1988](#) (the Act)
- [Liquor Control Regulations 1989](#) (the Regulations)
- 27 sets of Liquor Control (Restricted Area) Regulations
- [Liquor Commission Rules 2007](#)
- 53 [liquor policies](#).

The Act and Regulations regulate the sale, supply and consumption of alcohol, and aim to minimise harm or ill-health caused to people due to the use of alcohol. The legislation is supported by liquor policies, which provide additional guidance on the Act and Regulations.

Liquor licensing decisions and disciplinary matters are determined by the licensing authority — the Director of Liquor Licensing (DLL) and the [Liquor Commission](#).

The DLL is a statutory position held by the Director General of DLGSC that assists with administration of the Act. The DLL, who has powers of delegation, makes most decisions about liquor licensing applications and other matters as outlined on page 36.

The Liquor Commission determines, or reviews complex liquor licensing matters, including complaints, as detailed on page 37. The Liquor Commission Rules regulate the practice and procedure of the Liquor Commission and matters that are related and subject to the Regulations.

DLGSC inspectors (under delegation from the DLL) and officers from the Western Australian Police Force manage the compliance and enforcement of liquor laws across WA.

Reform commitment

The Act and Regulations were developed over 30 years ago and have been amended many times over the years.

Significant reforms to WA's liquor laws have been made in the past 15 years.

In 2006, the small bar liquor licence category was introduced and has played a substantial role in transforming underutilised pockets of business districts and fostering a more sophisticated drinking culture.

Further reforms to liquor laws were introduced in 2018, to reduce red tape and enable consideration of the cultural and tourism value of venues when assessing liquor licence applications.

During the 2021 election campaign, the Premier made a commitment to:

“continue this program of reform by undertaking consultation with the hospitality industry and other stakeholders to inform further amendments to the Liquor Control Act.

A range of potential improvements will be considered, including a simpler licensing system to reflect changing business models and community expectations, as well as a more rapid and cheaper approvals process.”

This current review is broad and looks to modernise the Act, Regulations, and policies, as well as the supporting online systems and information. Through this review, the State Government is seeking to:

- identify what is working well with the current regulatory framework
- identify any issues the industry, government and community have with the current framework
- explore reform ideas from our stakeholders to improve the current regulatory framework.

Reform themes and objectives

To guide consultation, potential reforms are grouped under the following themes:

1. Improved licensing framework – reduce red tape and maximise opportunities for industry.
2. Modernised legislation and structural reform.
3. Enhanced harm minimisation, enforcement and compliance, including rewarding compliant operators.
4. Simpler systems – digital solutions to create efficiencies for industry and the regulator.
5. Stronger industry education and information – to enhance industry understanding and knowledge.

Summary of reform proposals

Some reform proposals are considered below under each of the reform themes. The State Government is seeking your feedback on these proposals, as well as your ideas and suggestions for further reform.

1. Improved licensing framework – reduce red tape and maximise opportunities for industry

This review will examine the liquor licensing framework to identify unnecessary red tape and seek feedback on potential solutions. It will explore potential improvements in the licensing framework to better cater for the diverse needs of liquor businesses. Key reform proposals include:

A. Application process

- Streamline the licence application and approval process by finding system and process efficiencies.
- Explore ways to improve the applicant's interaction with DLGSC (as the regulator) and the licensing system.

B. Liquor licence category model

- Explore the current licence category model used in WA to determine if it is fit for purpose and, if not, where it may be improved.
- Consider alternative liquor licence category models.

C. Application of the Act

- Review the current exemptions to the Act, for example an exemption from needing a liquor licence to sell or supply liquor.
- Explore whether new exemptions should be considered.

D. Policy and process review

- Review the DLL's policies and how they are communicated and applied.
- Explore efficiencies for licensees who need to adjust their licence and/or conditions during its tenure.

2. Modernised legislation and structural reform

Proposals under this theme relate to a range of provisions including the role and functions of the DLL and Liquor Commission. Consideration will also be given to proposals which modernise and simplify the legislative framework, such as improving the structure of the Act and Regulations, removing redundant provisions and miscellaneous administrative amendments. Key reform proposals include:

A. Modernising the legislative framework

- Explore options to modernise the structure of, and language in, the Act and Regulations.
- Consider whether provisions in the Act are better dealt with in the Regulations.
- Identify and remove redundant provisions from the Act and Regulations.
- Undertake administrative amendments to improve the licensing system.

- Introduce the use of digital forms of identification and electronic document lodgement to meet modern standards and align with the State Government’s digital platform.

B. Structural reform

- Review the role of the DLL.
- Review the role of the Liquor Commission.

3. Enhanced harm minimisation, enforcement and compliance, including rewarding compliant operators

This review will consider the tools available to the licensing authority and the WA Police and whether they can be enhanced to support greater compliance by licensees and support harm minimisation. Ideas to encourage and reward licensees who comply with their licence conditions will also be considered. Key reform proposals include:

A. Incentive and demerit system

- Review incentive and demerit systems used in other jurisdictions.
- Consider introducing an incentive and demerit system in WA.

B. Compliance and enforcement

- Review penalties and administrative sanctions in consultation with the Department of Justice, to ensure they are relevant and modern.
- Provide inspectors with power to impose lower-level penalties and sanctions, to address complaints and non-compliance more rapidly.

Separate to this review, the State Government is currently developing proposals to strengthen the trial of the [Banned Drinkers Register](#).

4. Simpler systems – digital solutions to create efficiencies for industry and the regulator

Feedback will be sought on user experience with DLGSC’s current liquor licensing system and business processes, to identify areas where improvements can be made. Key reform proposals include:

A. Replace the licensing and compliance system

- Replace the current ‘Navigate’ system with a more user-friendly and efficient system.
- Explore business processes that could be improved concurrently to the introduction of a new system.

B. One-stop-shop approval portal

- Consider whether a ‘one-stop-shop’ approval portal can be incorporated into the new online licensing system, to provide all the information required to progress liquor licensing applications in one place.
- Explore what information about the liquor licensing process could be included on the portal.

5. Stronger industry education and information – to enhance industry understanding and knowledge

Under this theme, the review will focus on how DLGSC can strengthen industry understanding and improve the information it provides to applicants and licensees. This includes looking at what, where, when and how information is presented. Key reform proposals include:

A. Website review

- Review the content and structure of the DLGSC website to improve its accessibility.
- Explore the introduction of an online chat function on the website to enable applicants to chat with DLGSC officers in real time.
- Explore the inclusion of an online booking system to facilitate face-to-face or virtual meetings between applicants and DLGSC officers.

B. Education and information

- Create interactive 'user-friendly' guidance material.
- Create digital flow charts of processes, associated costs and timelines.
- Include interactive online lodgement guide and checklist.
- Develop a decision tree process to help licensees find the correct licence for their business model, similar to the Small Business Development Corporation's Business Licence Finder.
- Incorporate information videos on the liquor licence application process.

Consultation

As part of this review, a broad range of stakeholders will be consulted, to ensure all views are represented.

This document is the start of that process.

There will be more opportunities to have your say, including stakeholder surveys and forums. Information on the project will be regularly updated on our reform [website](#).

We want your ideas!

This paper presents some reform ideas. Feedback on these ideas and new ideas for reform will be used to inform the development of reform options for State Government. These options will be presented for further consultation in early 2023.

How to provide feedback

To make sure everyone can provide their feedback, DLGSC is using a range of consultation methods:



Surveys designed for specific stakeholder groups:

- [Industry groups, government agencies and not-for-profit groups survey.](#)
- [Licensees, prospective licensees and liquor business owners survey.](#)
- [Community survey.](#)



Formal consultation documents

1. This document: seeking feedback on reform proposals and new ideas.
2. Consultation Regulatory Impact Statement: presenting formal reform options.
3. Decision Regulatory Impact Statement: presenting finalised reforms.



Stakeholder workshops and meetings

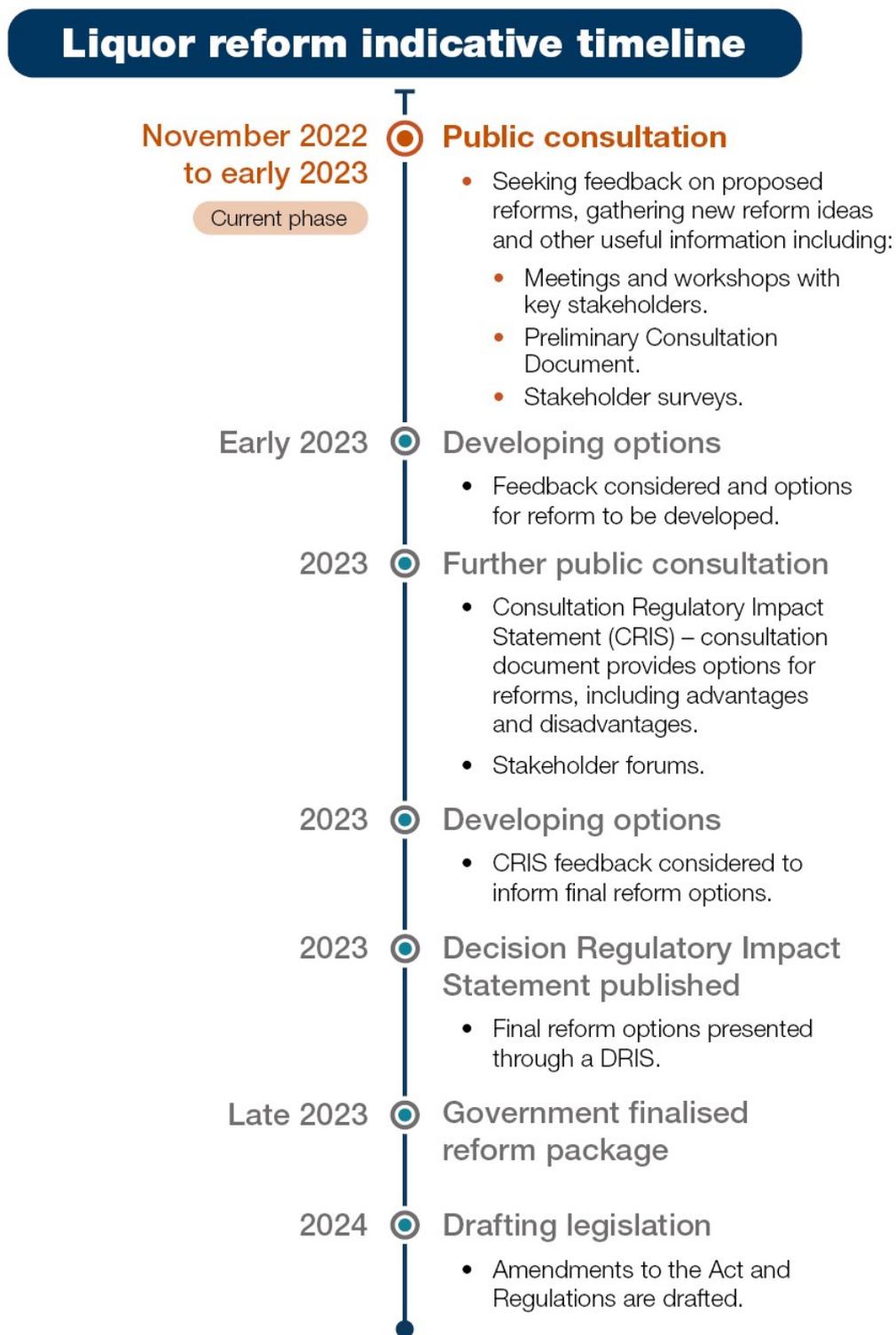


Informal feedback via email: liquorreform@dlgsc.wa.gov.au

The consultation process

Figure 1 sets out our consultation timeline and the opportunities to provide feedback and new reform ideas.

Figure 1: Liquor reform indicative timeline



The current liquor regulatory framework in WA

The sale, supply and consumption of liquor in WA is governed by a regulatory framework, as depicted in Figure 2.

Figure 2: The liquor regulatory framework in WA



The primary objects of the Act are to:

- regulate the sale, supply and consumption of liquor
- minimise harm or ill-health caused to people, or any group of people, due to the use of liquor
- cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

The secondary objects of the Act, to be considered in conjunction with the primary objects, include:

- to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State
- to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor
- to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act
- to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, consistent with the interests of the community.

The liquor regulatory framework, including licensing decisions and disciplinary matters, is administered by the licensing authority – the DLL and the Liquor Commission.

The DLL is a statutory position held by the Director General of DLGSC that assists with administration of the Act. The DLL, who has powers of delegation, makes most decisions about liquor licensing applications and other matters as outlined on page 36.

The Liquor Commission determines, or reviews complex liquor licensing matters, including complaints, as detailed on page 37, in accordance with the Liquor Commission Rules 2007.

Reform themes

Figure 3: Liquor reform themes

Liquor Reform

Reform themes

Improved licensing framework – reduce red tape and maximise opportunities for industry

Reform proposals that reduce red tape and maximise opportunities for industry by simplifying and creating efficiencies within the licensing framework.

Ideas:

- Review of licence categories
- Review of exemptions, restrictions and conditions on licences
- Review application and approval processes and administrative obligations

Modernised legislation and structural reform

Reform proposals that relate to structural changes to the licensing framework and modernise the structure of the legislation and regulations.

Ideas:

- Review the role and functions of the Director of Liquor Licensing and Liquor Commission
- Explore the use of digital identification

Enhanced harm minimisation, enforcement and compliance

Reform proposals that relate to enforcement tools, powers and penalties.

Ideas:

- Review authorised officer, inspector and police powers
- Explore the use of an incentive or demerit point system
- Review the penalties to encourage greater compliance

Simpler systems

Reform proposals that relate to improvements in the licensing and compliance information technology systems.

Ideas:

- Replace the current licensing and compliance system
- Explore the option of an online approvals portal

Stronger industry education and information

Reform proposals that relate to industry education, guidance and communication.

Ideas:

- Enhance website content
- Develop new licensee education material
- Improve methods of communication with licensees

Theme 1: Improved licensing framework - reduce red tape and maximise opportunities for industry

The State Government is committed to reducing red tape, to make it easier to do business. This commitment aligns with the overall goal of maximising opportunities for industry and creating jobs for Western Australians.

An efficient and effective regulatory system creates the right environment for business to operate, while also addressing liquor-related harm in our community.

The licensing framework seeks to ensure:

- businesses are supported to enhance the lifestyle and culture of the community, create jobs and benefit the economy
- licensed premises are appropriately managed, and staff are trained in the responsible service of alcohol
- premises are suitable for the type of business
- the impact on the local community and other similar businesses is considered
- licensees, business owners and managers are 'fit and proper' to hold a licence
- local government approvals have been obtained.

Barriers that are purely administrative and unnecessarily restrict business operations are detrimental to industry, local amenities, the community and the economy.

Reforms under Theme 1 will examine the liquor licensing framework to identify unnecessary red tape, seek feedback on potential solutions and improvements to maximise opportunities for liquor businesses. This includes:

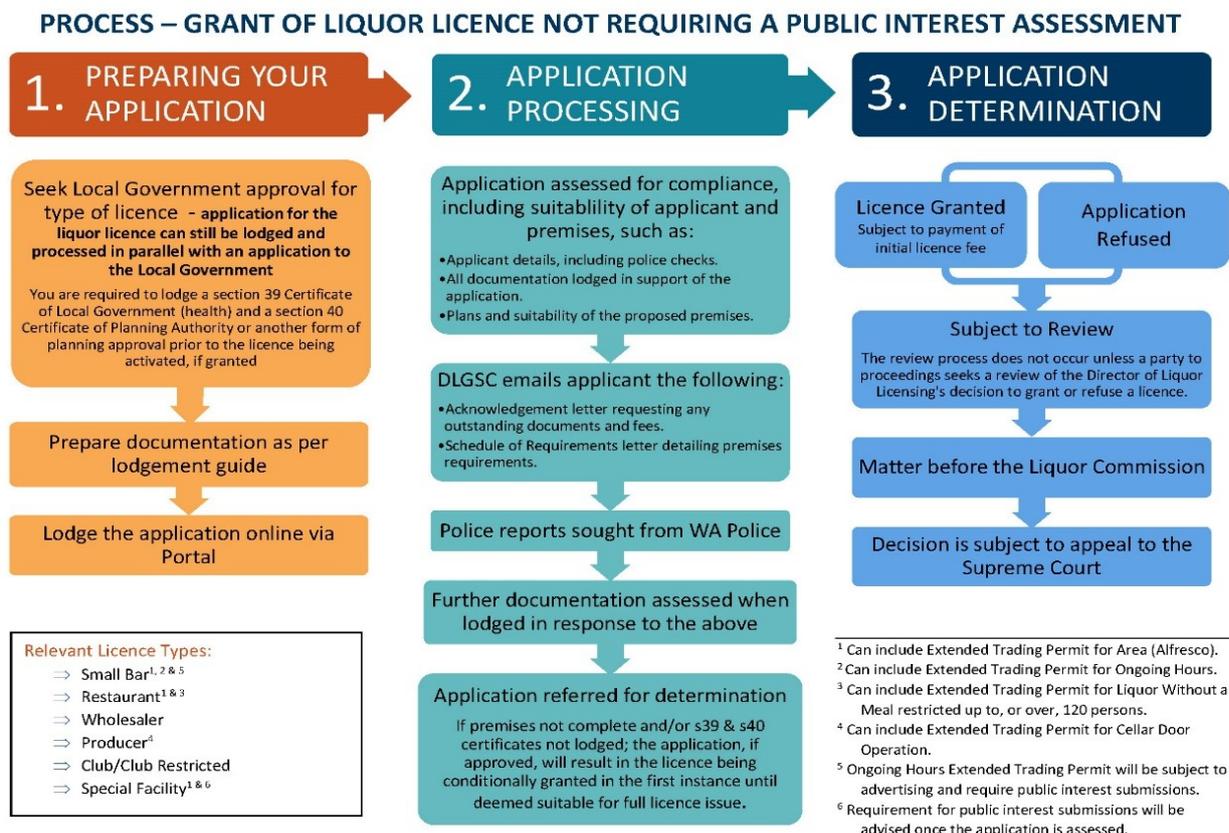
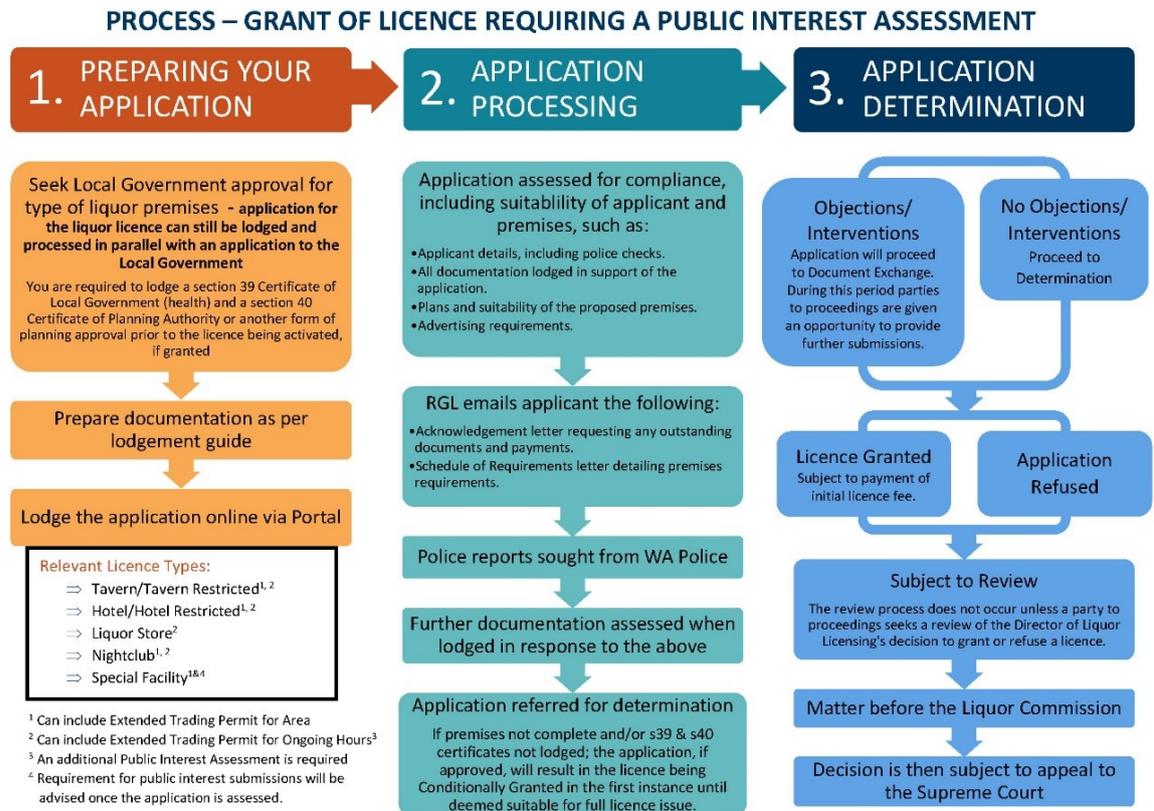
- streamlining the licence application and approval process by finding system and process efficiencies
- exploring ways to improve the applicant's interaction with DLGSC (as the regulator) and the online licensing system, 'Navigate'
- considering alternative liquor licence category models
- reviewing the policies of the DLL
- exploring efficiencies for licensees who need to adjust their licence and conditions.

The application and approval process

There is a difference between making it easy to apply for a licence (the application process) and being granted a licence (the assessment and approval process).

The diagram on the next page illustrates the current process for grant of a licence involving a Public Interest Assessment and the process for applications not requiring a Public Interest Assessment (not required for some licence types).

Figure 4: The process for granting a liquor licence



We want to explore ways to make it easier for licensees to apply for a licence or permit, as well as streamline the assessment process to make it quicker to obtain approval.

Reform principle

Simplify the application process for the licensee, while maintaining appropriate scrutiny during the assessment process.

Reforms under Theme 1 will also consider the impacts of a potential increase in the number of licences under a simplified application process.

Compliance and enforcement reforms will be considered under reform Theme 3. Work is also underway to implement a new online licensing and compliance system, to enhance DLGSC's ability to regulate the sector (reform Theme 4). An improved system will increase the accessibility of information required by DLGSC officers (under delegation of the DLL) to process licence applications and for WA Police or DLGSC officers (under delegation of the DLL) to monitor compliance with licence obligations.

Related reforms to support a simplified application process:

- Revised liquor licence categories.
- Streamlined DLL policies.
- Robust enforcement and compliance measures.
- New online licensing and compliance system.
- Adequate regulator resourcing.
- Stronger education and guidance for applicants.

Work to inform this paper identified several potential issues with the liquor licensing application process.

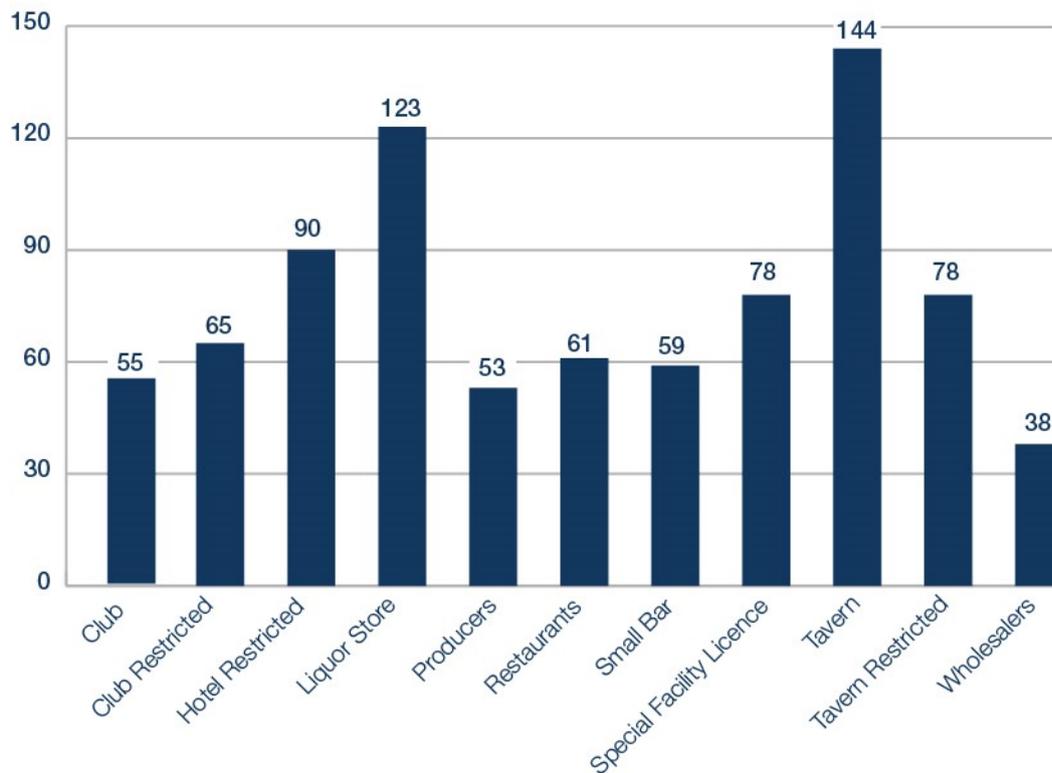
Current issues in the liquor licensing application process

- Applicant confusion about which licence to apply for.
- Lack of understanding of the application process and how it interacts with other approval processes (health and planning approvals at State and local government levels).
- Incomplete and/or poor quality applications being submitted.
- Inefficiencies in the application process for the applicant and regulator, such as duplication of information required.
- Confusion about the Public Interest Assessment (PIA) process and requirements.
- Lack of understanding around the DLL Policies.
- Applicant perception or experience creates a belief that there is a need to engage a third party (lawyer or consultant) to complete their application.
- Differences between local government planning schemes.
- Duplication of information required by multiple agencies (for example DLGSC, Department of Health and local governments).
- The current online licensing system is outdated and inadequate, resulting in inefficient processes and limiting innovation.

These issues delay the application process, costing the applicant and the regulator ..

The length of the application process varies according to licence type. As shown in Figure 4 on the next page, the average number of days between lodgement of an application and a decision being made is greatest for high risk/complex applications such as taverns and liquor stores. Approval times are shorter for lower risk applications, such as wholesalers and club licences.

Figure 5: Licence application assessment times by category (average days)



Note: This figure displays data for applications received between October 2019 and July 2020.

Your feedback is sought on how to improve the application process and reduce delays in the process.

Some of the issues and potential solutions are outlined in the table below:

Table 1: Licence application issues and potential solutions

Issues	Potential solutions
Confusion about which licence to apply for.	<ul style="list-style-type: none"> • Simplify licence categories. • Improve readability and accessibility of information and guidance around the licence categories.

Issues	Potential solutions
<p>Incomplete applications being submitted.</p>	<ul style="list-style-type: none"> • Improve pre-lodgment guidance material. • Improve the application system to require submission of information online before it is submitted for assessment. • Collaboration between local governments and DLGSC to educate and inform businesses about information required in application.
<p>Duplication of information required.</p> <ul style="list-style-type: none"> • Requirement for a section 40 certificate from local government to prove compliance with planning laws. 	<ul style="list-style-type: none"> • Amend the Act to enable DLGSC to accept a section 40 certificate <u>or</u> a copy of the Development Approval. • Create a single source of approved/certified information that can be relied on by multiple bodies, reducing the need for the customer to provide the information more than once. • Work with local governments to identify the blockers and encourage local governments to adopt aligned definitions when amending town planning schemes.
<p>Public Interest Assessment (PIA)</p> <ul style="list-style-type: none"> • Confusion about the (PIA) requirements and misunderstanding that the PIA template is not mandatory (it is guidance). • Level of information on the area and demographics relative to the proposed premises encourages applicants to engage a third-party consultant to complete the PIA. 	<ul style="list-style-type: none"> • Reiterate that the PIA template is guidance only. • Create standard profiles of areas for use in the PIA process. This will save the applicant money sourcing the information and time to assess the application.

CONSULTATION QUESTIONS

- What is your feedback on the licence/permit application and approval process?
- Do any parts of the process create confusion? Which parts and why?
- What information would make the process easier for new entrants to the industry?
- How might the application process be improved?

Licence categories

WA's liquor licence categories model has evolved over the years. The model is intended to provide businesses with predefined licence types, based on the proposed manner of trade. It also enables the regulator to control the way liquor is sold and supplied, including to address harm minimisation.

There are currently 15 licence categories outlined in Part 3 Division 2 of the Act. The table below lists each licence type and a summary of the trading conditions. Other standard or unique conditions may also be applied if required, at the discretion of the licensing authority.

Table 2: Licence types and trading conditions

Licence type	Trading conditions
Casino	Sale of liquor for consumption at a casino and any venues in the casino complex.
Tavern restricted	Sale and supply of liquor for consumption on and off the licensed premises.
Tavern	Sale and supply of liquor for consumption on and off the licensed premises and as packaged liquor.
Hotel restricted	Sale and supply of liquor for consumption on the premises only. Liquor may also be sold to residential guests at any time, for example via mini bars, room services etc. No packaged liquor sales except to a lodger, in quantities that might be reasonably consumed by the lodger on that day. Must provide accommodation.
Hotel	Sale and supply of liquor for consumption on and off the licensed premises. Must provide accommodation.

Licence type	Trading conditions
Restaurant	<p>Sale and supply of liquor, for consumption on the licensed premises, ancillary to a meal supplied by the licensee.</p> <p>Business should be focused on regular supply of genuine meals, with liquor sales secondary to this.</p> <p>Must have a kitchen for preparing food.</p> <p>Must have sufficient toilet facilities for patrons and staff.</p> <p>Dining area must always be set up with tables and chairs for dining.</p>
Small bar	<p>Sale and supply of liquor for consumption on the licensed premises only (no takeaway packaged liquor sales).</p> <p>No more than 120 persons (patrons and staff) at any one time.</p>
Nightclub	<p>Sale and supply of liquor for consumption on the licensed premises.</p> <p>Liquor may only be sold ancillary to continuous live entertainment, provided by one or more artists present in person performing there, or by recorded music presented by a DJ.</p>
Special Facilities	<p>A licence granted for prescribed purposes. There are 15 types of Special Facilities Licence sub-classifications (see next table).</p> <p>Used where no other class of licence is adequate for their purpose. Trading hours are not prescribed by the Act but are imposed as conditions at the time the licence is granted.</p>
Liquor store	<p>Sale and supply of packaged liquor for consumption off the licensed premises, including where liquor is sold online to the public.</p> <p>Tastings may be conducted on the licensed premises, if authorised.</p>
Club restricted	<p>Sale and supply of liquor for consumption on the premises to club members and up to five invited guests per member.</p> <p>No packaged liquor sales.</p>
Club	<p>Sale and supply of liquor, for consumption on the premises to members of a club and up to five guests per member.</p> <p>Packaged liquor sales to members only.</p>
Producers	<p>Sale of liquor (wine and beer only), produced by the licensee, for consumption on the premises and as packaged liquor. Tastings may be conducted on the licensed premises, if authorised.</p> <p>Wine and beer producers can sell or supply liquor other than their own product ancillary to a meal or for comparative tastings, if authorised.</p>
Wholesalers	<p>Sale of packaged liquor primarily to liquor merchants or other persons authorised by law to sell liquor – this must constitute at least 90% of the gross turnover from liquor sales.</p> <p>May also sell liquor to the general public for consumption off the licensed premises in quantities of at least 4 litres - to a maximum of 10% of gross turnover from liquor sales.</p>
Occasional licence	<p>Sale or supply of liquor at a function/event (if not covered by another licence type), issued for a period of up to three weeks.</p>

There are also 15 Special Facilities Licences outlined in the Regulations:

Table 3: Special Facility Licence type and trading conditions

Special Facility Licence type	Trading conditions
Amusement venue	Sale of liquor to persons at an amusement venue. Amusement venue means a premises primarily used for playing or viewing snooker, bowling, electronic games or other similar amusements; or to participate in or view karaoke.
Auction	Sale by auction of packaged liquor at premises specified in the licence. May permit the supply of samples of the packaged liquor that is for auction, for tasting.
Bed and breakfast	Sale of liquor at a bed and breakfast facility to persons staying at the facility.
Catering	Sale/supply of liquor at premises at a function by a caterer, at which the caterer has agreed with the function organiser to provide liquor (with or without food) for consumption by persons at that premises.
Foodhall	Sale of liquor at a foodhall to customers of the foodhall for consumption ancillary to a meal.
Online wine sales	Sale of packaged liquor (wine only) produced by holders of a Western Australian producer's licence, via the internet only.
Reception or function centre	Sale of liquor at a reception or function centre (premises primarily used as a venue for functions and receptions) to persons attending a reception or function at the centre.
Room service	Sale of liquor: <ul style="list-style-type: none"> to customers at a room service restaurant, during hours permitted under a hotel licence, whether or not ancillary to meals eaten at the restaurant by customers while sitting at a table (or a fixed structure used as a table) the sale and consumption of the liquor are in accordance with any conditions imposed on the Special Facility Licence.
Sports arena	Sale of liquor at a sports arena (premises primarily used for playing and viewing sport) to persons playing or viewing sports, or attending any other event, at the arena.
Theatre or cinema	Sale of liquor at a theatre or cinema to persons attending a performance or film at the theatre or cinema.
Tourism	Sale of liquor (which may include packaged liquor) to persons present at a tourist attraction or a facility that enhances the State's tourist industry.
Transport	Sale of liquor to passengers and their guests at <ul style="list-style-type: none"> an airport, railway station, bus station or seaport; or on a train, bus, ship or vehicle, and/or at another place of the licensee, provided the sale/supply of liquor is in connection with a booking for travel on a train, bus, ship or vehicle.

Special Facility Licence type	Trading conditions
Vocational education and training course	<p>Sale or supply of liquor by vocational and education training institution or a higher education institution to provide:</p> <ul style="list-style-type: none"> for tasting of liquor by students/trainees as part of the course curriculum and the sale and supply of liquor by students/trainees for the purposes of a course of instruction or training conducted by the institution in which the students are enrolled for sale of liquor that is produced as part of an approved viticulture course, provided the liquor is only sold or supplied during a special event and in an area approved by the DLL.
Vocational Education and Training Institute	Sale of liquor at a vocational education and training institution or a higher education institution to students and staff of the institution and their guests.
Works Canteen	Sale of liquor (which may include packaged liquor) at a works canteen, or at other premises specified in the licence, to workers and their guests.

Each licence category is framed with specific conditions to provide a distinction in the manner of trade between the categories. The licensing authority can further restrict an individual liquor licence with conditions to reflect specific operating requirements relating to their manner of trade. A summary of the normal prescribed trading hours of the different licence types is depicted in the table below:

Table 4: Permitted trading hours across licence categories

Licence type	Permitted Trading Hours				
	Monday to Saturday	Sunday	New Year's Day	Good Friday and Christmas	Anzac Day
<ul style="list-style-type: none"> Hotel Hotel restricted Tavern Tavern restricted Small bar 	6am to 12 midnight	10am to 12 midnight	Until 2am	12 noon to 10pm only, ancillary to a meal supplied by the licensee	12 noon to 12 midnight
Nightclub	6pm to 5am	8pm to 2am	6pm to 5am	No permitted trading after 3am	Until 3am ANZAC Day morning, then reopen at normal trading hours
Liquor store - metropolitan	8am to 10pm	10am to 10pm	Normal trading hours	Not permitted	12 noon to 10pm
Liquor store - regional	8am to 10pm	Not permitted, unless they have Ongoing Hours ETP	Normal trading hours	Not permitted	12 noon to 10pm

Permitted Trading Hours					
Licence type	Monday to Saturday	Sunday	New Year's Day	Good Friday and Christmas	Anzac Day
Restaurant	At any time, ancillary to a meal				Until 3am ANZAC Day morning, then from 12 noon ANZAC Day
Wholesaler				Not permitted	12 noon to 12 midnight To other licensees only
Producer	At any time Beer and spirits for consumption on licensed premises (where authorised): 10am to 10pm	At any time Beer and spirits for consumption on licensed premises (where authorised): 10am to 10pm	At any time Beer and spirits for consumption on licensed premises (where authorised): 10am to 10pm	12 noon to 10pm only ancillary to a meal supplied by the licensee (wine producers only)	12 noon to 12 midnight
Club	6am to 12 midnight	Up to 1am from Saturday night; and 10am to 10pm	Until 2am	Good Friday – 12 midnight to 12:30am only ancillary to a meal supplied by or on behalf of the licensee Christmas Day - 12 midnight to 12:30am; and 12 noon to 10pm only ancillary to a meal supplied by or on behalf of the licensee	12 noon to 12 midnight
Club restricted	Between those hours specified on the individual licence				
Special Facility	Between those hours specified on the individual licence				

Licence conditions can also be varied if individual licensees apply to vary their trading hours and area of trade through an ETP.

Feedback is sought on the current licence category model used in WA to determine if it is fit for purpose and, if not, where it could be improved. The table below summarises some advantages and disadvantages of the current licence categories model.

Table 5: Advantages and disadvantages of WA’s current liquor licence category model

Advantages	Disadvantages
<ul style="list-style-type: none"> • Caters for different types of businesses that sell liquor in a different manner. • Provides guidance on the manner of trade for each licence category. • Determines how the premises will operate. • Provides business owners with options on how they wish to trade. • Provides a model that is recognised by the industry and public. • Enables the regulator to monitor compliance. • Provides the regulator with a means to enforce compliance. 	<ul style="list-style-type: none"> • Too many licence types can be confusing for stakeholders, making it difficult to identify which licence type they need. • Conditions are not always uniform across licence type. • May not reflect requirements of the business or public expectations. • Unclear distinction between manufacturing alcohol products (for example mixing products to form a liquor) vs producing liquor. • Standard fee across licence categories fails to acknowledge the difference in complexity across categories and therefore the differences in regulator time and effort to process. • Categories can be too specific which inhibits innovation. • Confusion arising from the breadth of business types captured in the same category, such as tavern licences. • Individual licence categories have specific issues (for example wholesalers and producers). • Confusion over trading hours. • Confusion about the scope of certain licences, for example Tavern licence applications are often met with concern by residents.

Misconceptions about the application process also cause unnecessary delays for new business start-ups. For example, applicants think that the process will be easy or they are unaware that the liquor licensing application process is linked to other approval processes such as local government approvals of the premises and its planned usage. These issues will be explored by the review, to determine where improvements in the model may have positive impacts on the application process.

Any change in the licence categories could be complemented by reforms that aim to simplify the licensing system and approval process, or encourage compliance.

CONSULTATION QUESTIONS

- Does the current licence category model allow for innovation? For example, is it flexible enough to enable new business ideas in the liquor industry?
- Do you think the current trading hours are appropriate for the different licence categories? Why/why not?
- Do you think the current trading conditions are appropriate for the different licence categories? Why/why not?

Alternative licence category models

Liquor licence category models used across jurisdictions within Australia and in other countries vary. As the environment and drinking culture varies, no one model can successfully be applied across all jurisdictions. Regardless, there is great value in exploring the different models in use in other jurisdictions and considering what elements of each model could be used to build a customised model suitable to the WA environment and drinking culture.

A summary of the different models used in other jurisdictions is at **Attachment 1**. There are similarities and differences between the models used in each jurisdiction. For example, several jurisdictions consider the different risks posed by the various licensed premises. Some jurisdictions use many categories to address differences in premise and business types, but others use fewer categories and manage any differences through conditions on licences.

Alternative models that could be considered for WA are outlined in the following table.

Table 6: Examples of reform options – licence category model

Option	Example of change
<p>1. Status quo</p> <p>Under this option, licence categories are not changed in the legislation. Improvements to the licensing system are made through system changes and industry education.</p>	<p>No change.</p>
<p>2. Minor amendments to WA’s 15 existing licence categories</p> <p>Licence categories are not changed in the legislation, but improvements are made through tweaks to each category’s trading conditions.</p>	<p>Restaurant licence:</p> <ul style="list-style-type: none"> • Sell a small amount of packaged liquor with a takeaway meal. • Provide the ability to convert a restaurant licence to small bar licence. • Remove seating requirements for a meal. <p>Occasional licence:</p> <ul style="list-style-type: none"> • Explore how the PIA is used for temporary events. • Increase the time period and number of persons permitted at one-off events. <p>Small bar</p> <ul style="list-style-type: none"> • Increase patron limits from 120 to 150 people. <p>Producer’s licence</p> <ul style="list-style-type: none"> • Review restrictions on producers’ licences and the effectiveness of Extended Trading Permits (ETP). <p>Proposals across categories</p> <ul style="list-style-type: none"> • Review trading hours and restrictions for licensees across categories. • Explore the definition of sell - where does the sale take place?

Option	Example of change
<p>3. Reformed licence categories</p> <p>Reshuffle the licence categories by exploring options to reduce the number of categories, remove categories, introduce new categories.</p>	<p>Examples of new categories:</p> <ul style="list-style-type: none"> • Pop-up bars. • Online liquor sales (WA-based or interstate). • Commercial events.
<p>4. Risk-based licences</p> <p>A risk-based licensing system would assess licence applications according to the level of risk associated with the proposed licence. Licences would be deemed either high risk or low risk and differences in licences would be addressed through a set of conditions.</p>	<p>Risk factors could include:</p> <ul style="list-style-type: none"> • Location of the business (for example residential, entertainment precinct or industrial). • Other businesses co-located near the proposed premises. • Proposed trading hours and days. • Type of liquor on sale. • Whether food will be served with the liquor. • Provision of entertainment during the service of alcohol.

CONSULTATION QUESTIONS

- What other licence category models should be considered?
- What are some potential unintended consequences of the models presented?
- What are the advantages and disadvantages of the models presented?
- Would you support a risk-based approach to licensing (Option 4), in principle? Please provide some explanation of your views on this.
- What are some of the risks that should be included in the assessment of a licence application?

Exemptions

There are certain situations where a person or business can sell or supply liquor under the Act *without* requiring a licence – these are known as exemptions.

These situations usually involve a small amount of liquor being supplied in controlled environments, provided by a business as a complimentary service or gift to its customers, or where there are relatively few people in attendance at social events. These exemptions only apply where the exact conditions of the exemption (as prescribed in the Regulations) are met.

Table 7: Situations where the Act does not apply

Exemptions under the Act:

- To a religious organisation for use in religious services.
- For medicinal purposes (such as in pharmacies, dentists).
- As a part of an education course.
- Under legislation, such as the *Government Railways Act 1904* or *Police Act 1892*.
- At auctions to sell liquor seized or forfeited under other laws.
- When winding up a bankrupt or deceased estate.
- In specified circumstances between vineyards.
- To a member of a ship's crew, where the liquor is an allowance.
- Under exemptions listed in the Regulations.

Exemptions under the Regulations, where specific conditions are met:

- Liquor sold in bond by a proprietor of a premises subject to a warehouse licence under the *Customs Act 1901* (Commonwealth) to a person who is taking that liquor outside Australia.
- Liquor sold on interstate trains or interstate/overseas flights/ship cruises.
- Sale or supply of liquor together with flowers/food/other products delivered by the vendor or supplier as a gift.
- As a prize in a lottery.
- To a master of a ship as ship's stores for consumption on the ship outside the WA territorial seas.
- Retail sale of alcohol-based food essence.
- In a health care setting (for example hospital or private psychiatric facility) to patients or residents.
- In a nursing home, residential care facility or retirement village to patients, residents and their guests.
- To guests at a bed and breakfast (supply).
- Consumption at live entertainment venues.
- Sales at certain functions (for example small functions or private events).
- Complimentary supply by business.
- Complimentary supply by tourism businesses.
- Sales at farmers' markets.
- Sales at functions on licensed premises.
- Consumption in an on-demand charter vehicle.
- Liquor competitions.

The review will explore additional exemptions under the Act and Regulations. The following proposals have been put forward with regards to the application of the Act and listed exemptions:

- Increase the period and number of people permitted at an event subject to an occasional licence.
- Exempt restaurant proprietors selling liquor ancillary to a meal if they meet certain conditions.
- Exempt wholesalers, producers and clubs if they meet certain conditions.
- Exempt events that are not held on a licensed venue to enable liquor to be sold as a part of the entry ticket prior to the licence/approval being issued.

CONSULTATION QUESTIONS

- Do you think the current exemptions are appropriate? (Please explain your answer.)
- Are there any additional situations that should be exempt from applying for a liquor licence under the Act and Regulations?

Policy and process review

As part of this review, DLGSC will examine all parts of the liquor licensing framework, including the policies of the DLL.

The DLL has issued 53 policies on the DLGSC [website](#), which relate to the following:

- Risk management (harm minimisation for staff and patrons).
- Applications (licences and permits).
- Variations (licences and permits).
- Premises management (approved managers and licensees).
- Complaints, appeals and submissions.

The review of the policies will seek feedback on:

- the effectiveness of the policy suite
- whether the current policy documents are user-friendly
- how the policy suite can be improved, whether that be improvements to individual documents or consolidation of document
- the processes supporting the policy suite
- the content and structure of the policies, specifically whether the information should be transferred to other types of documents (for example guidelines).

Potential policy and process improvements are presented in the table below.

Table 8: Policy and process review proposals

Proposal	Current situation	Proposed reform
1. Overall policy review	There are 53 DLL policies.	<ul style="list-style-type: none"> • Review the structure and format of the policies. • Consider whether the information contained in the policies would be more appropriately covered in guideline documents. • Review the presentation of the policies on the DLGSC website (first review completed 2022).
2. Review the harm minimisation policies: Harm minimisation policy Applying for a liquor licence Preparing your liquor licence application	<p>When submitting an application, applicants are required to lodge copies of three documents related to their premises:</p> <ul style="list-style-type: none"> • House Management Policy. • Code of Conduct. • Management Plan. 	<ul style="list-style-type: none"> • Consider consolidating the three documents (House Management Policy, Code of Conduct and Management Plan) required for applicant to meet the DLL’s harm minimisation requirements. • Review other jurisdictions’ policies and whether they are suitable for adaption in WA, such as Queensland’s Risk-Assessed Management Plan.

Proposal	Current situation	Proposed reform
<p>3. Review the requirement for a PIA for temporary bars.</p> <p>Temporary bars policy</p>	<p>The licensing authority is required to assess whether the granting of an application is in the public interest.</p> <p>A PIA (60 days) is in place for pop-up bars.</p> <p>This is a policy-based decision which was developed after strong representation from industry associations/groups.</p>	<ul style="list-style-type: none"> It is proposed that the PIA requirements for small pop-up bars for short, one-off events is removed (for example, events that are no longer than seven days). Consideration will be given to the potential impact on existing establishments and ensuring events are indeed one-offs (not several 'one-off' events as part of a longer event).
<p>4. Reduce the overlap between the <i>Local Government Act 1995</i>, planning approval and DLGSC liquor licensing approval processes.</p> <p>Section 40 certificate of local planning authority policy</p>	<p>LGA planning approval The Act requires applicants submit certificates from local governments as to whether premises comply with local laws and planning.</p> <p>An application for the liquor licence can be lodged and processed in parallel with an application to the local government.</p> <p>Under section 37(2), the licensing authority must be satisfied that any approval, consent or exemption required has been obtained under planning laws relating to the use of the premises for the sale of liquor; and under any written law, for the carrying out of building work that is to be carried out before the licence or permit sought takes effect. This includes:</p> <ul style="list-style-type: none"> Section 39 Certificate of local government as to whether premises comply with laws; and Section 40 Certificate of planning authority as to whether use of premises complies with planning laws. 	<p>Review the need for section 39 and section 40 certificates - perhaps require the applicant/local government authority provide a copy of the planning approval (including any conditions) to DLGSC.</p> <p>Consider whether the current enforcement powers, the false and misleading information provisions and associated sanctions/penalties are appropriate to support such a change.</p> <p>Advocate for the use of consistent definitions across local governments to enable licence types to better suit applicant needs.</p>

Proposal	Current situation	Proposed reform
5. Review the probity check process New licence applications	All individuals who are applying to be part of the licensee entity to submit Personal Particulars Forms (LLD5/LLD5A). These forms must be submitted when lodging the application via the DLGSC online portal. Sections 33, 34	Review probity checks for directors and shareholders, to consider a National Police Certificate (NPC) rather than a WA Police probity report. NPC takes two weeks and only includes current charges. Criminal links or pending charges can only be obtained from WA Police. Directors or shareholders would be deemed approved upon lodging an application (with an attached NPC).

CONSULTATION QUESTIONS

- Do you have any feedback on the current DLL [policies](#)? How might they be improved?
- Please provide your views on the proposed reforms to liquor policies
 - Overall policy review
 - Review the harm minimisation policies/documents
 - Review the requirement for a PIA for temporary bars
 - Reduce the overlap between the Local Government Act planning approval and DLGSC liquor licensing approval processes
 - Review the probity check process
- Is there anything else we should be considering when reviewing the liquor policies?

Case Study 1.1

The Act includes trading hours restrictions which vary across the different licence categories.

For example, Sunday trading hours for hotels, taverns, and small bars commence at 10 am, compared to 6 am for the rest of the week. This prevents licensees serving a celebratory glass of champagne at events such as at a Mother's Day or birthday breakfast. Currently, the only solution is for the licensee to apply for an ETP, at additional cost. Other trading restrictions also apply on Good Friday, Christmas Day and ANZAC Day.

The review will look at whether to simplify trading hours, including removing the 10 am restriction for Sunday trading, which should remove red tape and cost for licensees having to apply for an ETP. The trading hours restrictions on Good Friday, Christmas Day and ANZAC Day will also be reviewed to ensure the arrangements reflect community expectations, while appreciating the various views and beliefs within our community.

Case Study 1.2

The Act provides 15 different licence categories to cater for the various ways in which a business intends to sell liquor. Each category has its own permitted hours of trade and specific conditions. Should a business wish to trade outside the legislated hours or conditions, a range of ETPs can be applied for.

The Regulations also provide 15 types of Special Facility Licences. Special Facility Licences enable a business to sell liquor in a manner that doesn't fit within the other established licence categories. For example, where a theatre or cinema operator wishes to supply liquor to patrons attending a performance or film, the intended manner of serving liquor most likely will not fit within the existing categories. The Regulations provide for a Special Facility Licence – Theatre or Cinema and licence conditions can be adapted to meet the operating model of the business.

The current 15 licence categories and 15 sub-categories have evolved over the years and can be confusing to consumers and potential new entrants into the industry. Adding complexity, the conditions within a licence category can differ and businesses can also use ETPs. This complex system can make it difficult for entrepreneurs looking at developing vibrant and innovative venues or events to meet the changing consumer expectations. Expanding the range of Special Facility Licences is not a suitable option.

Feedback is sought on existing licence categories to determine whether they are appropriate, or whether they need to be reformed.

Case Study 1.3

When a person (licensee) is no longer capable to carry on the business under the liquor licence due to unfortunate circumstances, such as death, bankruptcy or permanent disability, a person approved by the DLL may carry on the business for 28 days.

This time limit is insufficient for a person to sort out necessary matters and places unnecessary stress on people who are already dealing with the death or permanent disability of the person, or a bankruptcy.

To remove stress and assist people involved in these situations, reforms to the legislation propose to extend the current 28-day period to three months, providing more time to resolve these matters.

Case Study 1.4

The safety and security of people at licensed venues is of paramount importance to licensees. The *Safety and Security at Licensed Premises Policy* sets out the measures required to protect people on and in the vicinity of licensed premises.

Crowd controllers are essential for maintaining the safety and security of customers. The Policy states that, as a general rule, two crowd controllers are required for the first 100 patrons, with one crowd controller for each additional 100 patrons or part thereof. This requirement is applied in most cases as a licence condition and specifies a time period that crowd controllers are to be present, such as 6pm until one hour after closing.

In some cases, this requirement places a financial burden on licensees where a limited number of patrons are at the venue (for example 30 people or less). The policy requires the licensee to engage two crowd controllers, despite no apparent need for two.

Feedback is sought on the safety and security requirements for licensed premises, to investigate opportunities to reduce crowd controller costs for licensees, while still maintaining safety.

Theme 2: Modernised legislation and structural reform

Proposals under Theme 2 relate to structural changes to the licensing framework, such as the role and functions of the DLL and Liquor Commission. Other proposals seek to modernise the structure of the Act and Regulations, administrative amendments and removing redundant laws.

Modernising the legislative framework

This reform will consider the structure and function of the Act and Regulations. The aim is to modernise and simplify the legislative framework, making it easier to adapt liquor laws to meet the changing needs of the industry, the community, and the regulator. This includes:

- Modernising the structure and language used in the Act and Regulations to make laws easier to find and understand.
- Moving laws from the Act to Regulations, to make the laws more easily adaptable.
- Removing redundant laws.
- Administrative law amendments to improve licensing.
- Enabling use of digital forms of identification and electronic document lodgement, to meet modern needs and align with the State Government's digital systems.

CONSULTATION QUESTIONS

- Do you have any feedback on the structure and clarity of the current Act and Regulations, based on your experiences in reading and interpreting the laws?
- For your organisation, what advantages and disadvantages would result from the modernised structure, language and increased adaptability of the liquor laws?

Structural reform

The licensing authority in Western Australia is comprised of the DLL and the Liquor Commission. Each has separate functions and jurisdictions in relation to liquor licence/permit applications, appeals or disciplinary matters.

The Director of Liquor Licensing

An important aspect of the DLL's role is they must have the flexibility and discretion to make decisions about an application or matter, while balancing the interests of consumers, industry development and harm minimisation.

Role of the Director Liquor Licensing

- Determine applications and matters, including suspending licences or permits in the public interest or because the business has ceased.
- Make a complaint that could result in the Liquor Commission taking disciplinary action against the licensee.
- Receive noise or behaviour complaints relating to a licensed premises.
- Make prohibition orders, vary or revoke prohibition orders.
- Declare a liquor restricted premises (residential premises, non-residential private premises and Crown land).
- Commence a prosecution for an offence against the Act.
- Conduct or arrange hearings, meetings, consultations and negotiations.
- Defer consideration or further consideration of an application.
- Determine any application or matter without hearing.
- Decide to conduct a hearing: default is private.
- May make findings on the balance of probabilities.
- Refer whole or part of a matter to the Liquor Commission or any question of law.

The Liquor Commission

The Liquor Commission was established in 2007 to replace the Liquor Licensing Court. The Liquor Commission is intended to provide a flexible system, with as little formality and technicality as practicable, to review the DLL's decisions and other matters.

The [Liquor Commission Rules 2007](#) cover the operation of the Liquor Commission and matters subject to the [Liquor Control Regulations 1989](#), as well as the costs and charges payable in relation to Liquor Commission proceedings.

The Liquor Commission consists of a chairperson and at least three members, appointed by the Minister for Racing and Gaming, on the understanding that they have knowledge or experience relevant to the functions of the Liquor Commission. Currently, 12 people are appointed to the Liquor Commission and ten are lawyers.

To make a determination, depending on the type of matter, one or three Commission members are required, one of whom must be a lawyer. Where the chairperson or deputy

chairperson is not a member of the three-member commission panel, one of those members will be appointed as the presiding member.

Decisions by the Liquor Commission must be written and affixed by a seal. The purpose of the seal on the document is to ensure it is judicially considered by the court and judicially appointed people.

Role of the Liquor Commission

- Hear and determine specified matters referred from the DLL.
- Review certain decisions made by a single member of the Liquor Commission.
- Review the DLL's decisions upon application by a party to proceedings under 25(1).
- Conduct reviews of decisions based on a question of law.
- Refer any application for review of the DLL's decision under 25(1) to the State Administrative Tribunal.
- Refer a case on a question of law to the Supreme Court (27(1)) to be determined by a single judge of the Supreme Court.
- Hear and determine complaints under section 95 and issue disciplinary action under section 96.
- Review 115AA notices made by the Commissioner for Police.
- Make binding decisions in accordance with the Act.
- Award costs associated with matters heard by the Liquor Commission.
- Report on its activities annually to the Minister for Racing and Gaming.

Parties who are dissatisfied with a decision of the DLL can, within 28 days of receiving the decision, apply to the Liquor Commission for an appeal. Decisions relating to ETPs or occasional licences cannot be appealed to the Liquor Commission (for example cancellation, variation or suspension).

The Liquor Commission can only consider the application and evidence as it was presented to the DLL and cannot consider new evidence. As mentioned above, some matters can only be heard by a Commission consisting of three members, such as where the DLL's decision relates to the granting of removal of a licence; or where the decision imposed, varied, or revoked a prohibition order.

What orders can the Liquor Commission make on review?

- Affirm, vary or overturn the DLL's decision.
- Make a decision that it believes should have been made in the first instance.
- Clarify any questions of law.
- Give instructions to the DLL.
- Make any incidental or ancillary orders it finds necessary in relation to the decision.

If the applicant is dissatisfied with the Liquor Commission’s decisions, in certain circumstances they can appeal to the Supreme Court.

Review of the DLL and the Liquor Commission

This review will consider:

- the interaction between the DLL and the Liquor Commission
- how licensing and disciplinary matters are referred for review
- the role and processes of the Liquor Commission and whether it is meeting its intended function
- alternative models to structure the licensing authority.

Table 9: Proposals relating to the DLL and Liquor Commission

Proposal	Current situation	Reform proposal
Expand the DLL’s powers and functions	The DLL can only suspend a licence if they have completed a PIA.	Enable the DLL to suspend licences trading in breach of conditions or where the licensed premises has a history of breaching the Act. Remove the public interest requirement from section 91.
Reduce the Liquor Commission’s role to a review body only	The Liquor Commission currently hears and determines complaints under section 95 against licensees and can take disciplinary action under section 96. Complaints made under section 95 can be made by the DLL, Commissioner of Police (with limits) or local government (with limits).	It is proposed that the power to take disciplinary action under section 95 be given to the DLL and removed from the Liquor Commission. That the DLL could be responsible for making all decisions in place of the Liquor Commission.

Proposal	Current situation	Reform proposal
Review the appeals process	There are currently four levels of review under the Act: the DLL, the Liquor Commission, single Judge of the Supreme Court and the Court of Appeals.	<p>Consider whether the appeals process can be simplified by reducing the levels of appeal to three (DLL, Liquor Commission and Single Judge of Supreme Court).</p> <p>Consider the role of the State Administrative Tribunal in the appeals process.</p>

CONSULTATION QUESTIONS

- Have you applied to the Liquor Commission for a review of a DLL decision? If yes, did you find the process to be efficient and easy to understand?
- Did you engage a lawyer or third party to represent you? If yes, why?

Case Study 2.1

The licensing authority consists of two decision makers:

- **DLL:** Administers the Act and makes decisions on liquor licensing matters.
- **Liquor Commission:** Makes decisions on complex liquor licensing matters, complaints and disciplinary action. Reviews decisions made by the DLL, and barring notices issued by the Commissioner of Police.

The current arrangements may impact timeframes for applications and appeals, particularly where the Liquor Commission reviews the DLL's decision. The composition and operation of the Liquor Commission may complicate processes – their decisions must be carefully detailed in writing, since they may be subject to review by the Supreme Court. While the Liquor Commission attempts to operate with minimal formality, this is not always practicable or appropriate.

To improve decision-making processes and timeframes, the reform program intends to review the operation of the licensing authority, including structure, functions, and support to streamline decision-making processes. It will also explore whether the Liquor Commission should be an appeals body only and whether the role of the Liquor Commission is more appropriately fulfilled by the State Administrative Tribunal.

Case Study 2.2

Currently the Act does not provide for digital forms of identification for a person to verify their age.

More states and territories are issuing, or planning to issue drivers' licences, proof of age cards and other forms of identification digitally. Most of the community use mobile electronic devices for banking, purchases and storing personal items, so people are less likely to carry physical identification cards/documents when visiting licensed premises.

Potential reforms could modernise the legislation to keep pace with these changes in technology, to allow digital forms of identification to be used.

Theme 3: Enhanced harm minimisation, enforcement and compliance

Compliance and enforcement are essential for ensuring the effectiveness of the liquor regulatory framework, to minimise the harm related to the consumption of alcohol and to ensure a 'compliance culture'. There are three components: compliance promotion; compliance monitoring; and enforcement. The DLGSC encourages and promotes compliance, which is monitored and enforced by DLGSC and the WA Police Force.

The legislative framework provides the licensing authority and the WA Police with the tools to ensure licensees comply with their legal obligations and their licence conditions. It also provides an enforcement framework for compliance activities.

These compliance and enforcement tools support DLGSC in meeting the harm minimisation principles of the Act. Also, if the enforcement and compliance tools function appropriately, there is more scope for innovation in the industry. Where the tools are ineffective, there will be a stronger focus on restricting industry to bring compliance to an acceptable level.

The current enforcement and compliance tools include:

- Trial of the Banned Drinkers Register (BDR).
- Takeaway Alcohol Management System (TAMS).
- Liquor restrictions.
- Declared Liquor Restricted Premises.
- Declared Liquor Restricted Areas.
- Carriage limits.
- Complaints and disciplinary action.
- Barring Notices.
- Caution Notices.
- Infringement Notices.
- Prohibition Orders.
- Licence conditions.
- Licence suspension/removal.
- Audits and inspections.
- Penalties for non-compliance.

Separate reform and consultation processes are progressing to:

- establish Protected Entertainment Precincts (PEPs) in well-known entertainment areas, to enable WA Police to exclude people engaging in violent or antisocial behaviour from being in PEPs
- develop options to strengthen the trial of the Banned Drinkers Register.

Under Theme 3, issues to be considered include:

- whether the tools available to the licensing authority and the WA Police can be enhanced to support greater compliance by licensees
- ideas to encourage and reward licensees that comply with their licence conditions.

Key reforms to be considered under this theme are outlined below.

Penalties, sanctions and inspector powers

Proposals to support compliance, enforcement and harm minimisation, including reforms to protect community members, for example juveniles and people who consume harmful amounts of alcohol, will be considered. Stakeholder feedback is sought on the following proposals:

- Review all penalties and administrative sanctions to ensure penalties are relevant, modern, have appropriate deterrence value and rapidly address breaches. This includes penalties and sanctions in relation to:
 - licence suspension and cancellation
 - selling or supplying liquor to an intoxicated person or juvenile (including secondary supply)
 - juveniles on licensed premises.
- Strengthen and modernise inspector/authorised officer powers in relation to:
 - imposing lower-level penalties and sanctions to more rapidly address complaints and non-compliance
 - right of entry, ability to seize, ability to close premises in the event of serious safety breaches (for example emergency exits blocked/locked).
- Discounts for early payment of licence fees and increased penalties for late payment.
- Address the overlapping functions between local governments and DLGSC in resolving noise complaints related to licensed premises under section 117 of the Act.
- Remove the 21-day period in relation to issuing an Infringement Notice, or extend this to 60 days from the date when the licensing authority becomes aware of an alleged offence.

CONSULTATION QUESTIONS

- What are some of the key impacts on industry and consumers from the proposed reforms to penalties, sanctions and inspector powers?
- Would you support other initiatives to support compliance or minimise the harmful impact of high levels of alcohol consumption? If yes, please describe/list them.

Incentive and demerit system

An incentive and demerit system can be used to encourage licensee compliance with the legislation and their specific licence conditions. This complements the enforcement and compliance tools used by liquor licensing authorities.

The system works by:

- incentivising compliance amongst licensees by offering them a discount on their licensing fees
- discouraging non-compliance by imposing demerit points to licensees that breach the legislation or their specific licence conditions. Depending on the severity of the breaches, these demerit points may result in increased annual liquor licence fees or other escalating penalties. For example, a reprimand, suspension or permanent disqualification for licensees, managers or club secretaries.

The incentive and demerits model is used in New South Wales, Victoria and the Northern Territory. Each system varies to suit the environment and trading conditions of their licensees. **Attachment 2** provides a summary of the key elements used in each jurisdiction.

This review will consider the incentive and demerit systems used in other jurisdictions and whether introducing a system into the WA licensing framework would be effective in increasing licensee compliance. It will also consider evidence from other jurisdictions regarding whether the use of an incentive and demerit system will have flow on benefits, such as reducing serious alcohol-related violence.

CONSULTATION QUESTIONS

Stakeholder feedback is sought on whether an incentive and demerit system should be introduced in WA and if so, what elements it should include.

- Do you support the use of an incentive and demerit system in WA? Why/why not?
- New South Wales, Victoria and the Northern Territory incentivise licensee compliance through discounts on annual fees. The models used by each jurisdiction vary slightly. For example, NSW and Victoria apply discounts according to the number of years a licensee has a good compliance record with no demerit points. Northern Territory applies discounts for risk reduction measures, such as the use of CCTV and additional security. All models disincentivise non-compliance using demerit points for licence condition or legislative breaches.

Considering the models used in NSW, Victoria and the Northern Territory and the various elements used by each model, which of these elements should be considered for inclusion in a WA model?

Case Study 3.1

The Act does not currently provide for a system to encourage the responsible management of licensed premises, to reduce alcohol-related harm and repeated non-compliance.

Licensed premises that disregard and repeatedly do not comply with the liquor laws often provide unsafe environments which can lead vulnerable people to consume harmful quantities of liquor. This can impact the community through antisocial/violent behaviour or may lead to the injury or death of patrons who have been served excessive amounts of liquor.

To improve the regulation of liquor, reduce alcohol-related harm, and provide safe licensed environments, the reforms will assess the feasibility of introducing an incentive and demerit point system for Western Australian licensees, as used in a number of other states. Licensees who maintain a good record would be rewarded with discounted licence fees. Licensees who fail to comply will incur demerit points, which could see licensees issued with higher licence fees, or periods of suspension, depending on the number of demerit points accrued over a period of time.

Case Study 3.2

The Act allows WA Police to close licensed premises where civil disorder, a breach of the peace or a threat to public safety is likely to occur.

When WA Police exercises this power, there is no requirement for details to be provided to the DLL.

The legislation could be amended to require WA Police to notify the DLL when WA Police closes licensed premises.

Theme 4: Simpler systems

An applicant's interaction with the regulator plays an important role in their experience and the time it takes for them to achieve an outcome. In addition to the quality of service provided by DLGSC staff, the online systems and business processes are vital for a simple and fast application or approval process.

The DLGSC recognises the importance of its supporting systems and processes and has already undertaken improvements to the way the applicant interacts with the licensing system. For example, licence and permit applications were moved online in 2019, removing the need for applicants to submit paper-based applications. Similarly, application requirements have been streamlined and the lodgement of supporting documents greatly reduced.

The DLGSC is exploring further reforms to streamline and simplify the online systems and business processes for licence and permit applications or amendments. While these reforms will not require a legislative amendment, they will play an important role in improving the overall operation of the licensing framework.

The DLGSC is seeking feedback on users' experience with the current liquor licensing system and business processes.

New licensing and compliance system

The DLGSC's liquor licensing processes are supported by an online licensing and compliance system, known as Navigate, which was introduced in 2013.

Navigate is a highly-customised system, which does not always meet the expectations and evolving needs of customers or the regulator. System limitations affect DLGSC's ability to streamline processes, restrict innovation, require extensive staff intervention and lengthen processing of applications.

Therefore, a key part of these reforms is to replace Navigate with a new licensing and compliance system. The new system should be user-friendly, efficient and use innovative and customer-focused online solutions to streamline and simplify the application process. It should also support DLGSC in monitoring and enforcing compliance by licensees.

A licensing and compliance system can facilitate a more streamlined process by:

- ensuring that only necessary information is collected
- preventing applications being lodged unless all the necessary elements of the application are included. This will reduce the need for DLGSC officers to follow up applicants for information to process their application.
- incorporating 'stop the clock' into the process, so that processing timeframes are accurately measured
- automating processes (for example to notify applicants or notify WA Police).

In 2020, DLGSC and the Small Business Development Corporation Small Business Friendly Approvals Program developed the '*Liquor Licensing Action Plan*'. The plan included recommendations to improve the licensing system and process, including the introduction of an online system that allows customers to build their application whilst the DLGSC officers can interact, comment and assess it in real time. Recommendations made in that plan are being considered in this review.

Table 10: Liquor licensing action plan recommendations

Proposal	Current situation	Suggested reforms
Improve the IT system	The current 'Navigate' licensing and compliance system does not enable an efficient application and approval process.	Improve the IT system to allow the customer to build and save throughout the construction of the application, with the ability for RGL to interact, comment and assess in real time along the way for each stage of the process.

<p>Improve the application process</p>	<p>Applicants can submit their application online using online forms and via Navigate.</p> <p>Currently, the system allows applicants to submit their application despite it not having the mandatory information attached. This slows down the application process as DLGSC officers cannot progress the application without the missing information. DLGSC officers spend significant time following up information from the applicant.</p>	<ul style="list-style-type: none"> • Review all forms, redraft fields that cause common confusion and remove fields that seek information captured via another means, or not necessary from a decision-making perspective. • Once an application is deemed suitable via the DLGSC checklist completion, it is accepted for submission and online payment. • The application process commences at this time (noting with the application being assessed at every check point during pre-lodgement, the final premises inspection against conditions is the only process to complete), allowing a rapid approval process from lodgement if the applicant's premises is ready to do business.
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One-stop-shop approval portal

Currently, there are duplicated requirements for approval processes with other regulators (for example local governments) involved in the licensing process. This increases the administrative obligations required by an applicant to get a liquor licence. It also causes confusion for applicants, who report difficulties in finding information about the process and then understanding what they need to do in terms of application and lodgement requirements.

A single source of information does not exist and often licensees are required to navigate several websites to find the information they need to progress their application. Applicants are also not approaching the licensing authority at the right time in the licensing process. They are unsure which liquor licence is best for their business model and whether that licence is permitted by their local government.

The review will investigate whether a 'one-stop-shop' approval portal can be incorporated into the new licensing system. It would provide all the information required to progress liquor licensing applications in one place and may reduce the duplicated application requirements for approval processes by other regulators, such as local government, WA Police and the Department of Health.

CONSULTATION QUESTIONS

- Based on your experience, what features would you like to see in a new online licensing system that would benefit you and/or your business?
- Other than online systems, how could the licensing process be improved? For example, which forms and processes could be improved? Which overlapping requirements with other liquor licensing regulators (for example WA Police, Department of Health, local governments) could be improved?

Case Study 4.1

The DLGSC's current online licensing and compliance system no longer meets the needs of the department or its clients.

The system is not user-friendly and requires operators to manually complete many tasks. The cumbersome operating system has led to increased processing times in some instances and limits innovation.

The replacement system will be customer-focused to provide a more efficient online licensing and compliance service. Coupled with streamlined processes, the proposed functionality will decrease processing times, reduce follow-up work, automate many manual processes, provide work/task related receipts, enable portability of applications relating to licence category changes, maintain a timeline and incorporate 'stop the clock' so that timeframes can be accurately measured. The new system will also be aligned with the Approvals WA portal.

Theme 5: Stronger industry education and information

The liquor licensing framework is complex. It is important for licensees and applicants to understand licensing requirements, as this contributes to efficiencies in the application process, saving individual business owners and the government time and money. It is also vital for compliance.

Sometimes, applicants do not approach the regulator at the right time in their planning process, have misconceptions about the simplicity and speed of processing licence applications, or submit more documentation than is needed.

Theme 5 of the review will focus on improving the information provided to applicants and licensees by DLGSC, to strengthen industry understanding. This includes looking at what, where, when and how information is presented. Improvements being considered include:

- interactive 'user-friendly' guides
- digital flow charts of processes, associated costs and timelines
- interactive online lodgement guide and checklist

- development of a decision tree process to help licensees find the correct licence for their business model, similar to the Small Business Development Corporation's [Business Licence Finder](#)
- information videos on the liquor licence application process
- inclusion of an online booking system to facilitate face-to-face or virtual meetings between applicants and DLGSC officers.

Website review

Some website users report difficulties in finding information, or the information provided does not help them decide which licence is appropriate for their business.

Recent improvements have been made to the location and content of information, as well as the ease of navigating through the website.

The DLGSC is reviewing its guidance material and website to enable a better understanding amongst its customers.

Once reform proposals are finalised and progressed to implementation, DLGSC will review the website to consider how to present this information in an accessible format that is easier to navigate.

Education and information

Other ways of educating applicants and licensees are also being considered. For example, applicant workshops, educational videos and other applicant guidance material.

As the reforms progress, more information will be gathered about industry needs, which will feed into the development and communication of educational material.

CONSULTATION QUESTIONS

Please share your experience in trying to locate information on liquor licensing on the DLGSC [website](#). For example:

- What information were you looking for and were you able to find it?
- Was the information easy to understand?
- Did you need further assistance from a DLGSC customer service officer?
- Is there anything that is not published on the DLGSC [website](#) that you believe would be helpful to include?
- What topics about liquor licensing would you like more information about?
- The DLGSC is considering its industry education and how this is delivered.
 - What format do you prefer to receive information in? For example, in person, written or via a video recording.
 - Would you attend an in-person workshop? If yes, what topics would interest you?

Case Study 5.1

The liquor industry is complex and it can be difficult for new applicants and existing licensees to find and understand the legislative requirements.

Not being able to access information or keeping informed is problematic when researching requirements for lodging an application or for the day-to-day running of a licensed premises. Potential applicants can spend considerable time and money applying for the incorrect category of licence and existing participants can end up not complying with specific requirements.

To make information clearer and more accessible, it is proposed to:

- develop PIA tools for applicants
- develop interactive guidance material, including flowcharts of processes, with associated costs and timelines
- review forms and checklists
- develop educational videos on the application process, to be available on the DLGSC website
- review the DLGSC website, to display information in a meaningful manner.

Have your say

The DLGSC is interested in hearing from you. Please provide your feedback via one of the methods below.



Surveys designed for specific stakeholder groups:

- [Industry groups, government agencies and not-for-profit groups survey.](#)
- [Licensees, prospective licensees and liquor business owners survey.](#)
- [Community survey.](#)



Informal feedback via email: liquorreform@dlgsc.wa.gov.au

Glossary

The following is a summary of key terms frequently used in this document. The definitions listed apply, unless otherwise indicated.

Key terms	Definition
The Act	<i>Liquor Control Act 1988.</i>
Approved Manager	<ul style="list-style-type: none"> • Approved restricted manager means a person approved under section 102B(1)(b). • Approved unrestricted manager means a person approved under section 102B(1)(a).
Authorised Officer	<ul style="list-style-type: none"> • the Director of Liquor Licensing; or • an inspector; or • a person specifically authorised by the Director of Liquor Licensing under a delegated authority conferred pursuant to section 15 to carry out the functions, or particular functions, of an authorised officer; or • a member of the Police Force.
Barring Notice	A notice given by the Commissioner of Police to prohibit a person from entering specified licensed premises, or a specified class of licensed premises. These notices are issued under section 115AA of the Act if the Commissioner believes on reasonable grounds that the person has (on a licensed premises or in the vicinity of licensed premises) been violent or disorderly; or engaged in indecent behaviour; or contravened a provision of any written law.
Banned Drinkers Register (BDR)	Banned Drinkers Register identifies people who are banned from purchasing takeaway alcohol and stops their purchase.
Chief Health Officer	A person designated as the Chief Health Officer under section 11 of the <i>Public Health Act 2016</i> .
Commission	The Liquor Commission established under section 8 of the Act.
Condition	<ul style="list-style-type: none"> • a limitation, restriction or prohibition; and • in relation to a licence, any provision of that licence affecting the authorisation.
Consultation Regulatory Impact Statement	A formal document which sets out the key details and potential impacts of a regulatory proposal and seeks stakeholder feedback.

Crowd controller	A person, in respect of any licensed premises, place of entertainment, or public or private event or function, whose duties include controlling or monitoring the behaviour of people, screening persons seeking entry or removing persons for behavioural reasons. Licensed under Section 35 of the <i>Security and Related Activities (Control) Act 1996</i> .
DLGSC	Department of Local Government, Sport and Cultural Industries.
DLL	Director of Liquor Licensing.
Drunk/drunkenness	As defined in section 3A of the Act.
ETP	ETP issued under section 60.
Exemptions	Situations where a liquor licence is not required to sell or supply liquor. Exemptions are outlined in the <i>Liquor Control Act 1988</i> and Liquor Control Regulations 1989.
Inspector	An inspector appointed under section 14(1)(a).
Juvenile	A person under the age of 18 years.
Licence	A licence granted under the Act.
Licence categories	The different type of licence categories issued under Part 3 Division 2 of the Act.
Licence condition	(see 'condition').
Licence fee	The fee payable for a licence or a permit.
Licensed premises	The premises defined by the licensing authority in relation to a licence, protection order or permit as the building or place to which that licence, order or permit relate.
Licensee	A person who holds a licence or permit under the Act, including a person who is authorised under section 86 or 87 to carry on business under a licence or as if that person were a licensee, and under section 101 may refer to a person appointed or permitted to conduct, supervise or manage the business.

Licensing authority	The Liquor Commission (for an application or matter that is to be determined by the Liquor Commission); otherwise — the DLL.
Liquor	<p>Liquor is defined in section 3 of the Act as:</p> <ol style="list-style-type: none"> a) a substance intended for human consumption which at 20° Celsius contains more than 1.15% ethanol by volume, or such other proportion as is prescribed; and b) any other substance prescribed as being liquor for the purposes of this Act; and c) anything that, for the purposes of sale, is held out to be such a substance.
Liquor accords	<p>A liquor accord is formed under section 64(1b) of the Act. It is a written agreement or other arrangement —</p> <ol style="list-style-type: none"> a) that is entered into by 2 or more licensees in a local community, and persons who represent the licensing authority, departments of the Public Service, State agencies or local government, and other persons; and b) that has the purposes of minimising the harm caused in the local community by the excessive consumption of liquor and promoting responsible practices in the sale, supply and service of liquor in the local community; and c) that is approved by the Director of Liquor Licensing.
Liquor policies	Policies of the DLL.
Liquor restricted premises	A premises that is subject to a liquor restriction declaration made under section 152P of the Act.
Liquor restrictions	<p>Liquor restrictions are made by the Governor on recommendation by the Minister for Racing and Gaming. Restrictions are made under section 175(1a) of the Act to restrict or prohibit the following activities:</p> <ul style="list-style-type: none"> • bringing liquor into the restricted area • posing liquor in the restricted area • consuming liquor in the restricted area <p>Regulations are used to declare an area of the State a restricted area.</p>
Meal	<p>Section 3 of the Act defines a meal as food</p> <ol style="list-style-type: none"> a) that is eaten by a person sitting at a table, or a fixed structure used as a table, with cutlery provided for the purpose of eating the food; and b) that is of sufficient substance as to be ordinarily accepted as a meal; and

	c) that may consist of one or more courses but does not include any food prescribed not to be a meal.
Navigate	Navigate Licensing and Compliance System.
OMCG	Outlawed Motorcycle Gang.
Owner	Section 3 of the Act defines owner, in relation to licensed premises or regulated premises, as a person — a) entitled to the rents or profits of the premises; or b) who would be so entitled if the premises were let at a rent; or c) who is a mesne lessor of the premises; or d) who is attorney or agent for such a person and is capable of giving a valid receipt for the rent, when such a person is absent from the State, and includes, where the premises are the subject of a contract for sale or assignment, both vendor and purchaser.
Packaged liquor	Section 3 of the Act defines packaged liquor as liquor delivered to or on behalf of the purchaser in sealed containers for consumption off the licensed premises.
Prohibition Notice	An order made under section 152E by the DLL. The prohibition order may prohibit a person from being employed or entering specified licensed premises, a specified class or any licensed premises.
RGL	Racing Gaming and Liquor Regulation Division of DLGSC.
RSA	Responsible Service of Alcohol
SAT	State Administrative Tribunal.
SBDC	Small Business Development Corporation.
Sly grogging	Selling liquor without a licence or to carry liquor for the purpose of sale. This is an offence.
TAMS	Takeaway Alcohol Management System.

Attachment 1: Comparison of liquor licensing models in Australia and New Zealand

This table compares the WA licence categories with their equivalents in other jurisdictions.

Comparison of liquor licensing models in Australia and New Zealand								
WA 15 licences 1 permit	NSW 15 licences	VIC 10 licences 1 permit	QLD 13 licences 2 online sales 9 changes to a licence 8 permits	NZ 4 licences	SA 12 licences	TAS 5 licences 9 permits	ACT 7 licences 2 permits	NT 26 licence authorities 4 registrations 1 permit
Casino	On-premises	On-premises	Commercial special facility	On-licence	On premises	On	On	Casino – high risk
Club Club restricted	Club Surf clubs: • Limited licence - multi function • On-premises	Club	Community club Community other Community liquor permit Restricted liquor permit	Club	Club	Club Club permit	Club	Club – moderate risk Community club – very low risk Small community group registration
Hotel Hotel restricted	Hotel General bar	General	Commercial hotel Adult entertainment permit	On-licence	General and hotel On premises	General Off permit (for example street dining)	On General	Lodging – low risk Wayside inn – moderate risk

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
Tavern Tavern restricted	Hotel General bar	On-premises	Commercial hotel Adult entertainment permit	On-licence	On premises	General Off permit (for example street dining)	On General	Public bar (pub with lunch and dinner) – high risk Live entertainment – very low risk Adult entertainment (public bar add-on) Adult entertainment ('R-Rated') Adult entertainment (explicit)
Liquor store	Packaged liquor	Packaged liquor	Detached bottle shops (change to a licence)	Off-licence	Packaged liquor sales	Off On permit (consume on premises with off licence)	Off	Takeaway – very high risk Grocery store – very high risk
Nightclub	On-premises	On-premises	Nightclub Adult entertainment permit	On-licence	On premises	On	On	Late night – very high risk

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
Occasional	Limited: <ul style="list-style-type: none"> • Single function • Multiple functions • Trade fair • Special event Pop-up and events	Major event Limited	Sell and supply craft beer or artisan liquor at promotional events (change to a licence)	Special	Short term Short term (5-year for recurring events)	Special permit (less than 4 days) Special permit (4 - 30 days) Special permit (6 months) Special permit (12 months)	Special Commercial permit	Sporting event Community event – very low risk Major event – high risk Special event – very low risk
Producer	Producer / wholesaler Micro-breweries and small distilleries	Producer's	Wine producer Wine merchant Wine permit Commercial other – Producer / wholesaler	Off-licence	Liquor production and sales	Special Small producer's permit	Off (micro producer)	Producers' – low risk Supply of complimentary drinks registration

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
			Commercial other – Artisan producer Satellite cellar door (change to a licence) Gratuitous supply of liquor (change to a licence) Craft beer producer permit (interstate) Artisan producer permit (interstate)					

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
Restaurant	On-premises	Restaurant and cafe	Commercial other – subsidiary on-licence	On-licence	Restaurant and catering	Special	On	Restaurant (selling alcohol with food) – low risk Restaurant bar (selling alcohol without food) – moderate risk
Restaurant BYO no licence required	no licence required	BYO permit	no licence required	On-licence	no licence required	no licence required	no licence required	BYO – very low risk BYO server registration
Small bar	Small Bar	On-premises	Bar	On-licence	Small venue	On Off permit (for example street dining)	On	Small bar (100 patrons or less and serves light meals) – moderate risk Live entertainment – very low risk
Special Facility: <ul style="list-style-type: none">• Amusement venue• Auction• Bed & Breakfast• Catering• Foodhall	On-premises Packaged liquor	On-premises General	Commercial other – subsidiary on-licence Commercial other – subsidiary off-licence	On-licence	On premises Residential	Special	Special Caterer's	Special venture – very low risk Catering – low risk Supply of complimentary drinks registration

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
<ul style="list-style-type: none"> • Online wine sales • Reception/ Function centre • Room service restaurant • Sports arena • Theatre or cinema • Tourism • Transport • VET course • VET institution • Works canteen 			<p>Commercial other – industrial canteen</p> <p>Catering off-site permit</p> <p>Off-premises catering (change to a licence)</p> <p>Gratuitous supply of liquor (change to a licence)</p> <p>Selling alcohol online from within Queensland Selling alcohol online from outside of Queensland</p>					

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
Wholesaler	Producer / wholesaler	Pre-retail	Commercial other producer / wholesaler Gratuitous supply of liquor (change to a licence)	Off-licence	Liquor production and sales	Off	Off	Wholesale – very low risk Registered wholesaler Supply of complimentary drinks registration
Extended Trading Permit	N/A	Late night	Extended trading hours (one-off) - permit Extended trading hours (change to a licence)	N/A	N/A	Out-of-hours permit	N/A	Late night – very high risk
			Permanent variation of licence conditions (change to a licence)		Interstate direct sales		Non-commercial permit (NFP)	Interstate retailer's licence

Comparison of liquor licensing models in Australia and New Zealand

<u>WA</u> 15 licences 1 permit	<u>NSW</u> 15 licences	<u>VIC</u> 10 licences 1 permit	<u>QLD</u> 13 licences 2 online sales 9 changes to a licence 8 permits	<u>NZ</u> 4 licences	<u>SA</u> 12 licences	<u>TAS</u> 5 licences 9 permits	<u>ACT</u> 7 licences 2 permits	<u>NT</u> 26 licence authorities 4 registrations 1 permit
			Alterations and additions to licensed premises (change to a licence)		Wine export			Restricted area permit (exempts operator from restrictions in defined area)
			Increase or decrease of licensed area – permanent (change to a licence)					

Attachment 2: Summary of the incentive and demerit systems used in Australian jurisdictions

Incentives														
NSW	Victoria	NT												
<p>3 to 5 years no demerits = 5% discount on annual fee.</p> <p>5 years+ no demerits = 10% discount on annual fee.</p> <p>No compliance loading on annual fee.</p>	<p>Under the star rating system, licences begin at a three-star level. Licensees receive a discount on their annual fees (5% for a four-star rating, 10% for a five-star rating).</p> <table border="1"> <thead> <tr> <th>Star Rating</th> <th>Criteria</th> </tr> </thead> <tbody> <tr> <td>One</td> <td>3 or more non-compliance incidents in previous 12 months.</td> </tr> <tr> <td>Two</td> <td>1 to 2 non-compliance incidents in previous 12 months.</td> </tr> <tr> <td>Three</td> <td>No non-compliance incidents in previous 12 months.</td> </tr> <tr> <td>Four</td> <td>No non-compliance incidents in previous 24 months.</td> </tr> <tr> <td>Five</td> <td>No non-compliance incidents in previous 36 months.</td> </tr> </tbody> </table>	Star Rating	Criteria	One	3 or more non-compliance incidents in previous 12 months.	Two	1 to 2 non-compliance incidents in previous 12 months.	Three	No non-compliance incidents in previous 12 months.	Four	No non-compliance incidents in previous 24 months.	Five	No non-compliance incidents in previous 36 months.	<p>Discount (5% for each measure up to max 40%):</p> <ul style="list-style-type: none"> • Live local music • Additional CCTV • Additional security • ID scanner installed • Membership of liquor accord/ industry group • Implementation of ‘Good Sports’ program • Good compliance record.
Star Rating	Criteria													
One	3 or more non-compliance incidents in previous 12 months.													
Two	1 to 2 non-compliance incidents in previous 12 months.													
Three	No non-compliance incidents in previous 12 months.													
Four	No non-compliance incidents in previous 24 months.													
Five	No non-compliance incidents in previous 36 months.													
<p>Demerit system implemented 1 January 2021. Eligible for a discount from 2024.</p>	<p>If 5-star rating maintained, continue to receive annual discount of 10% each year for as long as they maintain the rating.</p>	<p>A licensee must pay a minimum of 50% of the Risk Based Licensing (RBL) fee. Low risk = low fee (starting at \$100), high risk = high fee (\$2,000).</p>												
<p>Strikes incurred by a licensee, manager or club under old Three Strikes Scheme revoked. This does not affect any remedial action taken by the Independent Liquor & Gaming Authority (the Authority).</p>	<p>Operating since at least 2014.</p>	<p>RBL fee = [(base fee x tier volume multiplier x hours multiplier) – discounts] x breach loading.</p> <p>Implemented late 2019.</p>												

Disincentives		
NSW	Victoria	NT
<p>Category 1 offence = 1 demerit. Category 2 offences = 2 demerits (related to sale/supply to minors).</p> <p>Demerit points result in compliance risk loading of 40 fee units added to a venue's annual liquor licence fee. This loading is paid once for each demerit point.</p> <p>Prescribed Complaint – s.139 of <i>Liquor Act 2007</i>: Authority might impose 1-2 demerits for breaches including encouraging risky drinking, frequent intoxication and / or violence at the venue, or multiple serious indictable offences that put the health and safety of the public at risk.</p>	<p>One offence = one demerit point. Demerit points apply for a period of 3 years.</p> <p>Licences are automatically suspended at:</p> <ul style="list-style-type: none"> • 5 demerit points = 24-hour suspension • 10 demerit points = 7-day suspension • 15 demerit points = 28-day suspension. <p>For licensees that receive a demerit point, the advanced RSA training program must be completed within six months.</p>	<p>Breach includes:</p> <ul style="list-style-type: none"> • An offence by the licensee under the <i>Liquor Act 2019</i> • Finding of breach of a licence condition by Liquor Commission • Infringement Notice. <p>Breach loading increases with subsequent offences (such as 10% for first offence up to 200% for fifth offence).</p> <p>A breach is counted for a two-year period.</p>
<p>2+ demerits = heightened monitoring, engagement and supervision by Liquor and Gaming NSW, and an Authority case review which might result in:</p> <p>2+ demerits – reprimand of licensee, manager or club secretary, training requirements and more conditions on venue.</p> <p>4+ demerits – temporary disqualification of licensee, manager, or club secretary (in addition to above actions).</p>	<p>A non-compliance incident relates to the <i>Liquor Control Reform Act 1998</i>:</p> <ul style="list-style-type: none"> • Supply liquor to intoxicated person s108(4)(a) • Permit drunken / disorderly person on licensed premises s108(4)(b) • Supply liquor to underage person s119(1)(a) • Permit liquor to be supplied to underage person s119(1)(b) • Liquor is supplied to underage person on licensed premises s119(2) • Permit underage person on licensed premises, other than as permitted s120(1). 	<p>The RBL fee is set against the licence, therefore the transfer or sale of licence does not reset the calculation. Previous breaches in relation to specific premises will be carried over.</p>

Disincentives		
<u>NSW</u>	<u>Victoria</u>	<u>NT</u>
<p>6+ demerits – permanent disqualification of licensee, manager or club secretary, or temporary disqualification of a member of the club’s governing body (in addition to above actions).</p> <p>Temporary Suspension The Authority might take more action when licensees or managers have multiple demerits in a 3-year period at the same premises:</p> <ul style="list-style-type: none"> • 4+ demerits – licence suspended for up to 7 days • 6+ demerits – licence suspended for up to 14 days. <p>For any prescribed complaint, the Authority can suspend a licence for up to 12 months, or up to 24 months in aggravated circumstances.</p>	<p>A non-compliance incident occurs if one of these offences is detected and:</p> <ul style="list-style-type: none"> • an Infringement Notice for this offence has been paid in full or partially paid, or • an infringement in respect of one of these offences has been lodged at the Infringements Court and an Enforcement Order has been issued, or • the offence has been successfully prosecuted. 	

Disincentives		
<u>NSW</u>	<u>Victoria</u>	<u>NT</u>
<p>Removal of demerit points:</p> <ol style="list-style-type: none"> 1) removed after 3 years OR 2) early removal by either: <ul style="list-style-type: none"> • applying to the Authority after 12 months demonstrating risk has been addressed (for example installing ID scanners, extra staff/security/training, RSA Marshals, becoming liquor accord member), or • applying to the Authority for good behaviour and if licensee or manager has clear 10-year record; demerit is for Category 1; no remedial action; no serious harm; practices to prevent it happening again; no other serious breaches. 	<p>Licensees can contest Infringement Notices or defend themselves against charges in court. However, once an Infringement Notice has been paid (in part or in full), or there has been a successful prosecution, a demerit point will be applied. If the defence is successful, no demerit point will be incurred as the non-compliance incident was not proven.</p> <p>The risk-based fee structure that applies considers non-compliance incidents which have occurred in the past 12 months. This means licensees who record non-compliance incidents will be liable for the compliance history risk fee.</p>	
<p>The Authority's decisions may be reviewed by the NSW Civil and Administrative Tribunal.</p>		