

**Liquor and Accommodation Review  
Group**

Liquor and Accommodation  
Act 1990  
REGULATORY IMPACT  
STATEMENT

August 2002

*Appendices contain 41 pages*

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# **1 Introduction**

## **1.1 National competition process**

At the meeting of the Council of Australian Governments on 11 April 1995, the Tasmanian Government (along with the Commonwealth and other State and Territory governments) signed three inter-governmental agreements relating to the implementation of National Competition Policy (NCP).

One of these agreements, the Competition Principles Agreement (CPA) requires all State and Territory Governments to review and, where appropriate, reform all legislation restricting competition. Accordingly, the Tasmanian Government developed a Legislation Review Program (LRP), which outlines both a timetable<sup>1</sup> for the review of all existing legislation that imposes a restriction on competition and a process to ensure that all new legislative proposals that restrict competition or significantly impact on business are properly justified.

In accordance with the LRP timetable, an independent Liquor and Accommodation Review Group (the Review Group) was constituted by the Government to review the *Liquor and Accommodation Act 1990* (the Act). An independent Reference Group, consisting of industry representatives, is supporting the Review Group. Membership of the Review Group and the Reference Group is detailed in Appendix 2.

This Regulatory Impact Statement (RIS) details the findings of the Review Group and its draft recommendations.

## **1.2 Principles underpinning the review**

The free operation of competitive markets, where there are no restrictions on buyers and sellers, is generally regarded as the most effective way of allocating resources. This encourages efficiency in production, product innovation and the provision of a wide range of goods and services. In turn, it tends to lead to greater output, lower prices and higher employment, compared with the situation where there are major restrictions on competition.

However, there are many cases where it is desirable to restrict competition and to not allow market forces to operate unhindered. Such restrictions may be necessary in cases where:

- decisions by producers or consumers impose costs on others in the community who are not compensated, such as with the pollution of rivers;
- the absence of restrictions would lead to over-exploitation of the resource, eg. open access fishing;

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<sup>1</sup> All governments have subsequently agreed to extend the original deadline of 30 June 2000 to 30 June 2002.

- consumers cannot be expected to have sufficient information about a product or the provider of a good or service to know that it meets quality, safety or hygiene standards;
- competition would be wasteful due to the duplication of infrastructure, such as having two sewerage pipelines or two sets of electricity wires in the same street, in which case it is preferable to have a single, regulated firm to supply the entire market demand; and
- there are certain goods that, due to their special characteristics, are not likely to be provided by the market, such as defence services and street-lighting, where everyone enjoys the benefit, whether or not they 'purchase' the good.

The examples listed above are known as cases of 'market failure' and usually require government regulation in some form, often involving restrictions on competition. It should be pointed out that there is also 'government failure', which occurs when the form of regulation imposed, including the administration of that regulation, leads to greater problems than if the market was left to operate unhindered.

Restrictions on competition are, therefore, not necessarily undesirable, but it is necessary to assess whether they are in the public benefit. For this reason, NCP requires all jurisdictions to examine restrictions on competition to ensure that only those that are in the public benefit remain. This involves examining the costs and benefits associated with the restrictions and assessing whether the community as a whole is better off retaining or removing them.

In considering the 'public benefit', NCP reviews are generally expected to consider employment, social welfare and equity considerations, such as those set out in Clause 3 of the CPA or Section 88 of the *Trade Practices Act 1974*. Appendix 6 provides a list of the factors that are usually considered as part of the assessment of the public benefit.

### **1.3 Summary of Terms of Reference**

The Terms of Reference for the Review of the Liquor and Accommodation Act are produced in full in Appendix 1. In summary, the Review Group is to review the *Liquor and Accommodation Act 1990* having regard to the following guiding principle as specified in the CPA:

*"That legislation should not restrict competition unless it can be demonstrated that:*

- (a) the benefits of the restriction to the community as a whole outweigh the costs; and*
- (b) the objectives of the legislation can only be achieved by restricting competition."*

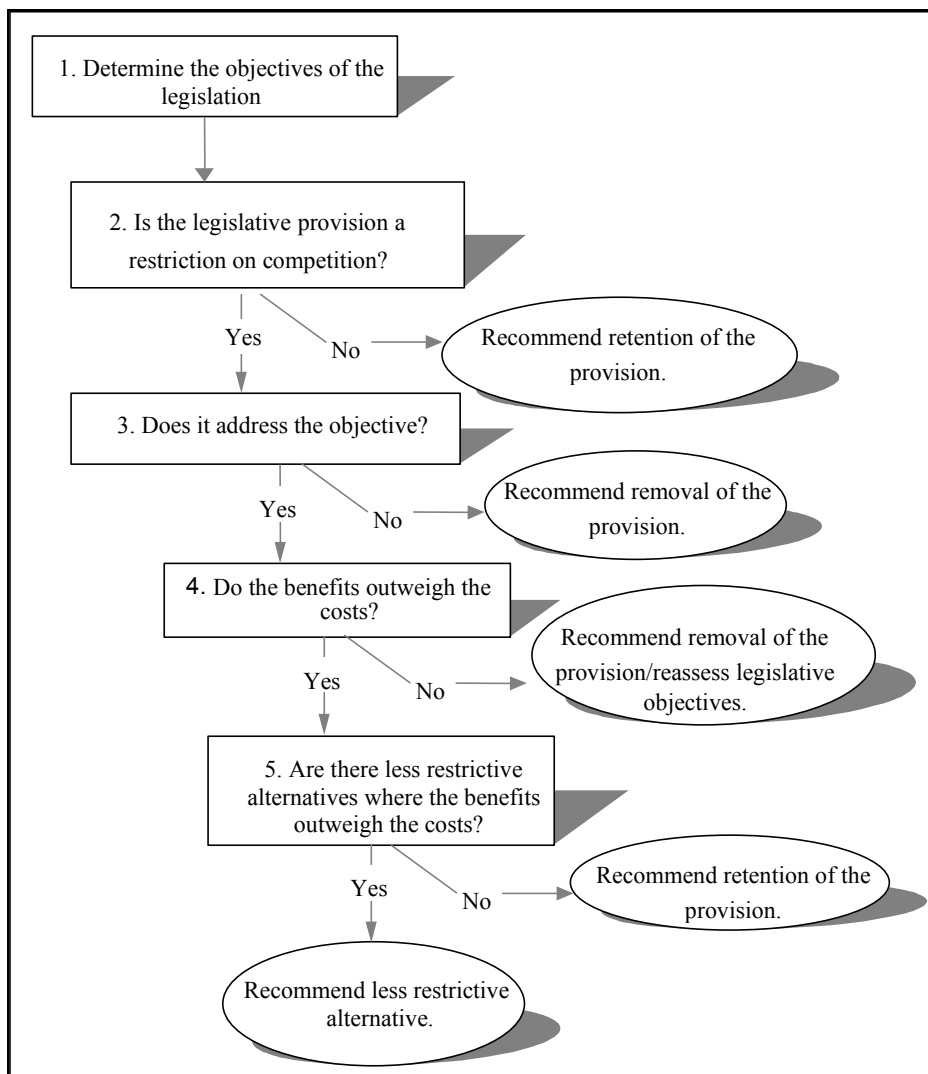
In order to document the Review Group's evaluation of the Act against this guiding principle, a RIS is to be completed. Amongst other things, this will consider whether the existing restrictions, or any other form of restriction, should be retained by assessing the costs and benefits of the restrictions.

The Review Group is to provide a Final RIS and Final Review Report to the Minister for Racing and Gaming and the Treasurer.

## 1.4 Approach and structure of the RIS

In order to address the Terms of Reference, the Review Group has followed a formal analytical approach, which, in abstract form, is set out in Figure 1.

**Figure 1: Analytical approach to this review**



So as to address the Terms of Reference for this review, and also systematically document the Review Group's considerations in relation to each step of the analytical process, the RIS has been structured as follows:

- Section 2 contains an executive summary of the Review Group's findings and draft recommendations.
- Section 3 provides a brief overview of the role of alcohol in our society. It identifies a range of social and economic issues that must be considered when shaping liquor-related policies.
- Section 4 discusses the liquor and accommodation industries in Tasmania. The Review Group believes it is important to document the scale and scope of the industries, recent trends, and the factors that may distinguish the sectors in Tasmania from that in other jurisdictions.
- Section 5 outlines the history of liquor and accommodation regulation in Tasmania, leading to the current Liquor and Accommodation Act, and the Government's proposed amendments to the Act. It also discusses the main objectives of the Act and identifies the ways in which the Act restricts competition.
- Section 6 considers, in accordance with *Step 3* in Figure 1, whether the restrictions contained in the Act are designed to achieve the objectives of the legislation. The Section contains recommendations for the removal of those restrictions that do not meet the objectives of the Act.
- Having regard to the issues addressed in Section 6, and in accordance with *Step 4* of Figure 1, Section 7 weighs up the costs and benefits of the restrictions and presents the Review Group's assessment of whether the legislation is in the overall public benefit.
- In finalising the Report, the Review Group identified a number of restrictions which, whilst beyond the Terms of Reference, it believes should be strengthened. Section 8 provides a summary of these issues, together with draft recommendations where appropriate.

## **1.5 Process for undertaking the review**

The Review Group has undertaken a comprehensive and highly consultative review of the Act.

To date, the Review Group has produced and circulated a Discussion Paper, which identified the objectives of the legislation and the restrictions on competition in the legislation. The paper also outlined the key issues in relation to the restrictions. On the basis of verbal and written submissions, the Discussion Paper was well received in terms of providing a balanced account of the key issues.



A total of 19 written submissions were received in relation to the Discussion Paper as listed in Appendix 3. The Review Group subsequently met with a number of stakeholders to further investigate issues raised in their submissions and to obtain additional information, some of which was provided on a commercial-in-confidence basis. A list of those who met with the Group is provided in Appendix 5.

In addition, the Review Group commissioned a market research company (Myriad Consultancy) to undertake a survey of community attitudes toward liquor regulations and gather data on current purchasing patterns. A copy of the Survey Report is included in Appendix 7.

Consultation to date has been very important in helping the Review Group develop this RIS. It is important to highlight that at this stage the Review Group has developed only draft recommendations. Following consideration of any written submissions received and presentations made in response to the RIS, a Final Report will be prepared and presented to the Minister for Racing and Gaming and the Treasurer, outlining the Review Group's final findings and recommendations. Cabinet will then consider these recommendations.

## **1.6 Submissions in response to this RIS**

The Review Group invites written submissions responding to its RIS. All submissions received will be acknowledged and a copy provided to each member of the Review Group. In preparing a submission, it can be assumed that all material already provided to the Review Group has been reviewed and taken into account in preparing the RIS.

Any submission in response to the RIS should therefore seek to provide new material that may further assist the Review Group in its deliberations.

As noted above, when a submission is lodged, unless indicated otherwise, it becomes a public document. These submissions can (and probably will) be viewed by others and sections may be quoted from or referred to in the Final Report. Those wishing to view submissions should contact the Review Group's Executive Officer. If it is desired that a submission not be made public or quoted, it is recommended that the author advise the Review Group in a covering letter with the submission. Under the *Freedom of Information Act 1991*, the confidentiality of a submission cannot be guaranteed. However, information that is commercial-in-confidence may be exempt from disclosure.

Submissions are to be forwarded to:

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**Submissions should be received by 5.00 pm on Friday 11 October 2002.**

## **1.7 Disclaimer**

This RIS has been prepared for discussion purposes only. Any views or conclusions expressed by the Review Group in this paper are preliminary only and will be revised in light of submissions received during the consultation process.

The views expressed in the RIS are the views of the Review Group and do not represent the views of the Tasmanian Government. Any action taken in anticipation of the outcomes of the review process is at the risk of person taking such action.

## **2 Executive summary**

The Review Group has undertaken a comprehensive review of the *Liquor and Accommodation Act 1990* and the *Liquor and Accommodation (Amendment) Bill 2002*, to arrive at a set of draft recommendations that:

- address all the competitive restrictions contained in the Act and Bill;
- are consistent with the objectives of the legislation;
- will result in increased industry competition and product diversity; and
- will minimise the potential negative economic and social implications for the State.

### **2.1 Objectives of the Liquor and Accommodation Act**

The Review Group concluded in Section 4 that the objectives of safety, quality and diversity accurately reflect the intent of the legislation and adequately address, where appropriate, the issues raised by stakeholders.

*Draft recommendation 1 – that the following Statement of Objectives be included in the Act:*

*The objective of the Liquor and Accommodation Act is to encourage safety, quality and diversity in the provision of liquor and accommodation services for the benefit and enjoyment of both the Tasmanian community and visitors to the State.*

### **2.2 Restrictions on competition contained in the Act**

The Review Group has identified the following restrictions on competition contained in the Liquor and Accommodation Act and the Amendment Bill:

- Restriction 1:** The requirement to possess a licence or permit for the sale of liquor
- Restriction 2:** The number and types of licences and permits available for the sale of liquor
- Restriction 3:** Supermarkets prohibited from selling alcohol
- Restriction 4:** Nine litre minimum purchase, trading hour restrictions and principal activity requirements applying to off-licence premises
- Restriction 5:** Restrictions in general licences that limit the location of bottleshops

- Restriction 6:** Conditions contained in the Liquor Regulations, and the Board's associated discretionary powers
- Restriction 7:** Qualifications for licensees and permit holders
- Restriction 8:** Good Friday trading hours
- Restriction 9:** Amenity and condition of premises
- Restriction 10:** Accommodation licensing scheme
- Restriction 11:** Proposed industry strategic plan
- Restriction 12:** Applications to be based on sound commercial principles
- Restriction 13:** Proposed structure of the Licensing Board
- Restriction 14:** Conditions applying to club licences

Restrictions 11 – 14 are contained in the Liquor and Accommodation Amendment Bill and, as a result, were not identified in the Review Group's April 2001 Discussion Paper.

### **2.3 Are the restrictions designed to achieve the objectives of the Act?**

In the first instance, the Review Group was required to determine whether the restrictions are designed to meet the objectives of the Act. In accordance with the NCP process outlined in Figure 1, if a restriction fails to meet the objectives, the Review Group is required to recommend the removal of the restriction.

The Review Group's analysis in Section 6 found that most of the restrictions contained in the Act are designed to achieve the objectives of the Act. However, the following restrictions were assessed as not contributing to the achievement of the Act's objectives:

- Restriction 4:** Nine litre minimum purchase, trading hour restrictions and principal activity requirements applying to off-licence premises
- Restriction 8:** Good Friday trading hours

*Draft recommendation 2 – that*

- *the nine-litre minimum purchase requirement for off-licences contained in Section 9(a) be removed immediately;*
- *the restrictions applying to the hours of operation for off-licences in Section 9 be amended to mirror the hours of operation restrictions applying to general licences; and*

- *the requirement contained in the Liquor Regulations limiting the principal activity of the premises to the sale of liquor be removed.*

*Draft recommendation 3 – that the Good Friday trading restrictions contained in Sections 65 (1)(c) and (1)(d) and 2(f) of the Act be repealed.*

## **2.4 Restrictions that meet the objectives of the Act – Assessment of benefits and costs**

Section 7 contains, for those restrictions that are designed to meet the objectives of the Act, the Review Group's assessment of the costs and benefits of maintaining those restrictions.

### **2.4.1 Restriction 1: The requirement to possess a licence or permit**

The Review Group concludes that the benefits of maintaining the licensing and permit system significantly outweigh the costs of such a system.

The Review Group believes that the licensing system is essential to achieve adequate controls over the industry and there are no satisfactory alternatives to regulation.

*Draft recommendation 4 - that the existing liquor licence and permit system be maintained.*

### **2.4.2 Restriction 2: The number and types of licences and permits available**

The Review Group concludes that the benefits of maintaining the existing system of licence and permit categories outweigh the costs associated with the system.

The Review Group believes that the system of licence and permit categories is essential to achieve diversity, quality and safety in the liquor industry and there are no satisfactory alternatives to the regulation.

*Draft recommendation 5 - that a range of licence and permit categories, tailored to specific service types, be retained.*

### **2.4.3 Restriction 3: Supermarkets prohibited from selling alcohol**

The Review Group concludes that the net impact of removing the restriction prohibiting supermarkets from selling liquor for off-premise consumption would be negligible.

On one hand, a shift in turnover from existing outlets to the major supermarket chains will result in a minor leakage of profits from the State, with the potential economic and social costs being borne primarily in regional centres. However, consumers throughout the State would obtain greater convenience and, if prices fell, they would have increased disposable

income. An overall price fall of 0.5% is all that would be required to offset the leakage of profits from the State. While expanding access to alcohol raises some issues of safety, the Review Group believes these issues can be adequately addressed and that supermarkets present no greater threat to safety than other licensed outlets.

Therefore, in accordance with the NCP principles, where there is no net cost or benefit of maintaining the restriction the Review Group must conclude that the restriction is not warranted.

If this restriction is not removed, the Review Group believes that supermarkets should be permitted to apply for a special licence to sell Tasmanian wines. This less restrictive alternative would limit the potential for profit leakage from the State while providing some increase in convenience for consumers. It is doubtful, however, that such a change would result in reduced prices for consumers.

*Draft recommendation 6 – that:*

- *Section 25A of the Act, which prohibits the Board from granting a licence in connection with the activities of a supermarket, be repealed and supermarkets be permitted to apply for a liquor licence for off-premise sales; and*
- *if not repealed, Section 25A be amended to permit supermarkets to apply for a special licence to sell Tasmanian wines.*

#### **2.4.4 Restriction 5: Restrictions in general licences that limit the location of bottleshops**

The Review Group concludes that the need for licensees to maintain effective control is essential to the integrity of the Act. However, the “personal” control requirements contained in the Act are overly restrictive.

*Draft recommendation 7 - that the ‘personal and effective’ control requirements contained in Section 22(1)(b)(ii) be amended to require ‘effective control’ over the licensed premises.*

#### **2.4.5 Restriction 6: Conditions contained in the Liquor Regulations, and the Board’s associated discretionary powers**

The Review Group concludes that the benefits of the Board’s discretionary powers, in terms of providing flexibility in judgements, are outweighed by the costs associated with inconsistent determinations and the potential to prevent market entry for reasons other than safety, quality and diversity.

In considering alternative approaches, the Review Group notes that issues dealt with by the Board under the topic of 'public interest' can generally be dealt with under existing State or local government regulations.

If the 'needs assessment' were removed, there would be no need for a Licensing Board, and the role of the Commissioner would be focussed on administering the Act and assessing the suitability of licence applicants. If assessed as suitable, issues associated with the location of the premises, impact on the community and other businesses would be considered under the relevant local authority's planning laws.

*Draft recommendation 8 - that:*

- *Section 216 of the Act, which requires the Commissioner or the Board to approve an application only if it will "...best aid and promote the economic and social growth of Tasmania ... (having) ... regard for the legitimate interests and concerns of the community as a whole", be repealed;*
- *the requirement contained in the Liquor Regulations to grant a licence or permit only if it is in the public interest to do so be repealed;*
- *the Act be amended to remove reference to the Licensing Board and to place administrative responsibility with the Commissioner for Licensing; and*
- *the Liquor Regulations cease to have effect and the Act be amended where necessary; and*
- *prior to repealing the Regulations, arrangements be made with Local Government, the Tasmania Fire Service and other relevant regulators to ensure that the proposed assessment process is understood and accepted.*

#### **2.4.6 Restriction 7: Qualifications for licensees and permit holders**

The Review Group concludes that:

- there is clearly a need to maintain the 'fit and proper person' requirements, in order to maintain the integrity of the licensing system; and
- the benefits to the community of the training restriction outweigh the costs to the individual applicants.

With regard to the current 21 year old age restriction, the Review Group believes there are more appropriate and less restrictive alternatives available, such as the existing 'fit and proper person' and training requirements, through which to vet irresponsible and immature applicants.

*Draft recommendation 9 - that:*

- *Section 22(1)(a) of the Act, which restricts the granting of a licence to persons who have attained the age of 21 years, be amended to reduce the age restriction to 18 years, in line with the age restriction applying under the Gaming Control Act 1993; and*
- *the 'fit and proper person' requirements be retained.*

#### **2.4.7 Restriction 9: Amenity and condition of premises**

On balance, the Review Group concludes that the costs of the amenity restrictions, and their duplication with other existing State and Local Government requirements, outweigh the benefits of the restrictions.

*Draft recommendation 10 - that:*

- *Section 48 (Licensee to keep premises in good repair), Section 49 (Furniture and equipment, &c., to be provided) and Section 50 (Licensee to keep premises clean), be repealed; and*
- *Section 47, which prohibits a licensee from altering the premises without approval, be amended so that*
  - *an alteration requiring the prior approval of the Commissioner is restricted to only those alterations that result in an addition to, or reduction in, the area of the premises; and*
  - *all other lawful alterations, whether structural, decorative or otherwise; or any substantial change in the use of the premises which do not result in an addition or reduction in the licensed area of the premises should be left to the discretion of the licensee/owner concerned.*

#### **2.4.8 Restriction 10: Accommodation licensing scheme**

The Review Group concludes that, on balance, the costs of maintaining the accommodation licensing scheme outweigh the perceived benefits of the regulation.

In addition, the Review Group examined less restrictive alternatives, including the proposed accreditation scheme, and concluded that the objectives of the accommodation licensing scheme can be achieved through existing State and Local Government regulations.

*Draft recommendation 11 – that:*

- *the accommodation licensing scheme cease;*



- *all reference in the Act to the scheme be removed; and*
- *assessment and approval of establishments and monitoring of health and safety standards be conducted solely by the appropriate State and/or Local Government authorities.*

#### **2.4.9 Restriction 11: Strategic plan**

The Review Group concludes that the costs of the proposed strategic plan, in terms of its potential to stifle development of the industry, outweigh the suggested benefits to the community.

However, if such a plan is to be developed, responsibility and ownership should remain with industry and there should be no legislative basis to, or legislative restriction arising from, the plan. Alternatively, responsibility for preparation and ownership of the plan could be allocated to the Department of State Development.

*Draft recommendation 12 - that:*

- *Section 6 of the Amendment Bill, which requires the Minister to prepare a strategic plan in respect of the sale of liquor, be withdrawn or, if already enacted it be repealed;*
- *if it is not withdrawn, responsibility for the preparation and implementation of the plan be allocated to industry representatives; and*
- *if responsibility for development and maintenance of the industry strategic plan is to remain within government, it should be allocated to the Department of State Development, to be advanced in the context of the Government's Industry Development Plans, and contain no restrictions on competition.*

#### **2.4.10 Restriction 12: Applications to be based on sound commercial principles**

The Review Group concludes that the costs of delays, increased complexity and the potential for litigation that would result from the proposed business plan requirements for applicants outweigh the potential benefits of the regulation.

*Draft recommendation 13 – that Section 10 of the Amendment Bill, which requires the demonstration of sound commercial principles for licence applicants, not be introduced and if they are, that they be repealed.*

#### **2.4.11 Restriction 13: Membership of the Licensing Board**

The Review Group concludes that, if the Licensing Board is to remain, expanding its membership to include Ministerial appointments determined after consultation with selected industry bodies will result in costs, in the form of reduced confidence in the impartiality of the Board and the potential for the Board to adopt uncompetitive practices, that outweigh the potential benefits such representation would bring.

*Draft recommendation 14 - that the proposal contained in Section 21 of the Amendment Bill to expand the membership structure of the Licensing Board not proceed and, if already enacted, that it be repealed.*

#### **2.4.12 Restriction 14: Conditions applying to club licences**

The Review Group concludes that the benefits to the community and to club members of the restrictions applying to licensed clubs outweigh the costs to the clubs of the restrictions.

*Draft recommendation 15 - that:*

- *the restrictions applying to licensed clubs be maintained; and*
- *options be considered to remove reference to “conditions specified in the licence” and to incorporate Schedule 1 of the existing guidelines into clubs’ constitutions.*

### **2.5 Other issues and draft recommendations**

Whilst the Terms of Reference require the Review Group to identify and recommend removal of unnecessary restrictions, during the course of the review, a number of issues were raised in which the Review Group believes restrictions should be introduced or strengthened.

#### **2.5.1 Fit and proper person – inclusion of ‘associates’**

The ‘fit and proper person’ requirements contained in Section 22 only relate to the licence applicant. Under the *Gaming Control Act 1993*, however, the definition of “applicant” is such that it includes ‘associates’ of the applicant.

While the Review Group appreciates the differences between the Gaming Control Act and the Liquor and Accommodation Act, the difficulties of defining ‘associates’ and of undertaking assessments of known associates, it believes the current arrangements are deficient and open for manipulation.

*Draft recommendation 16 - that the definition of ‘licence applicant’ be expanded to include known associates, in line with the requirements imposed under the Gaming Control Act.*

## **2.5.2 Training requirements**

While the training requirements contained in the Amendment Bill are supported, the Review Group is concerned to ensure that competency through existing experience is included in the definition of qualifications.

In addition, the Review Group considers it anomalous for the training requirement to apply only to the licensee and not to those employed to serve alcohol.

*Draft recommendation 17 - that:*

- *the definition of qualifications be expanded to include competencies through experience;*
- *a condition of issuing a licence should require that all staff serving alcohol in general, club, on and off-licence establishments be trained in the Responsible Serving of Alcohol (RSA), with such requirements for special licences to be assessed upon application; and*
- *a period of three months' grace applies, following the commencement of trading by the licensed establishment, to allow for the training of all staff to be completed.*

## **3 Alcohol consumption and associated social issues**

### **3.1 Introduction**

This section of the report provides a brief overview of the role of alcohol in our society<sup>2</sup>. It highlights a range of social and economic issues that must be considered when shaping liquor policies. In particular, the section considers the following issues:

- achieving a balance between availability and control;
- the impact of global market reforms on the liquor industry;
- harm associated with alcohol consumption;
- measures to reduce harm;
- underlying causes of harm, including under-age drinking and socio-economic status; and
- the prevalence of consumption and harm in Australia.

### **3.2 Availability versus control**

Throughout recorded history, various controls have been placed over the availability and use of alcohol in an effort to minimise its potentially negative consequences, while simultaneously allowing the enjoyment of this beverage. Finding the balance between control and availability has always been fraught with difficulty.

Reconciling the competing interests, largely economic and health/social, is a complex task.

Most developed countries have in place a series of policies and controls designed to minimise harms associated with alcohol. Most of these control mechanisms have traditionally been predicated on the basis that greater access to alcohol results in higher levels of consumption, and that higher levels of consumption results in more harms and alcohol-related problems.

However, policy changes and loosening of restrictions on availability in several countries and regions have not supported this traditional public health position.

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<sup>2</sup> This section of the Report is largely attributable to research undertaken by Dr Ann Roche, Director of Queensland Alcohol and Drug Research and Education Centre, Department of Social and Preventative Medicine, University of Queensland. Dr Roche is a recognised expert in the areas of alcohol and drug research. This research was undertaken by Dr Roche on behalf of KPMG for the Queensland Government's review of its liquor legislation.

In recent years, the controversy surrounding the control-availability debate has widened. In this context, there is growing pressure to see alcohol as merely another commercial product, which should not be given special or particular consideration.

The contrary view is that alcohol is indeed special and different from other commercial products, such as bread or milk, in that it possesses substantial demonstrable capacity to contribute to significant harms at the individual and community level.

### **3.3 Alcohol related harms**

The negative effects of alcohol consumption are estimated to cost Australians approximately 6 billion dollars per annum (in 1996 terms). This figure is determined through calculations of hospital, health and social costs (See Collins and Lapsley, 1996).

As noted by the National Drug Strategy:

Alcohol is second only to tobacco as a preventable cause of death and hospitalisation for Australians... The misuse of alcohol — when manifest in impaired driving, spousal or child abuse, aggressive behaviour and/or crime — represents perhaps the most serious threat of any drug problem to public safety...<sup>3</sup>

Other harms associated with alcohol use include those of an acute and chronic nature. Traditionally, it has been argued that the principal harms associated with the use of alcohol were those incurred by the few alcohol dependent individuals. More recent epidemiological work, however, indicates that is not the case. Most harm is indeed incurred by the wider community, most of who would normally consume alcohol in a low risk or modest manner, but many of who also occasionally drink in a hazardous manner. It is these occasional instances of hazardous drinking by the general community where harm often arises. This is a major shift in our perception of the nature of alcohol problems and has important implications for the development of alcohol related social policy.

### **3.4 Minimising harms**

Very recent efforts to minimise harms associated with alcohol have increasingly focussed on several key factors. These include the patterns of use and the context of use.

*Patterns* of use, and not availability and consumption per se, are increasingly seen as the key areas which warrant attention to reduce social harms from alcohol. Responsible social policies now address the issues relating to the manner and context in which alcohol is consumed.

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<sup>3</sup> *The National Drug Strategy: mapping the future*, Commonwealth of Australia (p. 53)

The concept of patterns of consumption refers to not only what quantity of alcohol is consumed over what time period, but it also incorporates a range of contextual factors such as the drinking environment, the drinking confederates and the associated behaviours and social norms surrounding the consumption of alcohol.

In terms of *context*, the consumption of alcohol in socially congenial settings has been empirically demonstrated to reduce a wide range of problems including episodes of intoxication and problems of violence, aggression and injury.

At a community level, settings in which alcohol is regularly consumed often serves an important role in terms of facilitating social cohesion. Social settings for the consumption of alcohol can also provide strong social mores about drinking behaviours. Drinking in isolation often is associated with elevated harms.

In addition, the provision of food has been shown in a number of studies to also significantly reduce alcohol-related problems. There is good data to support the encouragement of food to be served with alcoholic beverages. This is especially the case where the beverages commonly consumed are spirits and beer (beverage types more frequently associated with problems).

### **3.5 Youth access to alcohol**

It has only been in recent years that attention has been directed to the question of where and how young people obtain their liquor. Studies indicate that young people also perceive access to alcohol through commercial sources to be relatively easy (Goldsmith, 1988; Wagenaar et al., 1993). Further studies have indicated that among under age drinkers, propensity to obtain alcohol from commercial outlets increases with age.

Recent Australian data suggest that concerns over availability of alcohol to under age drinkers are warranted. A Western Australian study on 16-17 year olds, (Farringdon et al 1999) found that the most common method of obtaining alcohol for this group was purchasing it at liquor stores.

There is some evidence that convenience stores may be an important commercial source of alcohol for youth, although it is noted that most of the research in this area is derived from studies in North America or New Zealand.

In these studies convenience stores and grocery stores have been found to sell alcohol to under age persons more frequently than liquor stores and on-sale outlets that derive a larger proportion of their revenues from alcohol sales. Outlets with chain affiliations are also less likely to sell to young people. Evidence also indicates that newer outlets are less likely to sell to young people compared with older establishments.

Conversely, these studies<sup>4</sup> have found that those outlets that do not primarily depend on alcohol sales, such as convenience stores, may be less likely to have adopted practices that may reduce the probability of selling to under age people.

### **3.6 Alcohol-related problems and beverage types**

The data consistently highlight elevated problems associated with the consumption of spirits and beers, rather than wine. It is not clear whether this is a result of factors associated with characteristics of the drinker, or the beverage itself. Nonetheless, particular attention is needed to be directed to issues of safety and public health and well being where full strength beer and spirits are served.

### **3.7 Youth and drinking**

Ease of access to alcohol is associated with increased consumption by youth and increased hazardous consumption.

Although overall mean consumption levels in Australia are decreasing, the pattern of consumption for young and very young people is the reverse.

There is increasing concern over the doubling of hazardous drinking patterns of young people reported over the past decade. Young people also prefer certain types of alcoholic beverages, namely spirits and full strength beer. Many young people report drinking intentionally to get drunk.

In geographic regions where there are high concentrations of young people, and especially where this is coupled with social disadvantage in the form of high unemployment levels or economic or social deprivation, there is greater potential for alcohol abuse by young people.

### **3.8 Alcohol-related problems and socio-economic status**

Greater problems are found with alcohol among those individuals and in those geographical areas with lower socio-economic status. Such individuals and locations are seen to be particularly vulnerable to changes in access and availability to alcohol.

Provision of alcohol at lower costs is known to increase consumption among various groups, especially those on limited incomes.

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<sup>4</sup> See for example Wolfson et al. 1996.

### **3.9 Strategies to appropriately manage access to alcohol**

Access to alcohol per se is not consistently shown to be of concern from a social issues perspective, rather it is the manner in which it is accessed and consumed.

Server training has proved to be a commonly applied strategy to minimise many of the key concern areas such as underage drinking and intoxication. However, problems arise in terms of how to best manage the process of server training in settings other than formal licensed premises.

### **3.10 An overview of patterns of use and prevalence of problems**

Overall, alcohol is widely consumed in Australia. Most adult drinkers drink in moderation most of the time, and most also drink immoderately some of the time. Drinking, and in particular excessive drinking among young people, is an area of growing concern with binge drinking becoming more common.

In general, those who are younger, with less education, those unemployed and/or with a lower expendable income are more likely to be more hazardous drinkers or more prone to alcohol-related problems.

The following are summary data from Australia's National Drug Strategy Household Survey (1996):

- 76% of Australians aged over 14 years are current drinkers. Among 14 - 19 year olds, 63% (males) and 61% (females) were drinkers. Of these 14 - 19 year old drinkers 48% (males) and 69% (females) reported that they usually drank at a hazardous or harmful levels. Hazardous and harmful consumption was more common in the underage group than in any other age group.
- Among drinkers who consumed alcohol at very harmful levels (ie more than 8 standard drinks for females and 12 for males), 57% had intended to get drunk. Those aged 14 - 19 had the highest rates of intention to get drunk at 72%, followed by 20 - 24 year olds at 68%. Males were no more likely to get deliberately drunk than females.
- Type of alcohol consumed varied by age and sex of the drinker. Spirits were the preferred beverage of 70% of the 14 - 19 year olds followed by a preference for beer by 47%. Wine was the most preferred beverage among older (>35 year old) females.
- Drinking venues: Most (79%) over 35 year olds preferred to drink at home. The most preferred venue for 20 - 24 year olds was pubs, clubs and winebars (65%). More males than females preferred pubs and clubs. Younger drinkers (14 - 19 year olds) most preferred to drink at parties (77%) or friends' homes (57%).



- Nearly half (49%) of all drinkers reported attempts to reduce their alcohol consumption over the past 12 months. This was attempted either by reducing the amount of alcohol consumed on any one occasion (attempted by 27% of all current drinkers), reducing the number of occasions when alcohol is consumed (25%), and switching to more low alcohol drinks (16%).
- More than one third of the population aged 14 or more reported that they had been verbally abused in the last 12 months by someone affected by alcohol, more than a quarter had been put in fear by someone so affected, while 9% had been physically abused. With respect to property crime, 13% had property damaged by someone affected by alcohol, and 5% had property stolen. Males and regular drinkers were more likely to have experienced alcohol-related crimes than females.

### **3.11 Testing the theories – the New Zealand experience**

Whilst there is a range of evidence supporting the theory of the linkage between availability and harm, the actual relationship is far from clear.

In 1990, New Zealand amended its Liquor Act and implemented a revised *Sale of Liquor Act 1990*. The revised Act allowed for greater availability of liquor outlets and a general liberalisation of alcohol availability.

As a result of these changes, the number of liquor licences increased from 6,247 in 1988 to 11,048 in 1996. However, since the introduction of the Act, aggregate alcohol consumption levels steadily declined – by a total of 17.9% over eight years – the continuation of a downward trend that commenced in the early 1980s<sup>5</sup>.

In part, this decline is attributed to a real increase in the price of alcohol<sup>6</sup>. However, major efforts were also made toward significant improvements in drinking environments. There is no clear evidence that overall levels of harm associated with alcohol have increased as a result of the changes to the Act<sup>7</sup>.

While this experience seems to be in contrast with the availability and control theory, New Zealand licensing authorities continue to consider ways to improve the Act from a public health perspective, with recent amendments being made to focus on problems of under-age drinking<sup>8</sup>.

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<sup>5</sup> Victorian Government, *Liquor Control Act 1997 Review Report*, 1998, p120.

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

<sup>8</sup> [www.alcohol.org.nz/effects](http://www.alcohol.org.nz/effects): *Sale of Liquor Act Changes*, p1.

In addition, the most recently available consumption data indicates that, since 1998, alcohol consumption has begun to rise with, for example, a 3.8% increase in consumption between 1999 and 2000<sup>9</sup>.

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<sup>9</sup> [www.alcohol.org.nz/effects](http://www.alcohol.org.nz/effects): *Alcohol Available in New Zealand*, Part 1, p1.

## 4 The Tasmanian liquor and accommodation industries

### 4.1 Introduction

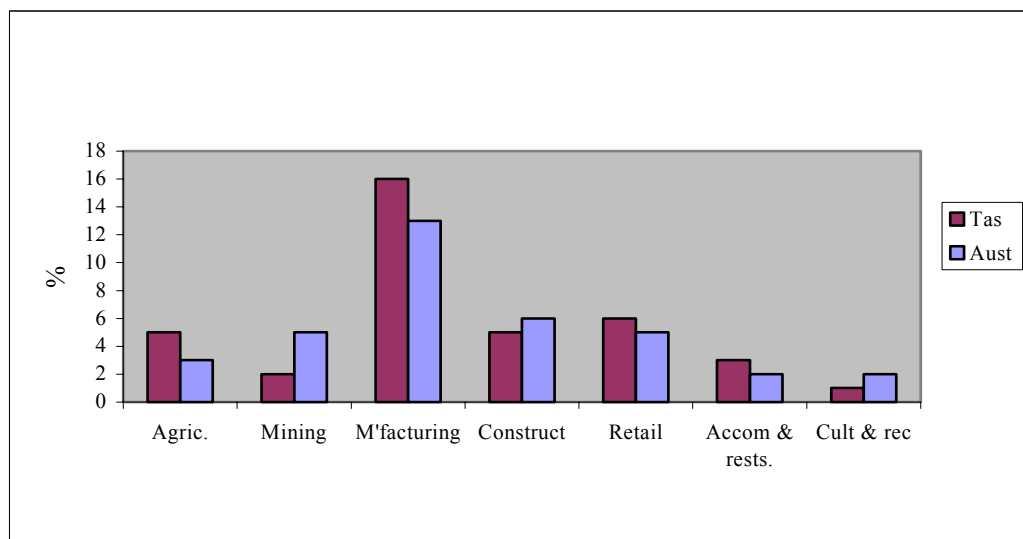
This section provides a brief overview of the liquor and accommodation industries in Tasmania. In doing so, it highlights:

- the importance of the industries to the Tasmanian economy;
- the structure of the liquor industry, including recent trends; and
- the structure and nature of the accommodation industry.

### 4.2 Liquor and accommodation and the Tasmanian economy

The liquor and accommodation industries represent key components of the State's tourism and service sector. Chart 4.1 shows the relative contributions, by selected industries, to the State's income for 1999-2000.

**Chart 4.1: Industry contribution to total Tasmanian income, 1999-2000**



Source: Australian Bureau of Statistics, *Australian National Accounts, State Accounts, 1999-2000*.

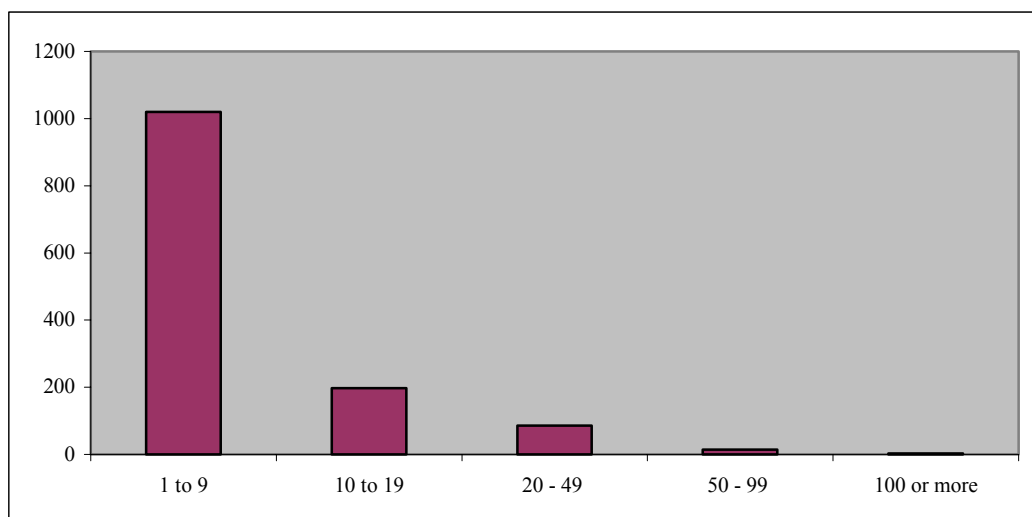
The Accommodation, Cafes and Restaurants sector contributes approximately 3% to Tasmania's Gross State Product (GSP). This compares favourably with the national trend, with the sector contributing 2% to Gross Domestic Product (GDP).

The sector's contribution is relatively significant when compared with other industry sectors in Tasmania. Mining, for example, contributed less than 2% to GSP in 1999-2000 (compared with a national contribution of 5% of GDP), while Culture and Recreation services made up only 1% of GSP. Manufacturing represents the largest industry sector, contributing 16% to GSP.

There are over 1,300 businesses in Accommodation, Cafes and Restaurants sector, representing approximately 5% of total businesses in Tasmania. Nearly half of these businesses are located in the South, with the remainder reasonably evenly divided between the North and North-West.

Chart 4.2 shows that the bulk of these businesses are small, with fewer than 10 employees. Over 77% of Accommodation, Cafes and Restaurant sector businesses fall into this category, with a further 15% employing between 10 and 20 staff.

**Chart 4.2: Number of businesses by number of employees, 1998**



Source: Australian Bureau of Statistics, *Regional Statistics, Tasmania 2001* (No 1362.6).

In total, there are over 11,500 persons employed in the Accommodation, Cafes and Restaurants sector. In November 2000, this represented over 7% of the total Tasmanian workforce, up from 6.3% in November 1999<sup>10</sup>.

It should be noted that the Accommodation, Cafes and Restaurants sector does not represent the totality of the tourism industry. As the Australian Bureau of Statistics, in a recent analysis of the tourism industry, noted "...tourism has a pervasive effect on the economy, with nearly all of the broad industry groups involved to a greater or lesser extent in providing

<sup>10</sup> Australian Bureau of Statistics, *Wage and Salary Earners, Australia*, (No 6248.0).

goods and services to visitors. Tourism is not an industry in the traditional sense because industries are classified in accordance with the goods and services they produce, whereas tourism depends on the status of the customer”<sup>11</sup>.

The inter-linkage of services and operators is an essential feature of the Tasmanian tourism industry, particularly given the diseconomies of small scale faced by the range of small businesses. This is a feature relevant to policy makers.

## 4.3 The liquor industry

### 4.3.1 Recent trends

Table 4.1 shows the number of licensed liquor premises broken down by type from June 1992 to June 2000.

**Table 4.1: Liquor licences by type – 1992 to 2000**

	General licences	Special licences	Off-licences (Retail)	Club licences	Special Wine Producers	On-licences	Total
<b>1992</b>	294	272	30	210	53	4	863
<b>1993</b>	296	290	29	210	63	7	895
<b>1994</b>	294	316	26	212	68	9	925
<b>1995</b>	292	324	24	213	74	12	939
<b>1996</b>	293	350	24	213	79	13	972
<b>1997</b>	296	366	26	213	89	16	1,006
<b>1998</b>	298	380	21	213	96	17	1,025
<b>1999</b>	299	405	21	213	105	18	1,061
<b>2000</b>	298	427	18	212	107	19	1,081

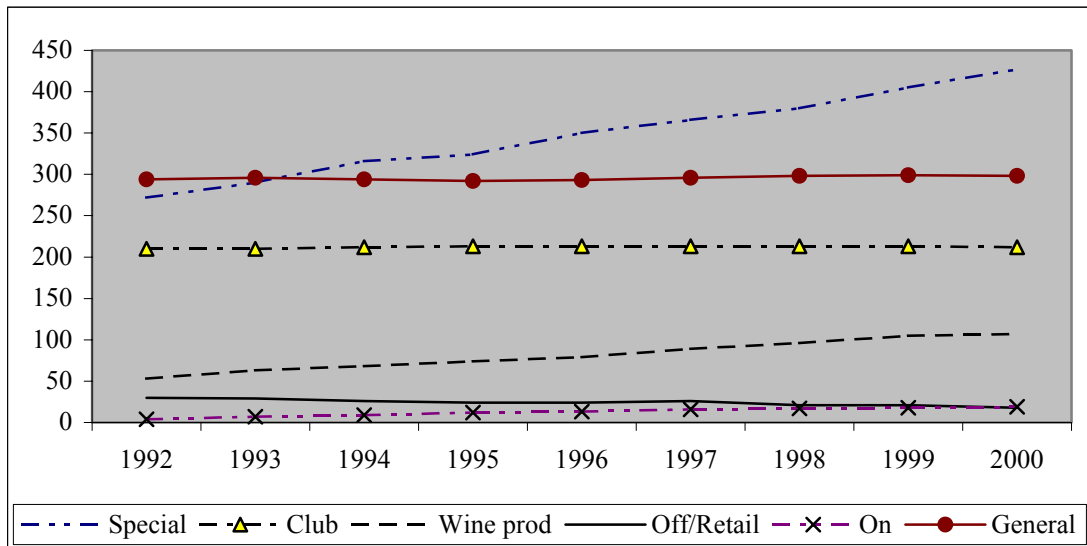
Source: Commissioner for Licensing

Over the period, significant growth in the industry has occurred within the licence categories of special licences, on-licences, and wine producers (57 per cent, 375 per cent and 102 per cent respectively).

In contrast, there has been relatively little growth in the licence categories of clubs, hotels and taverns and a significant fall in the number nine litre retail licences. These trends are illustrated graphically in Chart 4.3.

<sup>11</sup> Australian Bureau of Statistics, *Australian National Accounts: Tourism Satellite Account*, (No 5249.0).

**Chart 4.3: Liquor licences by type, 1992-2000**



Source: Commissioner for Licensing

#### 4.3.2 Profile of the liquor market

Unlike most other States, excluding Queensland, the liquor market in Tasmania is dominated by the hotel sector<sup>12</sup>. This is illustrated in Table 4.2. In 1994-95, Hotels contributed over 77% of total licence fee revenue, yet they represented only 32% of the total number of licences issued. Conversely, Restaurants (one of the largest growing categories) contributed only 3% of revenue, yet they represented over 22% of total licences.

**Table 4.2: Liquor franchise fees by licence type, 1994-95**

Licence type	Licence fees (\$)	Licence fees (%)	Licences (no.)	Licences (%)	Fees per licence (\$)
Hotels/taverns	13,317,936	77.38	294	31.65	45,299
Clubs	1,643,586	9.55	211	22.71	7,790
9 Litre retail	1,145,170	6.65	26	2.80	44,045
Special - Restaurants	540,035	3.14	209	22.50	2,584
Special - other	248,839	1.45	107	11.52	2,326
Off-licence/wholesalers	179,284	1.04	14	1.51	12,806
Wine producers	135,499	0.79	68	7.32	1,993
<b>Total</b>	<b>17,210,349</b>	<b>100</b>	<b>929</b>	<b>100</b>	<b>18,526</b>

Source: Commissioner for Licensing

<sup>12</sup> Refer to Section 7.6 for further details.

### 4.3.3 Regional distribution of liquor licences

Table 4.3 shows the distribution of licences in Tasmania by region. Over half the licensed establishments are situated in the South of the State, with the North having 31% and the remaining 18% located in the North-West region.

**Table 4.3: Number of liquor licences<sup>(1)</sup> by region<sup>(2)</sup>**

Licence Type	South	North	North West	Total
General	144	102	53	299
Club	92	65	53	210
On-licence	11	6	4	21
Off-licence <sup>(3)</sup>	21	10	2	33
Special	217	111	80	408
Wine	67	43	6	116
<b>Total</b>	<b>552</b>	<b>337</b>	<b>198</b>	<b>1,087</b>

(1) As at 28 November 2000.

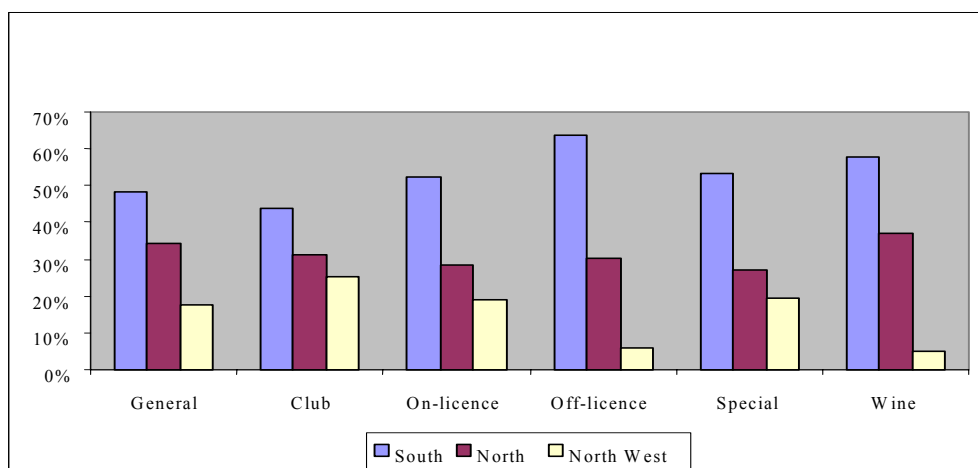
(2) Based on phone district prefix.

(3) Includes 15 Off-licences (Wholesale) that cannot be separately identified.

Source: Commissioner for Licensing

Chart 4.3 illustrates that the distribution of the various licence types is not consistent between the regions. For example, nearly two thirds of all off-licences are located in the South and only 6 % located in the North-West. Conversely, only 35% of club licences are located in the South of the State, with over 25% being located in the North-West.

**Chart 4.4: Liquor licence types by region**



Source: Commissioner for Licensing

## 4.4 The Tasmanian accommodation industry

### 4.4.1 Recent trends

Table 4.4 shows the number of premises licensed to provide tourist accommodation, from 1992 to 2000, broken down by type.

**Table 4.4: Number of licensed accommodation premises, 1992 to 2000**

	Motels	Holiday units	Holiday cabins	Bed & Breakfasts	Hostels	Caravan parks	Camping grounds	Total
1992	26	206	30	135	51	67	14	529
1993	25	238	33	143	55	67	16	577
1994	25	265	35	166	61	67	16	635
1995	27	286	38	186	62	65	17	681
1996	29	305	38	203	60	64	16	715
1997	30	318	41	220	62	64	17	752
1998	30	334	43	234	62	63	17	783
1999	29	339	45	232	66	63	17	791
2000	30	341	43	230	65	64	16	789

Source: Commissioner for Licensing

Trends over that time indicate that:

- there has been particularly strong growth in bed and breakfast operations, and holiday units;
- there has been sound growth in holiday cabins and hostels;
- the number of motels and camping grounds has been fairly stable; and
- there has been a slight decline in the number of caravan parks.

Table 4.5 shows the nights that each visitor spends in Tasmania in different accommodation, as a percentage of the total nights spent, as well as the number of total adult visitors during each of those calendar years.

The table also illustrates there has been an increase in the number of nights that visitors to the State spend in the accommodation categories of bed and breakfast, guest house, caravan parks and hostels. Accommodation in hotels and motels and with friends or relatives has been trending downwards over the period.

It is noteworthy that the number of total adult visitors has increased by 4.8% over the same period.



**Table 4.5: Nights in types of accommodation**

	1995 %	1996 %	1997 %	1998 %	1999 %
Friend's or relative's place	34.0	35.0	33.6	35.1	32.7
Hotel/motel	31.1	29.2	28.6	28.7	30.1
Caravan park	6.7	6.3	9.8	10.4	10.0
Holiday unit	8.2	9.4	8.6	6.8	9.3
Guest house/Bed & breakfast	5.2	4.8	4.8	6.5	7.1
Tent or cabin or public land	4.1	4.1	3.6	3.7	3.4
Youth/backpacker hostel	3.1	3.7	3.2	4.0	3.5
Other (incl. schools & colleges)	7.6	7.4	7.8	4.8	3.9
Total nights ('000)	4,776.0	4,661.9	4,765.0	4,844.4	5,006.0

Source: Tourism Tasmania, *Tasmanian Visitor Survey 1999* Data Card

Since 1995, the length that visitors have stayed in Tasmania has declined by 7%, or approximately 1.5% per year. Table 4.6 shows the percentage of nights stayed in five different length-of-stay categories over the five year period from 1995 to 1999.

**Table 4.6: Length of visitor stay**

	1995 %	1996 %	1997 %	1998 %	1999 %
1 to 3 nights	25.7	28.2	26.5	25.3	22.6
4 to 7 nights	32.5	32.3	34.2	33.1	36.2
8 to 14 nights	29.0	27.4	26.5	29.0	29.3
15 to 30 nights	9.5	9.0	9.9	9.8	9.3
31 nights and over	3.3	3.1	2.9	2.8	2.5
Average length of stay (nights)	9.9	9.8	9.7	9.6	9.2

Source: Tourism Tasmania, *Tasmanian Visitor Survey 1999* Data Card

As shown in Table 4.7, expenditure on accommodation is a high proportion of the total expenditure of visitors to the State. Total accommodation expenditure has increased by over 12% over the period 1995 to 1999. Over the same period, total expenditure by tourists has increased by 5%, although expenditure per visitor has fallen by almost 7%.

**Table 4.7: Tourist expenditure**

	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>
	<b>\$m</b>	<b>\$m</b>	<b>\$m</b>	<b>\$m</b>	<b>\$m</b>
Accommodation	188.3	189.4	193.8	212.4	210.8
Transport	117.9	126.7	123.0	108.3	111.5
Other	230.3	245.4	247.2	236.0	240.6
Total expenditure	536.5	561.5	564.0	556.7	562.9
Per visitor (\$)	1,110	1,180	1,150	1,100	1,040

Source: Tourism Tasmania, *Tasmanian Visitor Survey 1999* Data Card

Other noteworthy features of the accommodation industry, based on responses contained in the Tasmanian Tourism Operators' Survey for 1998<sup>13</sup>, include:

- accommodation is the largest component of the tourism sector in terms of number of operators;
- most accommodation establishments are small businesses, with average turnover of less than \$40,000 per year;
- expenditure on accommodation upgrading represented 66% of upgrading expenditure; and
- 89% of accommodation operators are open for at least 364 days a year.

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<sup>13</sup> Tourism Tasmania, *Tasmanian Tourism Operators' Survey Report 1998*, Jan 1999.

## **5 Regulation of liquor and accommodation in Tasmania**

### **5.1 Introduction**

This section provides a brief overview of the history of liquor and accommodation regulation in Tasmania and, in particular, the development of the current *Liquor and Accommodation Act 1990*. It also discusses the key changes proposed by the Government in its *Liquor and Accommodation Amendment Bill 2002*.

The section also includes the Review Group's assessment of the objectives of the Act, together with a summary of the restrictions to competition that are contained in the Act.

### **5.2 Developments leading to the inception of the Act**

The *Liquor and Accommodation Act 1990* is largely a consolidation of previously separate pieces of legislation concerning the liquor, accommodation and wine production industries. These pieces of legislation are outlined below:

#### **5.2.1 Licensing Act 1976**

The Liquor and Accommodation Act succeeded the former *Licensing Act 1976*, which was developed following the release of the Savas Committee Report in 1974<sup>14</sup>. Specifically, the implementation of the Savas Report resulted in sweeping changes to licensing laws and controls, including the introduction of more flexible trading hours and the abolition of the nine different licences established by the *Licensing Act 1932* in favour of a simplified system with fewer licences. Further, the Liquor Act divided the administrative and judicial functions relating to licensed liquor premises and established the Licensing Board and the position of a Commissioner for Licensing.

#### **5.2.2 Tasmanian Wine Appellation Scheme**

On 11 December 1986, the *Licensing (Tasmanian Wine Appellation) Regulations 1985* came into effect, introducing the first government backed and administered wine appellation scheme in Australia. This system was devised by the Office of the Commissioner for Licensing, the then Department of Agriculture and the Vineyards Association of Tasmania after approaches were made for a 'protection' plan to prevent imported wine being passed off as being Tasmanian in origin. The specific objectives of the scheme were to:

- provide consumers of Tasmanian wine with a guarantee of the authenticity of claims of origin, vintage and variety made by the producer;

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<sup>14</sup> *Licensing Act 1932, Report of the Committee of Inquiry*, Parliament of Tasmania, 1974 (the Savas Report).

- promote the adoption of standards relating to the labelling and soundness of wines of Tasmanian origin among Tasmanian vignerons; and
- promote and enhance the market opportunities of Tasmanian wines, by assisting in the establishment of a market perception that Tasmanian wines are of a high quality.

Participation under this scheme was voluntary and only available for wines made in Tasmania by the holder of a Special Wine Producers Licence issued under the Licensing Act 1976.

The introduction of the Liquor and Accommodation Act provided an opportunity to draw together the existing provisions of the Licensing Act, the Licensing (Tasmanian Wine Appellation) Regulations and the informal rules and guidelines that had been jointly developed by the Vineyards Association of Tasmania, the Department of Primary Industry and Fisheries and the Office of the Commissioner for Licensing.

### **5.2.3 Accommodation licensing**

Tasmania is the only Australian State or Territory to have an accommodation licensing system.

The licensing of accommodation was first required in Tasmania by the State Tourists' Accommodation Houses Act 1927, administered by the Department of Tourism. Section 3 of the Act provided that the Director of the Tasmanian Government Tourist Bureau would have the "management, maintenance, conduct, and control of all State tourists' accommodation houses". This Act was amended on numerous occasions over the period since 1927.

In the late 1980s, the restructuring of the Department of Tourism to form Tourism Tasmania resulted in the responsibility for accommodation standards being transferred to the Office of the Commissioner for Licensing. This transfer reflected the recognition that Tourism Tasmania's role should be directed towards marketing, rather than regulatory matters.

The former Tourism Registry was integrated into the Office of the Commissioner for Licensing in early 1988. From this point, the Licensing Board then issued minimum Standard Conditions for accommodation establishments, for which most premises complied. However, there was a perceived need for accommodation to be licensed under specific primary legislation. Accordingly, the Liquor and Accommodation Act included provisions relating to the licensing of accommodation premises and the setting of standards in relation to those premises.

#### **5.2.4 Backbench Committee appraisal of the Liquor and Accommodation Act**

In 1995, as a result of representations from industry, the then Minister for Licensing established a Committee (the Backbench Committee) to conduct an appraisal of the Liquor and Accommodation Act 1990. The Backbench Committee comprised Mr John Barker MHA, Mr Tony Benneworth MHA and Mr Jonathan Wood, Senior Private Secretary to the Leader for the Government in the Legislative Council. The purpose of the Backbench Committee was specifically to assess the overall efficacy of the Liquor and Accommodation Act 1990 and to determine the need or otherwise for a further, more detailed review of the operations of the Act.

The Committee's Report found that, in a number of cases, the formal amendment of the Act itself was not necessary because it was the Licensing Board's guidelines, not the Act, that dictated the current practice. It found that the majority of dissatisfaction with the operation of the Act and with the decisions of the Board or the Commissioner for Licensing arose as a result of a lack of understanding about and clarity within the existing guidelines, particularly in relation to the guidelines affecting special licences.

Among other things, the Backbench Committee recommended that:

- community interest should be the only determinant considered in deciding whether a licence should, or should not, be issued and that the financial viability of existing establishments should not be relevant per se;
- contrary to industry representations, it was not appropriate for the Government to formulate a strategic plan for the liquor industry. Rather, the corporate objectives of the Office of the Commissioner for Licensing, together with a clear and unambiguous statement of the Government's pro-competitive policy position, should be enunciated in a widely distributed corporate plan. Further, such a liquor plan should not attempt to set a desirable specific number of liquor licences into the future;
- that a gradual, phased-in abolition of the nine litre limit for off-licences be implemented, with no further increases in the number of off-licences and that the guidelines for special licences and club licences be reviewed;
- greater penalties for offences under the Act should be introduced, particularly concerning the sale and consumption of alcohol, the presence of young persons on licensed premises and the outlawing of irresponsible promotional practices in the liquor industry which could lead to the over consumption of liquor;
- breaches of obligation notices be issued on a regular basis as required;
- an increase in licence application fees should be considered;
- the Act be amended to give the Commissioner power to vary the conditions of a liquor permit and to provide an avenue of appeal to the Board. This process for appeal should

be available for any decision of the Commissioner to grant a licence or permit. The Committee also recommended that the Commissioner be able to apply to the Board for a suspension or cancellation of a licence or permit where continued or significant breaches of the guidelines, obligations, or conditions attached to licences or permits occur;

- the existing formal structure of the Licensing Board should be expanded to include policy advice; and
- the reduction of alcohol abuse in the community should be a formal objective of the Licensing Board and the Commissioner and a working group should be established to formulate and implement strategies for achieving this objective.

As a result of the Backbench Committee's final report, a number of its recommendations have been dealt with administratively. In particular, the Licensing Board's guidelines were amended to require the Board to have regard only to whether the granting of a licence would be contrary to the interests and concerns of the community relevant to the area to which the licence application relates.

Furthermore, the guidelines were amended to specifically prohibit the Board from considering whether the business of any other licensee or permit holder may be adversely affected by the granting of a licence application.

### **5.3 The Liquor and Accommodation Amendment Bill 2002**

It is proposed that the Act will be amended to:

- restructure the Licensing Board by expanding it from its current three members to six, including a legal practitioner as chairperson. The remaining five members of the Board will be appointed by the Minister following consultation with the AHA, Clubs Tasmania, the Australian Liquor, Hospitality and Miscellaneous Workers' Union, the Restaurant and Caterers' Association and the Department of Health and Human Services;
- enable restaurants to serve liquor to non-diners throughout the restaurant provided that the principal activity and emphasis of the establishment remains the serving of food;
- require all applicants for a new liquor licence to demonstrate that the proposal is based on sound commercial principles;
- require all applicants for a new liquor licence to have successfully completed an approved liquor licence course or traineeship or have already obtained suitable qualifications in a trade or profession relevant to the holding of a liquor licence prior to the licence being granted;
- require that a strategic plan applying to the Tasmanian hotel industry be developed and reviewed every five years;

- abolish the Government-backed wine appellation system while still retaining a mandatory provision for wine producers and grape growers to provide data to the Minister for Primary Industries, Water and Environment;
- remove references to the Licensing Board taking into account the orderly development of the hospitality industry when considering licence or permit applications;
- overhaul the current Liquor Guidelines, remaking them as subordinate legislation; and
- enable the Licensing Board to approve industry standard-setting schemes for tourist accommodation and automatically exempt those participating establishments from the need to hold an accommodation licence.

For the purposes of its review, and in accordance with the Terms of Reference, the Review Group has incorporated the amendments contained in the *Liquor and Accommodation Amendment Bill 2002* into the Review.

## **5.4 Objectives of the Liquor and Accommodation Act**

In order to make recommendations on whether the restrictions on competition contained in the *Liquor and Accommodation Act 1990* should be removed, retained or modified, the Review Group is required, as part of the Terms of Reference, to "...clarify the objectives of the legislation". Any restrictions on competition need to be assessed against the defined objectives of the legislation.

In doing so, the Review Group was confronted by the question of whether the objectives should reflect the intent of the current Act (and, by implication, current government policy), or whether they should reflect a 'theoretically pure' alternative? For guidance on this and other matters of principle, the Review Group deferred to the review process set out in the National Competition Council's (NCC) *Guidelines for NCP legislation reviews*<sup>15</sup>.

In accordance with the NCC guidelines, the Review Group sought to identify the Act's objectives through:

- the second reading speech;
- the legislation and Liquor Guidelines;
- Licensing Branch annual reports and vision statement; and
- relevant ministerial statements and related government policy documents.

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<sup>15</sup> Centre for International Economics, *Guidelines for NCP legislation reviews*, Prepared for the National Competition Council, Feb 1999.

The Review Group proposed the following statement of objectives, based on the research undertaken:

The objective of the Liquor and Accommodation Act is to encourage safety, quality and diversity in the provision of liquor, accommodation and wine production services for the benefit and enjoyment of both the Tasmanian community and visitors to the State.

The Review Group then sought evidence from those affected by the legislation, with stakeholders being asked:

- whether a statement of objectives should be included in the Act; and
- if so, whether the objectives proposed by the Review Group are appropriate.

#### **5.4.1 Issues raised by stakeholders**

Of the 13 submissions that commented on this matter, all agreed that a statement of objectives should be included in the Act. A summary of stakeholder responses to this, and other questions contained in the Review Group's Discussion Paper, is contained in Appendix 4.

With regard to the nature of the objectives, most respondents supported the statement as outlined above, either as proposed or subject to some amendments or additions.

O'Sullivan and Thomas noted in their submission that the objectives contained in the second reading speech were derived from the mission and vision statement of the Office of the Commissioner for Licensing and Licensing Board. They suggested that, "...as a general statement, these objectives are appropriate, particularly as they specify three key issues that should be identified as a focus for the Act – safety, quality and diversity"<sup>16</sup>.

Of those stakeholders that supported the statement with amendment, most sought the inclusion of reference to the responsible service of alcohol and harm minimisation. The Australian Hotels Association (AHA) advised that the National Alcohol Action Plan contains, as one of its aims, to "... encourage all State and Territory liquor licensing legislation to specifically include harm minimisation in its objectives"<sup>17</sup>.

Also requested by a few stakeholders was the inclusion of reference to "orderly development of the industry". Bleasel argued, for example, that without such a statement "...we will see a series of start ups and failures which will gradually result in the overall quality of the

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<sup>16</sup> O'Sullivan, P. and Thomas, D. *Submission to the Liquor and Accommodation Act Review*, page 1.

<sup>17</sup> Australian Hotels Association (AHA), *Submission to the Liquor and Accommodation Review Group Liquor and Accommodation Act 1990*, p15.



industry being lowered and contribute to a general lack of business confidence and employment in the region”<sup>18</sup>.

With regard to the inclusion of the term ‘harm minimisation’ in the objectives, the Review Group is of the view that there is little discernible difference to the term ‘safety’. The Review Group put this question to the AHA, and the AHA agreed that reference to ‘safety’ adequately encompassed the issues it envisaged under ‘harm minimisation’.

## **5.4.2 Assessment of potential objectives**

### **5.4.2.1 Safety**

It is clear that alcohol is a dangerous drug and, as such, the unfettered operation of the liquor market would lead to significant social and economic costs. Regulation of the industry to prevent this ‘market failure’ and to minimise harm to the community is widely accepted as an appropriate response by policy makers.

The objective of encouraging safety in the provision of liquor is therefore the key aim in the regulation of the industry and it is clearly the primary focus of the *Liquor and Accommodation Act 1990*.

### **5.4.2.2 Diversity**

As part of its review, the Group noted that a number of other jurisdictions recognise the desirability of employing their liquor licensing schemes as a mechanism for achieving diversity in the provision of licensed services:

- Victoria – three objectives including “...promotion of *diversity*...”;
- Queensland – aims to achieve a balance between liquor availability and “...*community expectations* and interests...”;
- Western Australia – five objectives, including “...to cater for the *requirements of the tourism industry*...” and “...facilitate licensed facilities reflecting the *diversity* of community demand...”;
- South Australia – five objectives, including an industry that develops “...in a way that is consistent with the needs and *aspirations of the community*...” and contributes to “...the *amenity* of community life...”;

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<sup>18</sup> Bleasel, J., Nine-Eleven Tasmania, *Liquor and Accommodation Act Review Submission*, p2.

- Northern Territory – not currently defined, but the objective proposed by the NT’s Liquor Review Group includes reference to a system that “...reflects the *needs and wishes of the community*”.

When assessing the issue of “diversity” as an objective, the Review Group considered, firstly, whether such an aim represented a restriction on competition and, secondly, whether the pursuit of such an objective by Government, through legislative requirements, is appropriate.

A review of the Liquor and Accommodation Act indicates that it does not impose “diversity requirements” on licensees or applicants and the Review Group is unable to identify ways in which the objective, as reflected in the Act, imposes restrictions on market participants. Rather, the Review Group has interpreted the objective of “diversity” as a mechanism for achieving greater competition than would otherwise be the case. For example, in terms of licence categories (Restriction 2), the objective ensures there are numerous licence categories, and thus a range of opportunities, for the market to meet diverse needs.

The Review Group believes that the removal of the “diversity” objective could result in a narrowly defined licensing regime that could serve to limit market entry and reduce consumer choice.

#### **5.4.2.3 *Quality***

The “quality” objective primarily relates to the accommodation licensing scheme (Section 109) and, to a lesser extent, the amenity provisions for liquor establishments (Sections 43, 47-50).

As noted previously, Tasmania is the only jurisdiction in Australia to retain a licensing scheme for accommodation establishments. It is not surprising, therefore, that no other State has included “quality” as a specific objective in its Liquor Act. However, Western Australia has included an objective to cater for the tourism industry, in recognition of the importance of the industry to that State.

In Tasmania, the Government has made its commitment both to the tourism industry and to quality in service provision (eg Brand Tasmania) – both of which are readily documented<sup>19</sup>.

The Review Group has been presented with some compelling data that supports the view that there are a number of social welfare reasons (or economic development/employment reasons) to justify the inclusion of restrictions to ensure quality standards. These include:

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<sup>19</sup> See for example Tourism 21, *The Conversion Challenge*, Strategic Plan for the Tasmanian Tourism Industry 2001/04.

- The Tasmanian tourism industry is at a competitive disadvantage relative to other States due to its geographic isolation (77% of interstate holiday travellers use their own vehicle to get to their destination<sup>20</sup>);
- This competitive disadvantage is reflected in the relatively high cost of visiting the State;
- The industry suffers from diseconomies of scale. It is dominated by owner-operated establishments that are not supported by major chains (evidence of the profile of the tourist accommodation market and the competitive disadvantage faced by these operators can be obtained from Tourism Tasmania's holiday marketing division – Tasmania Temptations);
- The structure of the industry is different to most States. Tasmania is a 'touring' destination, with visitors travelling throughout the State, staying only one or two nights in various establishments. Compared with the Gold Coast, for example, where visitations are generally for a longer period in the one establishment, the costs for Tasmanian operators are relatively high; and
- The Government has responded to the natural cost disadvantage faced by the Tasmanian tourism industry by seeking to niche market it as a high quality 'boutique' industry, the quality of which is assured through legislative provisions.

The Review Group also noted that the Tasmanian Government's RIS for the Taxi Industry Act 1985 included "quality" as a valid objective to be pursued through legislative restrictions.

In concluding that "quality" is an accepted objective for the Act, in terms of NCP, the Review Group is mindful that the question of whether specific "quality" related restrictions should be retained will be based on whether the benefits of the restrictions outweigh the costs.

#### **5.4.2.4 Orderly development**

- With regard to the issue of 'orderly development', the Review Group notes that a number of States include reference to industry development in their Acts' objectives<sup>21</sup>.

While it could be argued that such a reference should be included in the Tasmanian Act, the Review Group opposes such a proposal.

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<sup>20</sup> Tourism Tasmania

<sup>21</sup> It should be noted that the Discussion Paper indicated that the NSW *Liquor Act 1982* does not contain specific objectives. This was not correct. The NSW Department of Racing and Gaming has advised that a 1996 amendment to the Act introduced harm minimisation as a specific objective.

Firstly, allocative decisions concerning the structure and development of the industry should, in general, be left to the market to determine. The term ‘orderly development’, as proposed, would require the Licensing Board to be actively involved in assessing the ‘appropriateness’ of prospective licensees in respect to the impact on other operators, the type and magnitude of market growth and other such factors. The Review Group believes that such a requirement would be anti-competitive, inappropriate and generally unwarranted.

Secondly, in those instances where such involvement is deemed necessary, the Review Group believes the existing reference to ‘diversity’ adequately encompasses any relevant market structure issues. As noted by the AHA, the objectives of quality and diversity serve to “...foster the proper development of the Liquor, Tourism and Hospitality industries, taking into account the interests of the community”<sup>22</sup>.

Finally, issues such as ‘industry development’ are specifically excluded from being considered under the licence assessment process - the current Guidelines prohibit the Board considering whether a licence application will have an adverse impact on other licensees and whether the proposed business will be successful. It would therefore be inconsistent to include such an objective for the Act.

## **5.5 Conclusion and draft recommendation**

After considering the views of stakeholders, the Review Group is satisfied that the key objectives of safety, quality and diversity accurately reflect the intent of the legislation and adequately address, where appropriate, the issues raised above.

**The Review Group recommends the inclusion, in the Act, of the following Statement of Objectives:**

**The objective of the Liquor and Accommodation Act is to encourage safety, quality and diversity in the provision of liquor and accommodation services<sup>23</sup> for the benefit and enjoyment of both the Tasmanian community and visitors to the State.**

## **5.6 Restrictions on competition in the Act**

In the introduction to this RIS, an outline of the analytical framework for the review was provided in Figure 1. Step 2 of this framework requires the identification of the restrictions on competition in the *Liquor and Accommodation Act 1990*, including all amendments introduced to the present.

Legislation controlling liquor licensing involves two broad categories of restrictions.

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<sup>22</sup> AHA, p15.

<sup>23</sup> As the Wine Appellation Scheme will be abolished under the Liquor and Accommodation Amendment Bill, reference to wine production has been removed from the recommended Statement of Objectives.

Firstly, there are restrictions that support the community's social standards, such as the legal minimum age for drinking and restrictions over the sale of alcohol to intoxicated persons. These laws do not substantially restrict competition and are therefore outside the scope of NCP reviews.

Secondly, there are restrictions that have the effect of limiting competition in the liquor retailing market, either by limiting the entry of potential sellers or by constraining market conduct. In these cases, the Review Group must assess whether the restriction provides a net benefit to the community, in order to achieve compliance with the Government's NCP obligations.

In formulating the Discussion Paper, the Review Group identified the following restrictive elements within the Act:

- Restriction 1:** The requirement to possess a licence or permit (Section 5)
- Restriction 2:** The number and types of licences and permits available (Section 6)
- Restriction 3:** Supermarkets prohibited from selling alcohol (Section 25A)
- Restriction 4:** Nine litre minimum purchase, trading hour restrictions and principal activity requirements applying to off-licence premises (Section 9)
- Restriction 5:** Restrictions in general licences that limit the location of bottleshops (Sections 3 and 31)
- Restriction 6:** Conditions contained in the Liquor Guidelines, and the Board's associated discretionary powers to impose conditions (Section 17)
- Restriction 7:** Qualifications for licensees and permit holders (Sections 22 and 31)
- Restriction 8:** Good Friday trading hours (Section 65)
- Restriction 9:** Amenity and condition of premises (Sections 47 – 50)
- Restriction 10:** Accommodation licensing scheme

The Review Group also included a restriction in its Discussion Paper relating to unlicensed club permits. This restriction, however, has been removed under the Liquor and Accommodation Amendment Bill.

While the Amendment Bill will remove some restrictions that are currently contained in the Act, the Review Group has identified potential new restrictions in the Amendment Bill. The Review has therefore been extended to include the following restrictions:

**Restriction 11:** Proposed industry strategic plan

**Restriction 12:** Applications to be based on sound commercial principles

**Restriction 13:** Proposed structure of the Licensing Board

Further, in response to stakeholder feedback, a further restriction has been identified that was not included in the Discussion Paper:

**Restriction 14:** Conditions applying to club licences

In addition, some stakeholders raised the issue of the proposed training/qualification requirements that are included in the Amendment Bill. The Review Group has therefore considered this issue in the context of Restriction 7 – Qualifications for licence and permit holders.

## **6 Evaluation of restrictions that meet the Act's objectives**

### **6.1 Introduction**

This section aligns with the approach set out in Step 3 of Figure 1. This step in the analytical process requires the Review Group to evaluate the restrictions on competition embodied in the Act and form a view as to whether the restrictions are required to either address or support the objectives of the legislation.

In considering this issue, where the Review Group concludes that the restrictions *do not* support the objectives of the Act, the recommendation would be for the relevant provisions in the Act to be repealed. Alternatively, where the Review Group concludes the restrictions *do* support the objectives of the Act, the costs and benefits of the restrictions would then be evaluated in the next step of the process.

The Act's objectives, as listed in the previous section, were identified by the Review Group in the Discussion Paper. The objectives consist of three elements:

- safety;
- quality; and
- diversity.

The Review Group examined the restrictions in terms of whether they are designed to contribute to each or any of these objectives.

### **6.2 Restriction 1: Requirement to possess a licence or permit**

#### **6.2.1 Nature of restriction**

The overarching restriction governing the supply and consumption of liquor is the requirement that persons wishing to sell liquor must be authorised, either by:

- a liquor licence; or
- a liquor permit; or
- a general liquor exemption.

Applications for licences and permits must be approved by the Licensing Board or Commissioner for Licensing, as the case may be, having regard to the Liquor Guidelines (to be remade as regulations).

Any form of licensing system applied in a commercial context must, by its nature, be viewed as anti-competitive.

### **6.2.2 Is the restriction designed to address the objectives of the Act?**

It is accepted by the Review Group that liquor is a potent drug with a potential to cause harm and, as a result, there is a community expectation that there be some form of regulation of its sale and disposal.

The requirement that persons wishing to sell or dispose of liquor must possess a licence or permit ensures that those deemed to be 'unsuitable' are prevented from selling or supplying liquor.

All 15 stakeholders who responded to this issue in the Discussion Paper overwhelming supported the view that the licence and permit requirements do address all of the objectives of the Act. These responses included six of the eight stakeholders who do not have a 'vested interest' in the liquor industry.

**The Review Group concludes that this restriction is designed to address safety, quality and diversity objectives of the Act.**

## **6.3 Restriction 2: Number and types of licences and permits available**

### **6.3.1 Nature of restriction**

There are currently five types of licences and four types of permits available that relate to the sale of liquor. The reasoning for having a range of licence and permit types is to ensure that the needs and wishes of the community are adequately catered. The licences that are issued reflect the different circumstances surrounding the sale of liquor.

### **6.3.2 Is the restriction designed to address the objectives of the Act?**

The availability of different licence types ensures that safety is maintained, whilst allowing for diversity in the types of applications that can be made. As noted in Section 5.4.2, a variety of licence categories provides for a greater potential diversity of liquor outlets to meet community needs. The differing requirements attached to the various licence categories ensure that quality matches service types.

The large majority of stakeholders supported the maintenance of different licence types as being consistent with all three objectives of the Act.

**The Review Group concludes that this restriction is designed to address the safety, quality and diversity objectives of the Act.**



## **6.4 Restriction 3: Supermarkets prohibited from selling alcohol**

### **6.4.1 Nature of restriction**

Section 25A of the Act specifies that the Board must not direct the granting of a liquor licence in connection with the activities of a supermarket. In addition, and as discussed in Section 6.5, the Board's Guidelines specify that off-licences will only be issued for the sole purpose of liquor retailing, effectively preventing supermarkets and other retail outlets from selling packaged liquor

The specific prohibition on the sale of liquor in supermarkets contained in Section 25(A) was introduced in 1995 in response to the application by a major supermarket chain in the State seeking a licence to sell Tasmanian wine in the gourmet delicatessen sections of selected supermarkets.

The Act does not define what constitutes a supermarket. It should be noted, however, that the Licensing Board's existing guidelines provide for a special licence for the sale of Tasmanian and local wines as an adjunct to the primary activity of the licence holder that relates to the provision of hospitality or tourist goods. Such licences are generally issued to gourmet delicatessen or food shops that have sought the approval of the Licensing Board to sell Tasmanian wine to complement other specialist goods that are offered for sale. Under the draft amendments to the Act, it is anticipated that such establishments will continue to be able to apply for a special licence.

### **6.4.2 Is the restriction designed to address the objectives of the Act?**

Stakeholders were evenly divided on the issue of whether the restriction is designed to address the objectives of the Act. Those that argued the restriction is consistent with the objectives did so on the basis of:

- safety - licensing supermarkets would increase access and lead to an increase in consumption ('availability theory') and the responsible serving of alcohol could not be guaranteed; and
- diversity - licensing supermarkets would lead to duopoly control and a resulting reduction in diversity of outlets and product choice.

It was also suggested that preventing supermarkets from competing ensures that quality standards in existing outlets are maintained<sup>24</sup>. It is argued that allowing supermarkets to sell liquor would reduce margins for existing operators, lead to a more 'cut-throat' market and ultimately lead to an overall reduction in quality standards.

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<sup>24</sup> See for examples Rae & Partners (p 6) and AHA (p23).

Those opposed to the restriction argue that its objective is solely related to protecting the existing hotel sector. Woolworths, for example, argues that the prohibition on supermarkets results in inflated prices, reduced consumer choice and diversity and prevents the development of quality specialist services in the supermarket sector<sup>25</sup>

In considering this issue, the Review Group revisited the Second Reading Speech for the 1995 Amendment, which was presented by the then Minister for Tourism, Sport and Recreation. Whilst it is clear that main intent of the amendment was to prevent an erosion "...of the business and existing retail outlets of liquor..."<sup>26</sup>, the Minister concluded:

"...beyond the economic merits of this legislation ... there are an enormous amount of inquiries and reports about the concern of the too-ready accessibility of alcohol in our community ... and I believe the responsible sale of alcohol that the hotel industry and other allied industries undertake in the sale of that alcohol enables staff to handle a person that is inebriated, the person who is drinking to excess, the person who creates a problem and that situation should be confined to licensed premises; it is not the domain of a supermarket and the staff in a supermarket that are not equipped to handle it"<sup>27</sup>.

Whilst the Review Group notes the prime intent of the restriction is industry protection, it recognises there are safety concerns that arise with increased availability. It therefore accepts the restriction is also designed to address the objective of safety.

With regard to issues of quality, the Review Group has not been presented with any evidence to suggest that the restriction is designed to maintain quality and is unconvinced that the restriction could, in any way, impact on quality. This issue is discussed further in Section 7.6.4.

The objective of diversity is clearly not advanced by the restriction. In fact, it represents a restriction on diversity, by preventing a significant sector from participating in the market and thus limiting the diversity of liquor outlets.

**The Review Group concludes that this restriction is designed to address the safety objective of the Act.**

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<sup>25</sup> Woolworths, p4.

<sup>26</sup> Second Reading Speech, *Liquor and Accommodation Amendment Bill 1995*, as reproduced in Rae and Partners, (Lawyers), *National Competition Policy Review Submission*, Interest Group: Jimmy's Liquor Scottsdale, Pindara Cellars Launceston, and St Helens Liquor Market, p10.

<sup>27</sup> *ibid*, p20.

## **6.5 Restriction 4: Nine litre minimum purchase, trading hour restrictions and principal activity requirements applying to off-licence premises**

### **6.5.1 Nature of restrictions**

Special (off) licences (hereafter referred to as ‘off-licences’) allow the sale of liquor from premises in quantities of at least nine litres (except for Tasmanian wine) and are restricted in their hours of operation compared with general licences.

In addition, the Liquor Guidelines specify that the premises to be licensed must be self-contained, in that the sale of liquor will not form part of any other retail business. Under the terms of the Amendment Bill, this requirement will be amended so that “...the principal activity of the premises is the sale of liquor”.

This latter restriction effectively serves to prevent other retail outlets, such as supermarkets, restaurants and delicatessens, from being able to obtain an off-licence.

Off-licences, were originally designed to provide for limited retail sales from wholesale liquor outlets.

### **6.5.2 Are the restrictions designed to address the objectives of the Act?**

Only two stakeholders suggested the restrictions applying to off-licences address the objectives of the Act, on the basis that the licences were originally designed for wholesale outlets and that the purpose of the licences should not be extended to include retail sales.

All other stakeholders who commented on the matter highlighted that the nine-litre minimum purchase requirement actually encourages increased consumption and is therefore contrary to the safety objective of the Act. The Review Group supports this view.

In terms of quality, Rae and Partners (on behalf of Jimmy’s Liquor, Pindara Cellars and St Helens Liquor Markets)<sup>28</sup> argue that off-licensees are specialists in off-premise consumption issues, and they have specialist product line knowledge<sup>29</sup>. It could be suggested, therefore, that limiting the activity of the licensed premises to the sale of liquor enhances quality by encouraging such specialisation. Others have argued, however, that the nature of the nine-litre licence is such that quality standards in these establishments are kept to a minimum. This reflects the fact that such establishments are generally designed to meet wholesale licence requirements and therefore often resemble ‘warehouse-type’ operations. It

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<sup>28</sup> *ibid*, p18.

<sup>29</sup> It should be noted that Rae and Partners argued that the restriction *does not* seek to address the objectives of the Act.

has also been suggested that operating margins are lower for off-licences, which limits the ability of proprietors to reinvest in the establishment.

In terms of the ‘principal activity’ requirement, the Review Group notes the apparent inconsistency of applying the requirement only to off-licences. If the objective of the restriction is to enhance quality, the restriction should equally apply to on and general licences. However, the diversification of general licence establishments to include gaming and food service reinforces this inconsistency and highlights the trading disadvantage the restriction imposes on off-licences.

No stakeholders commented on whether the off-licence restrictions impacted on diversity, reflecting the Review Group’s impression that the restriction is not designed to achieve diversity in the industry. In fact, restricting premises so that the principal activity is the sale of liquor can serve to reduce diversity.

**The Review Group concludes that these restrictions are not designed to address any of the three objectives of the Act.**

### **6.5.3 Implications of removal of the off-licence restrictions**

While it is clear the restrictions applying to off-licences are not designed to address the Act’s objectives, the Review Group is mindful of concerns from some stakeholders regarding the potential implications arising from removal of the restrictions. It has therefore considered the costs and benefits of the restrictions in order to assess the validity of such claims.

#### **6.5.3.1 Issues raised by stakeholders**

A number of stakeholders held very strong views concerning the appropriateness of maintaining the restrictions for off-licences. A number of stakeholders, particularly those who currently hold off-licences, are strongly opposed to the restrictions and argue there is no logical reason for their maintenance.

The AHA argued it is important to understand the history behind the introduction of the licence type. The AHA notes that the licence was originally developed to allow limited retail sales from otherwise wholesale outlets – the nine litre minimum ensured that these wholesale licences continued to focus on the sale of packaged, bulk and discount liquor<sup>30</sup>.

Some stakeholders believe the original purpose of the off-licence category should remain unchanged. Bleasel, for example, argues that the nine-litre limit is, in fact, being used by wholesale licensees as “...a back door entry to the retail section of a general licence”<sup>31</sup>. He argues that wholesale licences should be varied by legislation to ensure that no retail sales

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<sup>30</sup> AHA, p34.

<sup>31</sup> Bleasel, J. p 3.

are allowed. This view is strongly supported by Taylor<sup>32</sup>. The Review Group notes, however, that it was unable to identify any off-licence premises that operate solely as wholesalers to the retail sector.

Taylor also observes that, prior to the abolition of liquor licence fees, nine-litre outlets had several trading advantages. Firstly, they could sell a carton of beer at the same price as another outlet but pay a lower licence fee on that item. Secondly, municipal rates are levied on nine-litre outlets as normal commercial premises, yet hotels are rated on the basis of turnover.

The Review Group notes, however, that the trading advantages associated with the licence fee regime no longer exist, with all licensees now paying the same rate of fee.

Some who support the maintenance of the off-licence restrictions argue that the holders of off-licences have had ample opportunity to obtain premises that hold a full licence, and that a decision to retain an off-licence reflects a commercial decision<sup>33</sup>.

As noted, a number of holders of off-licences provided submissions to the Review Group dealing specifically with this issue, each arguing strongly for the abolition of the restrictions.

Whilst a number of these licensees had common issues, the King Island IGA (Independent Grocers of Australia) has problems specific to its isolated location. The King Island IGA has an off-licence that currently allows it to trade six days a week, barring Sundays, between the hours of 8.00 am and 6.00 pm. As for all other off-licences, the King Island IGA is restricted to selling alcohol in amounts of not less than nine litres (excluding Tasmanian wines)<sup>34</sup>. In doing so, the IGA incurs the following problems:

- the liquor market on King Island is very restricted, with the Hotel and clubs (for club members) the only other liquor outlet alternatives;
- King Island has a large tourist industry, marked by stays of only a few days, and the nine litre limit prevents IGA from meeting these customers' limited needs;
- the IGA operates for extended hours seven days a week, yet liquor sales are restricted within these hours and prevented on Sundays, causing logistical problems for the operators; and
- the Sunday trading restriction means there are no liquor outlets open on Sunday mornings as both the Hotel and clubs are closed.

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<sup>32</sup> Taylor, J D, *Submission to Liquor and Accommodation Review Group 2001*, pp 3-4.

<sup>33</sup> For example, Taylor, J D, p3.

<sup>34</sup> The King Island IGA was granted this off licence over 30 years ago, prior to any general licences being established on the Island. At that time, the IGA was the King Island Cooperative.

These problems are exacerbated during daylight savings and during holiday periods<sup>35</sup>.

Evidence was also provided to the Review Group indicating that the profitability of off-licence premises is consistently lower than that of general licence outlets and this differential is exacerbated by the growth in gambling related revenue for many hotels<sup>36</sup>.

### 6.5.3.2 *Benefits and costs*

The following benefits and costs of maintaining the restrictions applying to off-licences have been identified by the Review Group:

<b>Benefit</b>	<b>Who is affected</b>
Maintains competitive advantage for general licences	<ul style="list-style-type: none"> <li>• Holders of general licences</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Limited competition in the packaged liquor market	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Encourages irresponsible consumption	<ul style="list-style-type: none"> <li>• The community</li> </ul>
Competitive disadvantage for off-licences	<ul style="list-style-type: none"> <li>• Holders of off-licences</li> </ul>
Limited choice of outlets	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Principal activity requirement reduces diversity	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Confusion between off-licence and general licence conditions	<ul style="list-style-type: none"> <li>• Consumers</li> <li>• Holders of off-licences</li> <li>• Tourists</li> </ul>

<sup>35</sup> Jacobson, P. (King Island IGA Everyday), Correspondence to the Liquor and Accommodation Review Group.

<sup>36</sup> For example, see Woolworths Ltd, *Liquor and Accommodation Act Review Submission*, p8.

### **6.5.3.3 *Assessment of the benefits and costs***

Whilst the Review Group appreciates there are historical reasons behind the creation of the off-licence, these historical reasons no longer exist and do not justify the continued use of this restrictive licence category.

It is clear to the Review Group that the primary beneficiaries of the existing off-licence restrictions are general licensees, primarily at the expense of consumers.

When questioned on this matter during its meeting with the Review Group, the AHA was unable to identify any valid reasons for maintaining the restrictions, beyond the potential negative impact on existing general licensees.

It is interesting to note that the Savas Report rejected similar arguments and recommended that the sales limit be removed and single bottle outlets be permitted, subject to a five-year transitional period. In doing so, the Committee noted that

“...a licensing law should not assist businessmen to evade their responsibility to determine for themselves alone how best they serve the public. There seems to be no question of public interest involved in retaining the ancient restriction of a dozen bottles”<sup>37</sup>.

Similarly, the 1995 Review of the Act noted that the nine-litre limit “...is an anomaly in the present system that should be removed”<sup>38</sup>. In arriving at this recommendation, the Review Committee noted the inconsistency of the restriction with the “...goal of providing service to tourists and Tasmanians alike”<sup>39</sup>.

Those stakeholders opposed to removal of the off-licence restrictions have argued that the impact of such removal would be significant. The AHA suggests that “...surrounding businesses have made financial commitments and business decisions on the valid assumption of intricacies of the local market. It would potentially place an unjust financial burden on existing liquor retailers should the nine litre minimums be abolished”<sup>40</sup>.

Bleasel cites the following as an example of the potential negative impact:

“...three of the five nine-litre stores in Hobart are operated by the Woolworths/Safeways group; their first store was the failed, long term wholesaler, City Merchants. Since taking over that licence Woolworths/Safeways have used it exclusively as a retail outlet,

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<sup>37</sup> The Savas Report, p15.

<sup>38</sup> Backbench Committee Report, *Appraisal of the Liquor and Accommodation Act 1990*, 1995, p34.

<sup>39</sup> *ibid.*

<sup>40</sup> AHA, p35.

moved the trading location to a highway site and then complained about the nine-litre restriction<sup>41</sup>.

Other evidence does not support these assertions. Firstly, off-licences constitute less than 8% of the total liquor market<sup>42</sup>. Secondly, there are only 17 such licences on issue throughout the State. The Review Group believes, therefore, the potential impact for existing licensees of removing the restrictions on off-licences would be minimal, particularly in the short term.

Given the current distribution of off-licences throughout the State, the potential impact will not be uniform. For example, over 60% of off-licences are situated in the South of the State, with only 6% located in the North-West. Clearly, the impact on existing operators will be far greater in the South, whereas the change in the North-West is likely to be marginal.

Confusion for locals and tourists alike is a major cost of maintaining the current restrictions, a cost that impacts on both the consumer and the licensee. Not only is the consumer inconvenienced by having to purchase a minimum of nine litres or purchase from a general licence, the licensee loses trade. Woolworths provided evidence, for example, that 'dumped stock' represent about 8% of all customers served<sup>43</sup>. Dumped stock is the product left at the counter by customers when advised the nine-litre limit applies. This evidence appears to dispel suggestions by some stakeholders that the nine-litre limit is well understood by the community and does not impact on tourists.

A further cost, which affects the entire community, is that of excessive consumption, and the clear inconsistency between the principles of harm minimisation and responsible serving of alcohol and the nine litre minimum limit. The Review Group was provided with a number of examples where licensees are faced with the dilemma of having to sell large quantities of liquor to consumers who are susceptible to alcohol abuse or, if they sell less, risking prosecution. This is a situation that is contrary to the objectives of the Act and the Review Group believes it should not continue.

**The Review Group concludes that the costs to the Tasmanian community of maintaining the existing nine-litre restriction are far greater than the benefits to existing operators of its removal and concerns regarding the potential impact on existing operators do not warrant its retention.**

As noted, both the Savas Review and the Backbench Committee recommended removal of the nine-litre restriction, subject to a transitional phase-in period. In the case of the Savas Report, a transitional period of five years was proposed. The Backbench Committee

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<sup>41</sup> Bleasel J., p3.

<sup>42</sup> Based on percentage of liquor franchise fees collected in 1993-94. Given the number of off-licences has fallen since then, it is assumed that the market share is now, in fact less than 8%.

<sup>43</sup> Woolworths, p9.



recommended a 12-month phase-in for single bottle sales of wine and a two-year phase-in for single bottle sales of beer.

The Review Group, however, is not convinced of the need for a transitional phase-in period. From the experience of the Review Group, opponents of change sometimes use such transitional periods as an opportunity to further lobby decision-makers, rather than using the period to actually prepare for change.

In recommending a five-year transition, the Savas Review sought to "...give hotels and wholesalers sufficient time to improve their packaged liquor services to the public"<sup>44</sup>. The Review Group believes these services have improved considerably since 1974 and the need for a transition to bring services up to standard is no longer warranted.

The Review Group also notes the arguments advanced by Taylor, concerning the trading advantage off-licences previously had under the State Franchise Fee regime, whereby they paid a lower rate of fee compared with general licences. This trading advantage was embedded in the value of the licence and the premises. When this fee was abolished and replaced by the Commonwealth's liquor excise, off-licences immediately lost that 'advantage' and, as a result, the value of such establishments was reduced. The Review Group is mindful that holders of off-licences were not provided with the benefit of a phase-in period in this instance.

**The Review Group therefore concludes there are no valid reasons why the nine-litre and trading hour restrictions applying to off-licences should not be removed immediately.**

The 'principal activity' requirement, which is contained in the Board's Guidelines, enables the Board to reject an application for an off-licence if the establishment is involved in any other forms of retail activity. This has the effect of:

- Preventing existing off-licences from expanding services to their customers to include non-liquor retail activity; and
- Deterring supermarkets<sup>45</sup>, corner stores, and other general retailers from seeking an off-licence.

It is important to recognise, however, that as it is contained in the Guidelines, the Board is not compelled to apply it in all cases. It can choose to issue an off-licence to a general retailer if the application satisfies Section 216 of the Act, the fit and proper person requirements and the amenity requirements. To date, however, the Board has encouraged such potential applicants to apply for a special licence, which, under the current nine-litre restriction, is generally more in line with the applicants' needs.

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<sup>44</sup> The Savas Report, p15.

<sup>45</sup> It should be noted that Section 25(A) also serves to prevent supermarkets from applying for a liquor licence.

It is also important to note that this requirement only affects off-licences. It does not impact on general or on-licences. It is therefore feasible, under the Act, for a general retailer to apply for a general licence to operate in conjunction with its existing retail activities, so long as it meets the Act's requirements in relation to a general licence.

It could be argued that, in the absence of the 'principal activity' requirement, the off-licence market would expand considerably, to potentially include all existing retailers. However, licence applicants would still be required to meet all fit and proper person requirements, including RSA training, and planning and safety requirements. In addition, Section 216 ensures that a licence would only be granted if:

- in the opinion of the Commissioner or the Board, the granting of the licence will best aid and promote the economic and social growth of Tasmania; and
- the Commissioner or the Board is satisfied there are no greater legitimate interests and concerns of the community as a whole.

Section 216 therefore serves as a 'safeguard' for the community and other groups that may be adversely affected by the granting of a licence.

In summary, the Review Group believes that the 'principal activity' requirements contained in the guidelines serve to limit diversity and choice in the off-licence market and the safeguards it provides are already adequately provided for in other areas of the Act.

**The Review Group therefore concludes that the costs of maintaining the 'principal activity' requirements outweigh the perceived benefits.**

#### **6.5.3.4 *Draft recommendation***

**The Review Group recommends:**

- **the immediate removal of the nine-litre minimum purchase requirement for off-licences contained in Section 9(a);**
- **the restrictions applying to the hours of operation for off-licences contained in Section 9 be amended to mirror the hours of operation restrictions applying to general licences; and**
- **the removal of the requirement contained in the Liquor Guidelines limiting the principal activity of the premises to the sale of liquor.**

## **6.6 Restriction 5: Restrictions in general licences that limit the location of bottleshops**

### **6.6.1 Nature of restriction**

Some difficulties arise in relation to general licences, which permit the sale of liquor for consumption both on and off the premises, because of the manner in which the Act defines premises. Section 3 of the Act interprets ‘premises’ as including:

- land, whether or not covered by buildings; and
- any structure, whether or not attached to land; and
- a means of transport; and
- a part of the premises.

As a result, any bottleshop to which a general licence relates must be on the same premises as the on licence component.

### **6.6.2 Is the restriction designed to address the objectives of the Act?**

Most stakeholders who commented on this matter noted that the ‘personal and effective control’ requirements are designed to ensure that alcohol is sold in a safe manner and that the licensee is personally responsible for maintaining the licensed establishment. They argued that the restriction is therefore consistent with the objectives of the Act.

The Review Group agrees that that the ‘personal and effective control’ requirements are designed to meet the safety objectives of the Act.

**The Review Group concludes that this restriction is designed to address the safety objective of the Act.**

## **6.7 Restriction 6: The Liquor Guidelines and the Board’s discretionary powers**

### **6.7.1 Nature of restriction**

As noted in Section 5.3, the Government’s Liquor Amendment Bill will result in the revamp of the liquor guidelines into subordinate legislation. Under the proposed arrangements, the content of the existing guidelines will be remade as Regulations. The Review Group has assumed, for the purposes of the Review, that the guidelines will be reconstituted as Regulations.

Whilst the provisions of the Act clearly impose restrictions on competition, they are generally enabling in nature. Importantly, the administration of the Liquor Guidelines by the Licensing Board, rather than the Act itself, provides potentially the largest scope for imposing restrictions on competition.

Whether the restrictions on competition are actually imposed on operations by the Licensing Board, depends upon how the Board applies the Liquor Guidelines.

The Guidelines provide that, in general, the Board will direct the granting of a licence unless it is of the opinion that it would be contrary to the interests and concerns of the community.

Some of the restrictive elements of the Guidelines, as identified by the Review Group, are:

- granting of general, on and off-licences unless "...contrary to the public interests to do so";
- granting of club licences only if the club meets a range of conditions including that it is incorporated, its primary activity is not related the liquor and it is in the public interest to do so;
- requirements imposed on individual special licenses; and
- conditions imposed on unlicensed clubs.

#### **6.7.2 Is the restriction designed to address the objectives of the Act?**

The Board's Guidelines and its accompanying discretionary authority provide the vehicle for the application of the Act and enshrine a range of elements that seek to address the objectives of the Act.

All stakeholders who commented on this matter, except one, supported this view.

The key assessment criterion available to the Board is the need to ensure that applications are not contrary to the public interest. The term 'public interest' is all encompassing, and clearly allows for the Board to consider any issues associated with safety, quality and diversity. In this sense, the restrictions embodied in the Board's discretionary powers are designed to addresses the three objectives of the Act.

**The Review Group concludes that this restriction is designed to address the safety, quality and diversity objectives of the Act.**

## **6.8 Restriction 7: Qualifications for licensees and permit holders**

### **6.8.1 Nature of restriction**

Under Sections 22 and 31, licences and permits can only be granted to persons who are at least 21 years of age and who, in the opinion of the Commissioner for Licensing, are 'fit and proper' to hold a licence or permit. The Commissioner mainly relies on a check of the applicant's police record (if any) when determining whether the applicant is 'fit and proper'.

In addition, under the Government's amendments to the Act, each applicant for a new licence is required to have successfully completed an approved liquor licence course, apprenticeship or traineeship, or to have already obtained suitable qualifications.

These requirements prevent some individuals from entering the market and are therefore restrictive.

### **6.8.2 Is the restriction designed to address the objectives of the Act?**

The 'fit and proper person' requirement constitutes the key mechanism by which the Commissioner can assess the suitability or otherwise of applicants to comply with the Act. All stakeholders, and the Review Group, recognise that the 'fit and proper person' requirements address the safety objectives of the Act.

The amendments requiring applicants to be suitably qualified have been proposed in order to both improve safety, through mandatory Responsible Serving of Alcohol (RSA) training, and to enhance quality, by ensuring training in customer service etc.

**The Review Group concludes that this restriction is designed to address the safety and quality objectives of the Act.**

## **6.9 Restriction 8: Good Friday trading hours**

### **6.9.1 Nature of restriction**

Section 65 of the Act restricts the hours of trading of general licence and on-licence holders (usually hotels and taverns) on Good Friday to between 11:00 am and 9:00 pm.

### **6.9.2 Is the restriction designed to address the objectives of the Act?**

Of those stakeholders that responded to this issue, all rejected the proposition that the restriction is designed to address the objectives of the Act. Stakeholders identified a number of factors that support this view, including:

- the restriction is selective in its application – other licence holders that may be in direct competition with hotels and taverns, such as the State’s two casinos and larger hotels that hold special licences are not subject to Section 65;
- forced early closing encourages excessive consumption and a the mass ejection of patrons creates disturbance and a risk to safety; and
- the restriction reduces consumer choice.

In addition, a number of stakeholders argued that the restriction reflects a ‘sectarian’ policy, which is inconsistent with Australia’s multicultural status.

The Review Group agrees that the restriction limits consumer choice and therefore limits diversity in the industry.

In terms of safety, the Review Group notes evidence contained in the Savas Report, and other research, indicating that restricted trading hours can encourage irresponsible and excessive consumption<sup>46</sup>. The “six o’clock swill” was a well-recognised phenomenon under the previous limited hours regulations - a practice which led, in part, to the liberalisation of drinking hour laws.

The Review Group finds no evidence to suggest that the Good Friday trading restrictions are designed to maintain or enhance quality, and sees no potential for a linkage between the two.

**The Review Group concludes that the restriction is not designed to address any of the objectives of the Act and it therefore recommends that the Good Friday trading restrictions contained in Sections 65 (1)(c) and (1)(d) and 2(f) of the Act be repealed.**

## **6.10 Restriction 9: Amenity and condition of premises**

### **6.10.1 Nature of restriction**

Sections 47 – 50 establish conditions of amenity and other requirements that, under normal market conditions, would be the sole investment decision of the establishment concerned.

Specifically, the Act requires:

- that the licensee cannot alter the premises without the Commissioner’s approval;
- the licensee to maintain the premises in good repair;
- the licensee to provide and maintain furniture and equipment in good repair; and

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<sup>46</sup> *ibid.*

- the licensee to keep all premises used by patrons, and under their ownership and control, in a clean state.

These types of requirements are designed to ensure that the licence type over which the premises relate remains appropriate and minimum standards of service and amenity are maintained.

#### **6.10.2 Is the restriction designed to address the objectives of the Act?**

The amenity and condition requirements clearly address the Act's objective to maintain quality.

All stakeholders who commented on this matter, excluding two, supported this view.

**The Review Group concludes that this restriction is designed to address the objectives of the Act.**

### **6.11 Restriction 10: Accommodation licensing scheme**

#### **6.11.1 Nature of restriction**

There are currently several restrictions on the accommodation industry contained in the Act, which relate to the licensing and conduct of accommodation establishments. These requirements will be substantially reduced, however, under the Government's amendments to the Act.

At present, the Act imposes a similar restrictive licensing system to that applying to the liquor industry. Specific restrictions currently applying include:

- all accommodation providers must be licensed;
- licensed accommodation premises must meet standards specified by the Board;
- qualification requirements, including the need to be a 'fit and proper person';
- restrictions relating to amenity and the condition of the premises; and
- the requirement for the licensee to maintain effective control over the premises.

In addition, the Board's Accommodation Guidelines also currently apply.

Under the Government's amendments, the Licensing Board will be able to approve accommodation schemes if they meet requirements set by the Commissioner for Licensing

and automatically exempt those participating establishments from the need to hold an accommodation licence or permit.

These schemes will impose industry standards on their members and the schemes will need to demonstrate how they maintain these standards.

The Commissioner will be required to regularly audit approved schemes and to provide the Board with a recommendation as to whether the scheme is to remain approved.

The Commissioner will still retain a power to licence accommodation operators that do not belong to an approved accommodation scheme. This allows the Commissioner and his staff to focus attention on the poor performers within the hospitality industry, rather than on the larger percentage of operators who are operating effectively.

The Commissioner will be required to keep a register of all accommodation operators who are either participating in an approved scheme or who are otherwise authorised to provide tourist accommodation.

There will be significant benefits from having a system that encourages greater industry involvement in the determination of standards and the assessment of accommodation establishments.

Whilst this type of licensing system is significantly less restrictive than the current licensing arrangements, it will continue to impose legislative restrictions on those operators who choose not to participate in the industry-based accreditation schemes.

#### **6.11.2 Is the restriction designed to address the objectives of the Act?**

The accommodation licensing scheme is designed to set minimum standards for a range of attributes, particularly focussed on quality and safety and it is therefore clearly designed to address the safety and quality objectives of the Act.

All stakeholders who commented on this matter, excluding one, supported this view.

With regard to diversity, the Review Group notes that, firstly, there is a range of accommodation categories covered by the scheme (ie B&Bs, caravan parks, etc). Secondly, under the proposed scheme, establishments will be able to be accredited under one of a number of approved schemes. It could be argued that these arrangements therefore seek to maximise the diversity of accommodation establishments in the State.

**The Review Group concludes that this restriction is designed to address the safety, quality and diversity objectives of the Act.**



## **6.12 Restriction 11: Strategic plan**

### **6.12.1 Nature of restriction**

The Liquor and Accommodation Amendment Bill requires that:

- the Minister is to prepare a strategic plan in respect of the sale of liquor in consultation with any person or body the Minister considers appropriate; and
- the Minister is to review the strategic plan once every five years.

Depending on the nature and content of the proposed strategic plan, there is a potential for it to impose and enshrine restrictive practices and to be used to create barriers to entry.

### **6.12.2 Is the restriction designed to address the objectives of the Act?**

The object of the proposed strategic plan is to foster sustainable growth within the State's hotel industry. It is suggested the plan will assist individual participants in the industry to meet changing demands as they arise.

From the background information available, the Review Group considers that the proposed plan is primarily designed to address issues of quality in the liquor market. Issues associated with diversity and safety do not appear to be a priority of the plan. In fact, there is potential for the plan to restrict diversity.

**The Review Group concludes that this restriction is designed to address the quality objective of the Act.**

## **6.13 Restriction 12: Applications to be based on sound commercial principles**

### **6.13.1 Nature of restriction**

The Liquor and Accommodation Amendment Bill requires that an application for a liquor licence must illustrate that "...the proposed business for which the liquor licence is sought is based on sound commercial practices".

This amendment means that applicants will not be granted a licence unless their application is accompanied by a business plan. This restriction prevents applicants without a business plan from entering the market.

### **6.13.2 Is the restriction designed to address the objectives of the Act?**

The intent of this restriction is to ensure that liquor licence applicants have fully considered the viability of their proposal prior to seeking a licence.

It is anticipated that the restriction will assist in lowering instances where recent market entrants leave the industry involuntarily.

The AHA suggests that the proposal also has a safety objective, in that it will limit the entry of financially marginal establishments that may resort to unsafe operating practices, such as selling to under-age or encouraging excessive consumption.

**The Review Group concludes that this restriction is designed to address the quality and safety objectives of the Act.**

## **6.14 Restriction 13: Membership of the Licensing Board**

### **6.14.1 Nature of restriction**

Under the terms of the Liquor and Accommodation Amendment Bill, Section 206 of the Act will be amended to expand membership of the Licensing Board from the current three members to a Board of six members, of whom:

- one is a legal practitioner who is also chairperson of the Board;
- one is a person with experience in the hotel industry nominated by the Minister after consultation with the AHA;
- one is a person with experience in the management of clubs nominated by the Minister after consultation with Clubs Tas;
- one is a person nominated by the Minister after consultation with the Australian Liquor, Hospitality and Miscellaneous Workers Union;
- one is a person nominated by the Minister after consultation with the Restaurant and Caterers Association; and
- one is a person nominated by the Minister after consultation with the responsible Department in relation to the *Public Health Act 1997*.

The inclusion of a range of industry stakeholders on the Licensing Board presents a number of issues associated with the effective administration of the Liquor and Accommodation Act. Whilst the inclusion on the Board of members appointed by the Minister after consultation with industry representatives does not, in itself, represent a restriction on competition, it raises the real possibility of decisions by members based on protecting existing industry

participants, at the cost of new entrants, and the Review Group has therefore assessed it as restrictive in nature.

#### **6.14.2 Is the restriction designed to address the objectives of the Act?**

The Review Group considers that the main aim of the amendment is to ensure industry participation in the licence assessment process.

Presumably, proponents of the change would argue that:

- inclusion of industry representatives will provide the Board with industry specific experience which will enhance the assessment of applications in terms of quality;
- by including the range of industry stakeholders, diversity in the industry will be enhanced; and
- inclusion of health and union representation will provide a safety focus for the Board.

Prior to experiencing how the restructured Board will operate, it is difficult for the Review Group to assess, with any confidence, whether the amendment is designed to meet the objectives of the Act. In the absence of competing arguments, the Review Group accepts those points listed above.

**The Review Group concludes that this restriction is designed to address the quality, safety and diversity objectives of the Act.**

### **6.15 Restriction 14: Conditions applying to club licences**

#### **6.15.1 Nature of restriction**

Under the Liquor and Accommodation Act, club licences are currently issued for the sale of liquor (on and off premises) between the hours of 5am and midnight on any day to members, friends of members and members of reciprocal clubs. A range of conditions that are provided for in the Liquor Guidelines supports these requirements.

At the time the Review Group's Discussion Paper was released, the then draft Amendment Bill proposed that the restrictions contained in the guidelines would be removed. As a result, the Review Group did not include reference to club licence restrictions in its Discussion Paper.

However, the most recent draft of the Amendment Bill indicates that licensed clubs will be permitted to sell liquor for consumption on or off the licensed premises:

- between 5am and midnight on any day; and
- subject to any conditions specified in the licence.

The Bill does not provide any guidance for applicants or the Commissioner in terms of the possible conditions that could be attached to the licence. This open-ended capacity for the Commissioner to impose conditions provides the potential for restrictive practices.

Furthermore, the draft Liquor and Accommodation Regulations propose that a licensed club may only sell liquor to the following:

- a member of the club;
- a guest of that member who attends a social function or meeting of the club, or is invited by a member of the club;
- a guest of that member who attends a private function at the premises;
- a person who competes or has competed on that day in any event conducted at those premises;
- a person who is or has been a spectator on that day at any event conducted on those premises; and
- a member of another club incorporated under the *Associations Incorporation Act 1964* who attends a meeting of the club.

The restrictions proposed under the Amendment Bill are therefore more restrictive than those contained in the current Act and Guidelines.

#### **6.15.2 Is the restriction designed to address the objectives of the Act?**

The Review Group acknowledges that stakeholders have not been able to comment on this proposed restriction.

The Review Group has observed that the restrictions provide for a licence category that caters for specific groups (eg sporting groups). In doing so, they have the effect of creating greater diversity in the range and types of liquor establishments available for these consumers.

In addition, the nature of the restrictions allow clubs to impose their own standards, including upon membership, which has the potential to enhance the quality of such establishments.

**The Review Group concludes that this restriction is designed to address the quality and diversity objectives of the Act.**

## 6.16 Summary of conclusions

Provided below is a summary of the Review Group's conclusions in relation to whether the restrictions contained in the Liquor and Accommodation Act are designed to meet the safety, quality and diversity objectives of the Act.

<b>Restriction</b>	<b>Meets objective?</b>	<b>Issues</b>
1. Licensing and permits	Yes	Licensing provides a means to control the liquor industry and, as such, provides a mechanism to achieve <b>safety, quality and diversity</b> .
2. Licence and permit types	Yes	The availability of different licence and permit types ensures that <b>safety</b> and <b>quality</b> standards maintained, whilst allowing for <b>diversity</b> in the types of applications.
3. Supermarkets prohibited from selling alcohol	Yes	Prohibiting supermarket sales reduces availability and therefore seeks to improve <b>safety</b> .
4. Restrictions applying to off-licences	No	The nine-litre and trading hour restrictions are not designed to address the objectives of the Act. The nine-litre restriction is contrary to the safety objective.  The costs to the community of maintaining the restriction significantly outweigh the benefits to existing general licensees and <b>the restriction should be removed</b> .
5. Restrictions limiting the location of bottleshops	Yes	The 'personal and effective control' requirements ensure adequate supervision and responsible service and are therefore consistent with the <b>safety</b> objective.
6. Liquor Guidelines	Yes	The Liquor Guidelines and related discretionary authority provides for the Board to consider issues of <b>safety, quality and diversity</b> when assessing applications.
7. Qualifications	Yes	The 'fit and proper person' requirement allows the Commissioner to assess the suitability of applicants in line with the safety objective of the Act. The proposed qualification requirements are designed to also improve <b>safety</b> and enhance <b>quality</b> .

<b>Restriction</b>	<b>Meets objective?</b>	<b>Issues</b>
8. Good Friday trading hours	No	The Good Friday trading restrictions applying to general licences are not designed to address any of the objectives of the Act and <b>the restriction should be removed.</b>
9. Amenity and condition of premises	Yes	The amenity and condition requirements provide the primary vehicle for the Commissioner to achieve <b>quality</b> standards in the liquor industry.
10. Accommodation licensing scheme	Yes	Accommodation licensing provides a means to control the industry and, as such, provides a mechanism to achieve <b>safety, quality and diversity.</b>
11. Strategic plan	Yes	The proposed strategic plan will enhance information and provide a framework for the future of the industry, and therefore provides a vehicle to improve <b>quality.</b>
12. Applications based on sound commercial principles	Yes	The requirement for a business plan is designed to reduce the incidence of start-up business failures and to prevent unsafe liquor sale practices and therefore seeks to improve the <b>quality</b> of the industry and <b>safety</b> for consumers.
13. Structure of the Board	Yes	Inclusion of AHA representatives will provide a <b>quality</b> focus for the Board, inclusion of a range of stakeholders will provide a <b>diversity</b> focus, while inclusion of health and union representatives will provide a <b>safety</b> focus for the Board.
14. Conditions applying to club licences	Yes	The restrictions provide for increased <b>diversity</b> in liquor outlets for club members and allow for the imposition of increased <b>quality</b> standards.

## **7 Evaluation of benefits and costs**

### **7.1 Introduction**

This section sets out, for each of those restrictions that have been assessed as meeting the objectives of the Act, the key issues identified by the Review Group. For each restriction, the section provides:

- a general discussion of the key issues raised by stakeholders;
- a summary of benefits and costs identified by stakeholders and the Review Group;
- an analysis of those benefits and costs;
- an assessment of less restrictive alternatives for those restrictions where the benefits outweigh the costs; and
- a summary of the Review Group's findings and draft recommendations.

### **7.2 Market Failure and Regulation**

As noted in Section 1.2, market failure occurs when the mechanism by which a competitive economy allocates resources operates inefficiently. In adjusting the market mechanism to allocate resources efficiently, it is assumed that net benefits will accrue to the economy as a whole, albeit generating both winners and losers. Economists generally accept market failure may be remedied through government intervention, usually through regulation.

The essence of regulation is the explicit replacement of competition with governmental orders as the principal institutional device for assuring efficient performance. Government, via the regulatory agency, determines through licensing who shall be permitted to operate within the market, and generally imposes limitations on their ability to compete. Through this action, the two prime requirements for competition - freedom of entry and independence - are deliberately removed.

In general, issues of market failure are linked to:

- *Externalities*: where an effect of one economic agent impacts on another that is not taken into account by normal market behaviour, and generally occurs when all costs associated with resources utilised in production are not accurately incorporated into the pricing of the product. These impacts may cause a misallocation of resources due to the divergence between private and social marginal cost.
- *Public goods*: where goods and services are provided by the Government for the benefit of all, or most, of the population. Unlike private goods, there is no direct link between

the consumption of a social product and payment for it, while consumption of a public good by an individual provides benefits on a non-exclusive basis. Social products are not paid for by an individual consumer buying it in the market place, but rather through general taxation receipts.

- *Asymmetry of information*: the basic market model assumes that information about the prices and quality of goods and services is easily accessible and available at little or no cost. In reality however, this is not the case, which can result in inefficient market outcomes.
- *Natural monopolies*: where economies of scale are so significant that costs are only minimised when the entire output of an industry is supplied to a single producer so that supply costs are lower than under conditions of perfect competition and oligopoly.

Of the market failure issues identified above, the one most clearly linked to the issue of regulation of alcohol is externalities.

Liquor and its sale play a unique and complex role in the economic and social life of Tasmania and Australia. Alcohol is a widely sold consumer item that is closely linked to leisure and tourist activities. In an economic sense, the production and sale of alcohol generates considerable amounts of private and public revenue, as well as positive externalities through the sponsorship of sporting events and charities.

However, there are also negative externalities associated with excessive use of alcohol such as road accidents, social dislocation and crime. Clearly alcohol is not a normal product, in the sense that its economic cost and benefit cannot be fully captured by its market price (supply price to the user).

As a result, the social and economic impacts resulting from changes to the market size and or distribution of liquor is not known with any precision, and is characterised by a high degree of externalities.

### **7.3 Criteria for assessing costs and benefits**

The Review Group has been required to ask, for each restriction:

Do the benefits of the restriction, to the community as a whole, outweigh the costs of the restriction?

In assessing the restrictions outlined below, the Review Group has, in the first instance, compared the current arrangements with the alternative of removing the competitive restriction. This approach is consistent with the analytical framework set out in section 1.4 and provides the opportunity to test the case for complete removal of the restrictions.



Unfortunately, ex-ante modelling (i.e. modelling undertaken prior to the event that seeks to predict economic change) is substantially more difficult and correspondingly less reliable than ex-post modelling. This is particularly true in the current exercise and has largely determined the assessment process the Review Group has adopted.

There are number of key players, significant variables and potential outcomes that require consideration in any full cost-benefit analysis of the proposed changes in selling arrangements. These include:

- the existing sellers, particularly hotels and clubs;
- potential sellers within existing retail outlets;
- existing and potential consumers (and the likely impacts on consumer demand of variations in price, quality, range and the number of outlets);
- total market demand and supply;
- new entrants to the market;
- potential for regional dislocation (both in a sectoral and region specific sense);
- government revenue; and
- social costs principally in regard to health and crime.

A collective index of these and other effects is known as the 'welfare effects'.

### **7.3.1 Short, medium and long term impact of change**

The interaction of the range of welfare effects will result in short, medium and long-term changes, which further adds to the complexity of assessing proposed changes.

In the medium to longer term, markets adjust, economic flows equilibrate and resources flow to their most efficient usage. In the short-term, however, this is not necessarily true.

A number of economic factors occur simultaneously when selling conditions in a market change. The first is structural. The selling distribution of the market changes. New sellers enter, and existing sellers either lose market, or attempt to boost or retain markets.

As the number of outlets expand, normally at a greater rate than the market, the retail price of the product tends to fall. This almost invariably results in an unambiguous gain in consumer surplus (welfare) as profit margins are squeezed, and producer surplus is transferred to consumers. Unfortunately, however, such a market state is one of disequilibrium and is unlikely to be sustained.

In the medium term, under the new cost/price margins, some firms will be driven from the market. Normally these exiting firms are a combination of recent entrants, who entered the market under-prepared, and existing suppliers who were unable to cope with the new levels of competition. The welfare impacts of the medium term implications are less clear-cut. This is because the surviving firms, if they are few in number, may attempt implicit or explicit cartelisation. Moreover, as firms leave the market, existing firms, especially where they enjoy regional advantages of distance, may attempt to regain some consumer surplus, and prices may rise.

Alternatively the forces of competition may force existing firms to raise profits by continued cost reduction either through technological change, or by achieving economies of scope and scale in term of production, distribution and staffing.

The longer-term impacts depend upon the level of competition maintained in the market. In the absence of strict competitive legislation, existing suppliers may cartelise to restrict price competition and raise prices. They may also successfully raise barriers-to-entry to prevent the re-occurrence of the structural changes that precipitated the initial changes.

The only real tests of the long-term impacts are empirical, and these are not well modelled by ex-ante tests. Unfortunately these aspects, because of the time periods involved, and because they result from a number of industry-specific and economy wide factors, are not able to be fully modelled, ex-ante. The best economic modellers can hope to do, with a reasonable degree of confidence, is to provide a reliable picture of short-term impacts. Even here, their ability to do this, and the accuracy obtained, depends upon the questions asked and the type of model(s) used.

In terms of empirical evidence, the Review Group has been keen to identify and examine the impacts of deregulation from other jurisdictions. Unfortunately, however, the nature of the States' liquor legislation is such that relevant data is not available. For example, the most recent State to deregulate its liquor market and allow the entry of supermarkets was NSW, which occurred in 1966. As a result, it is not feasible to measure the changes in price, economic activity, quality etc that may have occurred after the change.

In particular, consultations with a number of other State licensing authorities, including Victoria, NSW and Queensland, indicated that it is difficult, and could be misleading, to try to link interstate comparisons of liquor harm rates (however that is measured) with licensing laws, and they cautioned against such an approach.

In the absence of such empirical research from other jurisdictions, it has therefore been difficult to predict the likely impacts for Tasmania.

In summary, following any legislative change of the type being considered here, there will be short-term, medium term and longer term impacts. These impacts need not be in the same direction and will have differential impacts across various sectors. As a general rule of

thumb, however, the reliability of an economic model decreases the longer the time period to be modelled.

In addition, there is very limited relevant input data for Tasmania, which has restricted the Review Group's ability to undertake econometric modelling of the likely impacts of deregulation. The Review Group has therefore necessarily relied heavily upon qualitative indicators to measure costs and benefits of the restrictions discussed below.

## **7.4 Restriction 1: Requirement to possess a licence**

The Review Group has previously noted the special nature of liquor and the general community expectation that its sale and use should be regulated. The existence of a licensing system enables a coherent structure for regulation of the industry and provides a vehicle for enforcing that regulation.

### **7.4.1 Issues raised by stakeholders**

Support for the retention of a licensing system was universal amongst stakeholders. As stated by the AHA in its submission:

“The maintenance of a controlled licensing system is an integral component of controlling the consumption of alcohol and facilitates recognition that alcohol is a sensitive product that carries with it responsibilities and a need for effective controls”<sup>47</sup>.

O'Sullivan and Thomas also noted that the system of licences and permits provides the legal mechanism for the control of the sale and consumption of this sensitive product<sup>48</sup>.

Under the current licensing system, those with a proven record that indicates there may be danger in them having a licence should not be permitted to hold one<sup>49</sup>.

### **7.4.2 Benefits and costs of maintaining the restriction**

The following benefits and costs associated with maintaining the licensing system were identified by the Review Group:

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<sup>47</sup> AHA p17.

<sup>48</sup> O'Sullivan, P, and Thomas D. p2.

<sup>49</sup> Kimber refers to Board decision of 17th May 1995, which supports this position.

<b>Benefit</b>	<b>Who is affected</b>
Prevents 'unfit' persons from selling a potentially dangerous drug	<ul style="list-style-type: none"> <li>• The community</li> <li>• Existing licensees</li> </ul>
Minimum standards of service are maintained	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Maintains confidence in the liquor market	<ul style="list-style-type: none"> <li>• The community</li> </ul>
Licence and permit fee revenue	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Provides greater control over irresponsible liquor sales (eg to minors and intoxicated people)	<ul style="list-style-type: none"> <li>• The community</li> <li>• Consumers</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Application fees and licence fees	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Applicants</li> </ul>
Administration costs	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Applicants found not to be 'fit and proper' can be denied access to the liquor industry	<ul style="list-style-type: none"> <li>• Potential market entrants who are not found to be 'fit and proper'</li> </ul>
The process is subjective and may not be applied consistently	<ul style="list-style-type: none"> <li>• Potential market entrants who are not found to be 'fit and proper'</li> </ul>
Cost of training	<ul style="list-style-type: none"> <li>• Applicants</li> </ul>
Compliance costs passed on in higher liquor prices	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Limited choice in outlets	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>

### 7.4.3 Assessment of benefits and costs

The greatest costs of having a liquor licensing system relate to increased liquor prices and increased control over consumer practices. Other costs of maintaining a licensing system

primarily relate to the direct financial costs to the taxpayer of maintaining the system and to licensees and applicants of paying licence fees.

The key benefit flowing from the liquor system is the minimisation of negative social and health implications that would result from the uncontrolled consumption of a potentially dangerous drug. As noted in Section 3.3, the negative effects of alcohol consumption are estimated to cost Australians over \$6 billion per annum. In a totally unregulated environment, these costs, which would be felt by both consumers and the taxpayer, would no doubt increase dramatically.

Other costs of maintaining the licensing system, relating to the costs imposed on licence applicants and the potential costs to applicants who are deemed as unsuitable to hold a licence, are countered by the degree of certainty that the system provides for licensees.

In weighing up these costs and benefits, the Review Group was mindful of the negative implications that would be felt for the broader community in terms of increased health costs and negative social impacts, compared with the likely price and convenience benefits for consumers.

**The Review Group therefore concludes that the benefits of maintaining the licensing and permit system significantly outweigh the costs of the system.**

#### **7.4.4 Less restrictive alternatives**

In accordance with Step 5 of the RIS analytical process (Figure 1), the Review was also required to consider, for those restrictions where the benefits outweigh the costs, alternatives to the current approach that are less restrictive.

In terms of alternatives to the existing licensing and permit scheme, options the Review Group considered were:

- negative licensing; and
- self-regulation.

Under a negative licensing scheme, any establishment (or individual) could sell liquor unless it was deemed to be inappropriate. Under a system of self-regulation, the liquor industry would determine standards and the market would ensure that establishments compete to maintain such standards.

The Review Group was not convinced by the merits of either of these alternatives, and notes that all other States have drawn a similar conclusion. The nature of alcohol is such that irresponsible practices by some licensees could be potentially harmful to the community and self-regulation or negative licensing would not provide the controls expected by the community.

**The Review Group believes that a licensing system is essential to achieve adequate controls over the industry and there are no satisfactory alternatives to regulation.**

#### **7.4.5 Draft recommendation**

**The Review Group recommends retention of a liquor licence and permit system.**

### **7.5 Restriction 2: Number and types of licences and permits available**

Whilst the Review Group has concluded, on the basis of costs and benefits, that the licensing system should be maintained, it is still necessary to consider whether the current system is unnecessarily anti-competitive.

There are currently five types of licences and four types of permits available that relate to the sale of liquor.

The licences that are issued reflect the different circumstances surrounding the sale of liquor. The least restrictive of the licences is the general licence. Additional restrictions apply to each of the other licences for the specific conditions to which they relate.

The issuing of permits also provides for the consumption of alcohol in certain specific cases, either as an extension to existing licence conditions where appropriate, or where it is not the intention of the permit holder to undertake the sale of liquor in the manner allowed by the permit, on a more permanent basis.

#### **7.5.1 Issues raised by stakeholders**

All stakeholders who commented on this matter accepted the need to ensure that the licence system accommodates flexibility yet maintains certainty. Rae and Partners, for example, observe:

“...the maintenance of a wide range of licence types acknowledges that liquor is in wide and general demand throughout the community, but has special features which require the regulation in respect of its sale and distribution ... (it) acknowledges that the sale and distribution of liquor requires regulation, specialisation and expertise irrespective of the manner or purpose for which it is being distributed”<sup>50</sup>.

The key issue to emerge from stakeholder submissions, with regard to the number of licence categories, is the need to achieve a balance between certainty and flexibility.

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<sup>50</sup> Rae and Partners, p 5.

Kimber argues there has been a tendency for reviews of liquor legislation in the States and New Zealand to seek to limit the number of licence categories. However, in practice, it appears that "...as particular issues are targeted for review, it has been convenient to add a new category to separately define the conditions and limitations on the licence"<sup>51</sup>.

The creation of new licence categories imposes burdens on potential new entrants and on licence holders by having to fit within a specific category, which then restricts the ambit of their authority to sell liquor.

Clearly, the fewer the number of licence categories, the broader the ambit of each category, the broader the authority which each licence carries with it and the more flexibility the participants in the industry have.

With regard to the existing number and range of licence and permit types, O'Sullivan and Thomas note that, compared with other States, the number of licence types in Tasmania is limited. However, it still "... provides broad direction and flexibility for prospective entrants into the industry, (while) the Special Licence category, in particular, enables a diversity that may not be permitted in other licence types"<sup>52</sup>.

The AHA highlights the issue of transparency and the need to maintain community understanding of the licensing system. It notes "... it is appropriate that the community be informed of what type of business is anticipated at a licensed premises (and) that the licensees be restricted to operating within known and defined parameters. Any deviation from those parameters requires advertising and a new application"<sup>53</sup>.

A second issue of relevance, identified by Tourism Tasmania and supported by the Review Group, is the fact that "... it is the conditions applied to the licence type rather than the types of licences themselves that have greatest potential to hamper industry innovation"<sup>54</sup>.

## **7.5.2 Benefits and costs of maintaining the restriction**

The following benefits and costs of maintaining the existing system of licence and permit categories were identified by the Review Group:

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<sup>51</sup> Kimber, P. *Submission to Liquor and Accommodation Review*, p 7.

<sup>52</sup> O'Sullivan, P, and Thomas D. p 4.

<sup>53</sup> AHA, p 18.

<sup>54</sup> Tourism Tasmania, *Liquor and Accommodation Review Submission*, p 2.

<b>Benefit</b>	<b>Who is affected</b>
Licence types allow for flexibility and diversity of licence venue types	<ul style="list-style-type: none"> <li>• The community</li> <li>• Licensees</li> <li>• Consumers</li> </ul>
Greater control mechanisms over venue types	<ul style="list-style-type: none"> <li>• The community</li> <li>• The regulators (Police, Commissioner for Licensing)</li> <li>• Consumers</li> </ul>
System provides certainty and maintains confidence in the liquor market	<ul style="list-style-type: none"> <li>• Consumers</li> <li>• Licensees</li> <li>• Applicants</li> <li>• The regulators (Police, Commissioner for Licensing)</li> <li>• The community</li> </ul>
Special licence category allows for tailoring to specific and emerging needs	<ul style="list-style-type: none"> <li>• Consumers</li> <li>• Licensees</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Requires licensees to re-apply for a licence in order to adjust services to meet emerging need	<ul style="list-style-type: none"> <li>• Licensees</li> </ul>
Potential to create confusion	<ul style="list-style-type: none"> <li>• Consumers (especially tourists)</li> <li>• Applicants</li> </ul>

### 7.5.3 **Assessment of benefits and costs**

It is important that the licence granted to any business is sufficient to achieve adequate controls without restricting competition unnecessarily. There is also some advantage in differentiating the type of licence for planning and other purposes.

Whilst the option of a single licence type, tailored to specific need, has some superficial appeal in terms of administrative simplicity and ‘treating all applicants equally’, in reality, such a system would lead to a plethora of licences with varying requirements. Over time, based on experience elsewhere, consistent requirements will be applied to certain application types, thus leading to a ‘defacto’ multiple licence category system.



Conversely, a system with numerous prescriptive licences creates its own problems. As noted in 1973, in the Savas Report (which, incidentally, resulted in the reduction in Tasmania's licence numbers from nine to five):

“The Tasmanian history of categories of licenses is full of licences which have waxed and waned or fallen into desuetude. Who today has heard of the following categories of licences which existed at various times in Tasmania –

Canteen, Manufacturer's, Brewer's, Ginger Beer and Theatre licences.

No doubt in the future new forms of enterprise not mentioned to the Committee will arise and, if licensed to sell or serve liquor, be of value to the community. Rather than suggest the creation of new categories of licences for specific types of enterprise, we recommend that broad categories be established to encompass any enterprise”<sup>55</sup>.

The establishment of the special licence category has served to significantly reduce the need to regularly revisit the licence categories and is a sensible arrangement for dealing with a wide range of different licence application types.

When compared with other States, the number of licence types in Tasmania appears to be in step with other jurisdictions. Western Australia has the greatest number of licence types, with nine different licences available. The Northern Territory has only one licence type, but the terms and conditions are designed around the individual application's requirements. Queensland, Victoria and South Australia each have eight licence types, while New South Wales has five and the Australian Capital Territory has four licence types.

**In summary, the Review Group therefore concludes that the benefits of maintaining a system of licence and permit categories outweigh the costs associated with the system.**

#### **7.5.4 Less restrictive alternatives**

Having recognised, in Section 7.4, that a system licences and permits should be maintained, the Review Group considers the only potentially less restrictive alternative to having a range of licence and permit types for specific service types is to have a single licence category that encompasses all applications. This would be similar to the arrangements in the Northern Territory, whereby a single licence type is available, with the licence being tailored to suit specific needs.

The Review Group notes, based on the experience of the Northern Territory, there would be very little practical difference between the existing system and a single licence alternative. In fact, the current system provides a range of benefits, including certainty and flexibility, which would be lost under a single licence system. A review of the Northern Territory legislation indicates that the need to specify requirements in individual licences can create an

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<sup>55</sup> The Savas Report, p16.

increased administrative burden and complexity for the Commissioner for Licensing, his/her officers, the Licensing Board and licence applicants and can, depending on the requirements imposed, serve to limit competition.

**The Review Group believes that a system of licence and permit categories is essential to achieve diversity, quality and safety in the liquor industry and there are no satisfactory alternatives to the regulation.**

#### **7.5.5 Draft recommendation**

**The Review Group recommends that a range of licence and permit categories, based on service types, be retained.**

### **7.6 Restriction 3: Supermarkets prohibited from selling alcohol**

The restrictions prohibiting supermarkets from selling alcohol represent the most contentious issue in terms of the potential impact of its removal and responses from stakeholders.

As discussed in Section 6.4, the Act serves to prevent the sale of liquor from supermarkets in two ways:

- the Board's Guidelines specify that off-licences will only be issued for the sole purpose of liquor retailing, effectively preventing supermarkets and all other retail outlets from selling packaged liquor; and
- Section 25A of the Act specifies that the Board must not direct the granting of a liquor licence in connection with the activities of a supermarket.

Whilst the Board's Guidelines have served as an effective means for preventing non-liquor retailers from obtaining an off-licence, some 'specialist' retailers have been successful in obtaining a special licence for limited alcohol sales. In addition, the Board is not compelled to apply the Guidelines if it believes the overall interests of the community will not be served by their application. Section 25(A) was therefore specifically included in the Act to prevent the Board from granting either an off-licence or a special licence to the major supermarket chains<sup>56</sup>.

The Review Group has recommended, in Section 6.5.3.4, that the 'principal activity' restriction contained in the Board's Guidelines be removed. Adoption of this recommendation will mean that all retail outlets will be eligible to apply for an off-licence (unless specifically precluded by other Sections of the Act), and the merits of their application will be assessed against the relevant requirements of the Act.

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<sup>56</sup> It is interesting to note that both Houses of Parliament passed the amendment unanimously.

Section 25A, however, ensures that, even if the ‘principal activity’ requirement is removed from the Guidelines, supermarkets will continue to be precluded from selling liquor.

The following analysis assumes that the ‘principal activity’ requirement has already been removed from the Act, in accordance with Recommendation 2. As a result, the removal of Section 25(A) would free supermarkets to apply for any type of licence it considers best meets its needs (ie an off-licence or a special (Tasmanian wines) licence).

### **7.6.1 Definition of supermarkets**

In the first instance, the Review Group found it necessary to determine the current definition of ‘supermarket’, as applied to the Act, in order to assess the potential costs and benefits, and the resulting impact on the State, of removing Section 25(A).

If, for example, “supermarket” is narrowly defined to include only the major supermarket chains (ie Woolworths and Coles-Myer), removal of the restriction will, by definition, only result in a shift in activity from the traditional hotel and off-licence market to the major supermarket chains. As these chains are national, publicly listed companies, it can be safely assumed that most of the additional profits generated by this shift will leak out of the State.

Conversely, if a broad definition of “supermarket” applies, which captures the smaller independent grocery stores, the potential impact of removing the restriction would be more widely felt. However, as most of these independents are locally owned, the overall impact to the State of a shift in activity to these businesses would be reduced. This reflects the fact that, in general, every dollar of profit generated by a locally owned business circulates in that economy up to three times before leaving the local economy. However, profits generated by national or multinational firms generally leave the local economy immediately.

As the Act does not contain a definition of supermarkets, the Review Group sought advice from the Board as to how it has interpreted the term. The Board first addressed this matter in December 2000, in the context of the licence application by Lipscombe Larder (LL). In agreeing to grant that licence, the Board drew on the definition contained in the Macquarie Dictionary 3<sup>rd</sup> Edition 1997, which “...says that a supermarket is *a large, usually self service retail store or market selling food and other domestic goods*”<sup>57</sup>.

In addition, the Board considered the issues raised during the Second Reading Speech for the Section 25A amendment, in response to arguments advanced by objectors, and determined that “...the Board disagrees with any indication to be obtained from Hansard discussions that LL is a supermarket”<sup>58</sup>. The Board concluded that:

“Ultimately, consideration of what is a supermarket is a matter of fact, based on a word of either precise meaning (in which case LL is not a supermarket) or imprecise meaning

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<sup>57</sup> Lipscombe Larder, Decision of the Licensing Board of Tasmania, 15 December 2000, p1.

<sup>58</sup> *ibid.*

(in which case LL deserves the benefit of the doubt – employing s216 and the positive obligation on the board to make a decision which best promotes social and economic growth: that is, let the business open up)<sup>59</sup>.

The Board, in its decision relating to Davies Grand Central Station, has subsequently reinforced this approach<sup>60</sup>.

Unfortunately, the question of whether the independent grocery operators would fall within the Board's definition of "supermarket" has not been tested.

During debate on the Second Reading Speech for the Section 25(A) amendment, the issue of a definition for supermarkets was raised, specifically in the context of whether it should be limited to "large interstate companies", and exclude "...our small, particularly rural, grocery and general service stores"<sup>61</sup>. In response, the then Minister tabled the following advice from Parliamentary Counsel:

"Parliamentary Counsel advise in the strongest possible terms against attempting to define the term 'supermarket'. Supermarket is a word in common usage and is defined in English dictionaries. As far as Parliamentary Counsel is able to ascertain, there is no legal or judicial definition of the word 'supermarket', but as a proper noun, judges take judicial notice. Any attempt to define the term would open up a Pandora's Box of attempts to get around the definition"<sup>62</sup>.

Whilst it is clear from the debate that Section 25(A) was not designed to exclude 'delicatessens', such as LL, from obtaining a licence (to sell Tasmanian wines), the boundary between the national supermarket chains and independent market-type stores remains unclear.

The Review Group then examined the *Shop Trading Hours Act 1984* for guidance. Again, that Act does not define "supermarket", but rather focuses on 'major retailers'. 'Major retailers' are defined as "...a person, or a group of persons, (who) carries on a business or businesses of selling goods by retail at a shop or shops located in Tasmania and the number of persons employed, whether in a full-time capacity or a non-full-time capacity, in that business or those businesses exceeds 250 at any time"<sup>63</sup>. Application of this definition to food and grocery retailers would restrict its application to the major supermarket chains.

**In the absence of a legislative definition of "supermarket", the Review Group has relied on its interpretation of the Second Reading debate for the Section 25(A) amendment and has sought consistency with the treatment of 'major retailers' under the Shop**

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<sup>59</sup> *ibid.*

<sup>60</sup> Davies Grand Central Station, *Decision of the Licensing Board of Tasmania*, 5 January 2001.

<sup>61</sup> Hon Foley (Franklin), in *Liquor and Accommodation Amendment Bill 1995*, Second Reading, p6

<sup>62</sup> *ibid.*, p13.

<sup>63</sup> Section 4(1), *Shop Trading Hours Act 1984*.

**Trading Hours Act. It has therefore adopted a narrow definition of “supermarket” for the purpose of its analysis, to include only the national supermarket chains.**

## **7.6.2 Issues raised by stakeholders**

A very significant amount of liquor trade is conducted from supermarkets in those areas of Australia where it is permitted (for example, WA, ACT, NSW and Victoria). Government policy in Tasmania (and Queensland) has prevented extension of the authority for supermarkets to sell alcohol.

Given the contentious nature of this issue, stakeholders had a broad range of comments on the matter.

Submissions from both Kimber and O’Sullivan and Thomas note at the outset that the prevention of sale of alcohol by supermarkets is anti-competitive. Kimber believes there is no apparent benefit in the public interest in regard to the fundamental aspects of the regulation (ie encouraging safety, quality and diversity)<sup>64</sup>. O’Sullivan and Thomas note that it is in the consumer’s interest to permit the sale of liquor in supermarkets and provide the convenience of purchasing liquor together with other supermarket items<sup>65</sup>.

Both are quick to recognise, however, that “... other public policy and political and social reasons seem to prevent this being an issue strongly advocated for by anyone apart from supermarket owners”<sup>66</sup>. They also note that such a change could have a detrimental effect on the retailing of liquor through traditional outlets such as hotels<sup>67</sup>.

Woolworths argues that the prohibition creates an anti-competitive market that results, ultimately, in higher prices to consumers<sup>68</sup>. It provides data to support its argument that prices in Tasmania are between 12-15% higher than that in Victoria.

Others, for example Burgess<sup>69</sup> and Bleasel<sup>70</sup>, argue that opening the market to supermarkets will lead to reduced competition, with independent operators being forced out through short term aggressive pricing. This would then lead to a reduction in diversity for consumers and, ultimately, increased prices.

Rae and Partners reject the assertion that the restriction is anti-competitive, arguing instead that “...the restriction is entirely consistent with the system of licensing generally and has no

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<sup>64</sup> Kimber, p10.

<sup>65</sup> O’Sullivan, P, and Thomas D, p3.

<sup>66</sup> Kimber p10.

<sup>67</sup> O’Sullivan, P, and Thomas D, p3.

<sup>68</sup> Woolworths, p4.

<sup>69</sup> Brent Burgess, *Liquor and Accommodation Review Submission*, p2.

<sup>70</sup> Bleasel, J. p4.

greater capacity to be anti-competitive than the anti-competitiveness inherent in the adoption of such a system<sup>71</sup>.

Rae and Partners argue that, to include supermarkets within the liquor distribution system would, in fact, undermine the rationale for the system – that is, to ensure that this special product is distributed in a manner through outlets which have appropriate specialisation and expertise<sup>72</sup>. In particular, they assert that:

- selling of alcohol in supermarkets conflicts with the RSA guidelines in terms of
  - it is impossible to exclude persons under 18 years from access to the premises;
  - reduced capacity to provide appropriately trained and specialised staff; and
  - potential for greater pilfering and theft than would occur in a specialised liquor outlet; and
- the sale of liquor is not the primary purpose of supermarkets and therefore the capacity for control by management over staff conducting the distribution of liquor is reduced.

Corney suggests that the possibility of purchasing liquor from supermarkets provided a great benefit primarily to female consumers. He highlighted statistics from the Australian Wine and Brandy Corporation that indicate "...women purchase almost 40% of bottled wine and most women are uncomfortable in hotels"<sup>73</sup>. He goes on to suggest that wine is a natural accompaniment to food and therefore food outlets should be permitted to sell wine and beer, but not spirits.

A number of stakeholders noted that Tasmania's restrictions were inconsistent with other States and, as noted by Tourism Tasmania, "...it could be reasonably postulated that it would be the expectation of visitors that Tasmania's licensing system would be similar to that in their home State"<sup>74</sup>. Tourism Tasmania goes on to note that 64.2% of Tasmania's visitors come from States that allow the sale of liquor in supermarkets.

Tourism Council Tasmania expressed concern at the ability of supermarkets to adequately emphasise safety and security. It also raised the issue of the linkage between availability and supply and the need to consider more recent consumption trend data<sup>75</sup>.

The AHA has placed significant focus on this issue, arguing there are numerous valid reasons why supermarkets are specifically excluded from the sale of alcohol by the Act. It

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<sup>71</sup> Rae and Partners, p6.

<sup>72</sup> Rae and Partners, p5.

<sup>73</sup> Corney, C. Tasmanian Wine Education, *Liquor and Accommodation Act Review Submission*, p2.

<sup>74</sup> Tourism Tasmania, *Liquor and Accommodation Review Submission*, p2.

<sup>75</sup> Tourism Council Tasmania, *Liquor and Accommodation Review Submission*, p2.

argues that the restriction serves to meet the objectives of promoting safety and quality, while addressing harm minimisation.

In terms of safety, the AHA suggests that liberalising the licensing laws will result in increased availability and short term pricing wars, both of which will result in increased consumption<sup>76</sup>. It suggests that Tasmania is already well served by existing operators and the Tasmanian community does not support any further extension of liquor outlets.

In terms of quality, the AHA asserts that quality of liquor outlets can only be assured when the main focus of a business is the provision of that service and, if alcohol were to become 'just another line item' the quality of service, product knowledge and brand value will diminish<sup>77</sup>.

The AHA commissioned research in the form of:

- a survey to gauge community attitudes to extending liquor sales beyond traditional outlets; and
- economic analysis to measure the potential impact on employment and turnover for existing outlets.

The Review Group has subsequently commissioned a survey and related research to, among other things, test the results of the AHA's findings, the results of which are included in Appendix 7 and discussed in Section 7.6.4.

### **7.6.3 Benefits and costs of maintaining the restriction**

The Review Group has identified the following benefits and costs associated with preventing supermarkets from applying for any type of liquor licence:

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<sup>76</sup> AHA, p22.

<sup>77</sup> *ibid.*

<b>Benefit</b>	<b>Who is affected</b>
Maintains turnover and profitability of existing outlets	<ul style="list-style-type: none"> <li>• Existing licensees</li> <li>• The community (especially regional/rural communities)</li> <li>• Consumers</li> </ul>
Acknowledges alcohol's status as a potentially dangerous drug that is different from other food stuffs	<ul style="list-style-type: none"> <li>• The community</li> <li>• The regulators (Police, Commissioner for Licensing)</li> </ul>
Reduced potential for under-age access	<ul style="list-style-type: none"> <li>• The community</li> <li>• The regulators (Police, Commissioner for Licensing)</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Options for purchasing takeaway alcohol are limited	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Supermarket growth (turnover and profitability) is restricted	<ul style="list-style-type: none"> <li>• Supermarkets</li> <li>• The community</li> </ul>
Potential inflated prices	<ul style="list-style-type: none"> <li>• Consumers</li> </ul>
Reduced allocative efficiencies (supermarkets can apply scope and scale economies)	<ul style="list-style-type: none"> <li>• Supermarkets</li> <li>• The taxpayer</li> </ul>

#### **7.6.4 Assessment of benefits and costs**

The Review Group has undertaken an extensive analysis of the potential benefits and costs of removing the restriction that prevents supermarkets from selling alcohol. In light of arguments advanced by stakeholders, the Review Group has separated its analysis into the following elements:

- price;
- quality;
- safety;
- consumer convenience; and



- economic impact.

#### **7.6.4.1 Price**

In theory, prices should fall in the short term, with a greater number of market participants seeking to obtain/maintain market share. If there is a reduction in the retail price of liquor, this will translate into increased disposable income for consumers and will therefore represent a tangible public benefit. For example, if there was an overall reduction in liquor prices of 1%, based on a total annual turnover of \$175m<sup>78</sup>, this benefit would equate to approximately \$1.75m per annum increase in disposable income.

However, the Review Group has considered conflicting evidence that indicates the short to medium-term impact on prices would be negligible.

On one hand, Woolworths provided examples of differences in its retail pricing (for a limited number of liquor items) between Tasmania's Cheaper Liquor outlets and its Victorian supermarkets. This data indicated that prices at its Tasmanian outlets are between 12 – 15% higher than in its Victorian supermarkets<sup>79</sup>. It suggested that freeing up the market would result in savings to the Tasmanian consumer in the order of 12 – 15%.

The AHA, however, provided more detailed comparative pricing data for all States, for 29 different line items, that indicated prices in Tasmania are, on average, 4% higher than Victoria, which had the lowest prices, and only 1% higher than the Australian average<sup>80</sup>. Based on the information provided, South Australia, which also restricts sales from supermarkets, had the second lowest prices for the 29 line items behind Victoria, while Western Australia, which does permit sales from supermarkets, recorded the highest average prices<sup>81</sup>.

Other evidence provided to the Review Group indicated that the current differential in liquor pricing between Tasmania and Victoria is less than the differential between general supermarket prices. The Australian Consumers' Association supermarket price survey indicates, for example, that the average cost of a basket of groceries in Hobart is 13% greater than the average price in Melbourne<sup>82</sup>.

These indicators illustrate there are other variables, besides the participation of supermarkets in the market, which are impacting on the States' liquor prices.

As previously indicated, it is important to note that Section 25(A) only prevents liquor from being sold in supermarkets. Woolworths, for example, is currently the licensee for a number

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<sup>78</sup> See Table 7.6 for details on the estimate of annual turnover.

<sup>79</sup> Woolworths, p4.

<sup>80</sup> AHA, p25.

<sup>81</sup> *ibid*, p69.

<sup>82</sup> Australian Consumers' Association, *Choice Supermarket Survey 2000*, [www.choice.com.au/articles](http://www.choice.com.au/articles).

of general and off-licence establishments (ie Cheaper Liquor). A number of stakeholders suggested to the Review Group that Woolworths is already a significant participant in the Tasmanian liquor market and, as such, is already in a position to pass on to consumers any price advantage it has over traditional operators.

The Review Group was also provided with a range of data from industry participants to suggest that liquor prices in Tasmania are already very competitive, and the freeing up of the market would not impact on price to any significant degree.

Nine-Eleven, for example, undertook a comparison of specials pricing for the period March – April 2001 between its prices and Sydney operators. Its analysis indicated that, in over 80% of cases, prices at Nine-Eleven were more competitive on the same advertised products<sup>83</sup>.

They also analysed the difference in specials pricing for March – April 2001 between its prices and Cheaper Liquor's advertised prices<sup>84</sup>. The results indicate that, for the same items, prices at Nine-Eleven were equal to or lower than Cheaper Liquor prices.

During the Review Group's meeting with Woolworths, it was suggested to the Group that the supermarket chains would only reduce their margins (ie prices) to the level required in order to remain competitive. This strategic approach appears to be reinforced by the pricing policies adopted by Cheaper Liquor, as indicated above, and seems to contradict Woolworths' assertion that removal of the restriction would result in an average price reduction of 12-15%.

Whilst the Review Group considers that the medium-term impact on price is likely to be negligible, this conclusion is predicated on the assumption that supermarkets would adopt a 'passive' approach to entering the market. It has been argued by a number of stakeholders that a more aggressive approach would see the supermarkets adopting 'loss leader' pricing. That is, significant discounts (below cost) would apply to 'big ticket' items (eg beer) in order to establish initial market share. This discounting could be sustained for such a period as to ensure a reduction in the number of competitors. It is argued that, in the medium to long term, prices will rise as supermarkets seek to 'cartelise' their market dominance. The Review Group notes, however, that the use of such predatory pricing would contravene Section 46 of the *Trade Practices Act 1974*.

The longer-term impacts depend upon the level of competition maintained in the market. The concern expressed at the potential for the industry to become dominated by the supermarket sector was significant, particularly given the current duopoly in the Tasmanian supermarket industry. Critics were quick to point to the grocery price differential between Tasmania and other States, particularly Victoria, which they suggest is largely due to the lack of competition in Tasmania.

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<sup>83</sup> Bleasel, J. Nine-Eleven Tasmania, Supplementary data.

<sup>84</sup> *ibid.*

The Review Group is mindful of the apparent lack of competition in the supermarket sector and the previously stated views of Woolworths regarding competitive pricing. Whilst competitive pricing at the supermarket level may be achieved through competition between the duopoly businesses of Woolworths and Coles-Myer, the Review Group notes the market dominance of Woolworths in the State. There are currently 29 Woolworths stores in Tasmania, compared with 14 Coles-Myer stores. The Coles-Myer stores are located in Hobart, Launceston, Burnie, Devonport and Ulverstone, whereas Woolworths has a far greater regional presence, including, for example, Deloraine, Smithton, Scottsdale and Huonville. In this context, the Review Group is concerned that Woolworths' market dominance in the supermarket sector will be translated to the liquor sector. Woolworths' competitive edge over Coles is even greater when one considers that Woolworths is already an active player in the takeaway liquor market.

The Review Group also recognises there are a number of other factors besides competition, eg freight costs for non-locally produced lines, that contribute to the current supermarket price differential between Tasmania and, in particular, Victoria. These factors will continue to apply to the liquor market whether supermarkets are allowed to sell alcohol or not, thereby limiting scope for reductions in price.

In terms of community perception, the Review Group believes, firstly, there is a general view that prices will not change and, secondly, if they did fall, only a limited proportion of the community would value highly such a reduction. This conclusion is based primarily on the results of the survey conducted on behalf of the Review Group, which found that:

- only 25% of respondents purchase from their chosen source mainly on the basis of price (convenience being the main reason); and
- only 7.5% of those supporting removal of the restriction identified reduced price as a reason for doing so.

A number of respondents who opposed removal of the restriction argued, in fact, that prices would rise.

**In summary, the Review Group concludes that the likely impact on price, in the short term, would be negligible, with the possibility of some discounting of main line items. The medium to longer-term implications of permitting supermarkets to sell liquor for off-premise consumption are difficult to predict and impossible to measure and the Review Group believes it would not be appropriate to draw any conclusions on this issue.**

#### **7.6.4.2 Quality**

Opponents of deregulation have argued that only specialised liquor outlets can guarantee quality standards, in terms of product line choice, staff expertise and the amenity of premises.

Those supporting the extension of licensing to include supermarkets argue that they would employ specialised staff and would, in fact, increase the amenity of premises by providing new outlets, plus competitive pressure on existing operators to improve the amenity of their premises.

The arguments advanced, however, have not been substantiated in any way and the Review Group is not convinced of a relationship between the restriction and quality standards.

**The Review Group concludes that the impact on quality of allowing supermarkets to sell liquor for off-premise consumption would be negligible.**

#### **7.6.4.3 Convenience**

Clearly, the greatest public benefit of removing the restriction is the increase in convenience for consumers. Consumers would be able to purchase alcohol as part of their general grocery shopping rather than having to make a specific trip to a liquor store.

All of those stakeholders who commented on the benefits of removing the restriction cited the resulting increase in convenience for consumers.

The issue of convenience featured prominently in the Review Group's survey results. For example:

- the most common reason identified by respondents for buying from their preferred outlet is 'convenience', (59% of all respondents);
- of those supporting removal of the restriction, 47% identified convenience as their main reason, while the next most common reason was "because they sell it in other States" (29% of supporters); and
- translated to purchasing intention, 48% of respondents believe they are likely to purchase at least some of their alcohol from supermarkets.

While it is clear that convenience is the greatest benefit of removing the restrictions applying to supermarkets, the Review Group believes that the relative 'weighting' applied to this benefit, by the community, is low. This is particularly so, given the existing level of alcohol availability in Tasmania. Some indicators of the existing adequacy of supply include:

- liquor outlets per head of population are consistent with the national average<sup>85</sup>;

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<sup>85</sup> Information contained in the Review Group's Discussion Paper indicated that, compared with other States, Tasmania has the second largest number of outlets per head of population. This is misleading, however, in that it includes all special licences, such as restaurants, in which alcohol sales represent only 2% of turnover. These licence types have therefore been removed from the above comparison.

- the extent of competitive pricing already present in the market, as discussed above;
- the AHA survey indicated that 87% of respondents agreed that there are sufficient liquor outlets in their local area at the present time; and
- the Review Group's survey indicated that, of those respondents opposed to supermarkets selling liquor, over 20% did so on the basis of the adequacy of the existing number of outlets.

The extent to which consumers 'value' convenience can also be gleaned from the survey. For example, whilst support for and against the proposal was reasonably evenly split (47% in favour versus 44% opposed), only 8% strongly supported the proposal. This compares markedly with the 15.6% who strongly opposed the proposal. Furthermore, those opposed to the proposal did so overwhelmingly on the basis of the potential negative social and economic impacts of the proposal.

**The Review Group therefore concludes that increased convenience would be a key benefit to consumers of allowing supermarkets to sell liquor for off-premise consumption.**

#### **7.6.4.4 Safety**

With increased access comes increased availability and, whilst providing the benefit of convenience, it comes at the risk of increased consumption and increased harm. This potential cost to the community represents the 'flip-side' of the benefit of increased convenience.

The issue of safety is, without doubt, a major concern to the community. This is borne out by the extensive research on alcohol and related harm and, in the case of Tasmania, is supported by the results of the Review Group's survey and other evidence presented by stakeholders.

From a broader perspective, the public health implications from alcohol abuse are significant<sup>86</sup>, and there is a causal relationship between availability and consumption, and related health problems. However, the *direct* causal link between availability and alcohol related harm is difficult to measure.

As noted by Dr Alex Wodak, "...alcohol behaves like most other commodities ... and the correlation between consumption and harm is crystal clear to anyone with open eyes and minds"<sup>87</sup>. However, he goes on to observe that there is a range of factors that work together to influence consumption:

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<sup>86</sup> See Section 3.3 for details.

<sup>87</sup> Dr Alex Wodak, Correspondence to the Liquor and Accommodation Review Group.

“Alcohol demand increases and decreases over time. Permissive and intolerant attitudes to alcohol related problems become more permissive, availability will increase and prices will tend to be forced down. Then the community will experience an increase in problems and the cycle will be reversed”<sup>88</sup>.

For example, if the Government deregulated the industry and freed-up availability, whilst concurrently increasing prices, the net impact may in fact be a reduction in consumption.

In the case at hand, a number of stakeholders and general research argue that the issue is not simply one of availability, but rather how the alcohol is made available. It was argued that the sale of alcohol in supermarkets, if accompanied by stringent conditions, such as having separate check-outs and specially trained staff, can prevent the safety concerns raised by some.

It was also argued that the current restriction reflects a historical/cultural objection to the policy, and a lack of understanding how such a policy would operate. Stakeholders noted the number of other States who allow liquor sales from supermarkets, with no discernible difference in alcohol related harms. Woolworths provided a list of some 24 countries where alcohol sales from supermarkets are permitted<sup>89</sup>. These countries ranged in diversity from China, France, Hong Kong, Singapore, Hungary, the United Kingdom and the USA (some States only).

The issue of underage drinking and access to alcohol was presented by a number of stakeholders, as a key safety concern that they believe would be exacerbated if supermarkets became licensed.

Whilst the Review Group acknowledges this is a real concern to some in the community, available evidence suggests that supermarkets are not a primary source of liquor for underage drinkers. The most common source of access is family or friends. However, in terms of underage purchases, surveys cited by the Review Group indicate that bottleshops are the most popular source<sup>90</sup> or, where available, convenience stores<sup>91</sup>.

Community attitudes toward alcohol availability and safety are an essential factor in determining alcohol policy and the Review Group notes the level of concern expressed at the potential safety implications of allowing supermarkets to sell liquor.

The level of community concern is indicated from the surveys undertaken by the AHA and the Review Group. The following survey questions and responses were obtained:

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<sup>88</sup> *ibid.*

<sup>89</sup> Woolworths, p6.

<sup>90</sup> Western Australian Government, *National Competition Policy Legislation Review - Liquor Licensing Act 1988*, March 2001, p35.

<sup>91</sup> See further details at: Institute of Alcohol Studies, *Alcohol and the Young*, at [www.IAS.org.uk](http://www.IAS.org.uk)

- AHA survey: *Do you agree or disagree with supermarkets being allowed to sell alcohol?* – 69% disagree
- Review Group survey: *If the law was changed, it is likely that the supermarkets would be allowed to sell alcohol on a restricted basis – in a separate area with a separate checkout and with staff supervision. Only people aged 18 and over would be allowed to make purchases. Do you agree or disagree with this idea?* – 50.6% disagree.

The Review Group specifically included a qualification in the question in order to try to remove any negative responses based on a perception of ‘open slather’ access. Based on the results of our survey, it would appear that approximately 20% of those who disagreed with the proposal in the AHA survey did so on the basis of concern over open access.

The Review Group’s survey results indicated, however, that even when such a qualification is made, the bulk of those opposed to the proposal did so on the basis of the social implications, which includes safety issues.

In summary, there is no debate that alcohol is a potentially dangerous drug and, as such, its sale and distribution carries certain risks. However, the Review Group believes that many of the ‘social’ concerns of the community and the issues of safety can be dealt with through the method by which the system is implemented (eg separate check-outs, staff training etc), and through accompanying liquor consumption laws.

**Therefore, the Review Group concludes that, while there are safety implications associated with extending availability of alcohol, the bulk of these concerns can be addressed through the implementation details and should not preclude a supermarket from being able to apply for a licence for off-premise sales on the basis of its merits.**

#### **7.6.4.5 *Economic impact***

The Review Group has considered the potential economic effects of freeing up the liquor market in a number of ways.

In the first instance, the Review Group sought to gauge the likely impact on existing liquor retailers and the potential differential impact on Tasmania’s regions. It also considered the potential effects at the ‘whole of State’ level in terms of net employment, investment and income effects.

Any liberalisation of the existing licensing regime will have a significant impact on existing licensees, particularly general licensees. The Tasmanian liquor industry is dominated by the traditional hotel sector, which reflects the historical development pattern of the industry and traditional licensing arrangements.

Table 7.1 lists Liquor Franchise Fee data<sup>92</sup> for all States for 1993-94 (the most recent year of available data). The results show that, for Tasmania, the hotel sector contributed 77% of total licence fee revenue<sup>93</sup>, the highest percentage of all jurisdictions excluding Queensland, at 83%. This compares with the national average of 49%.

**Table 7.1 Percentage of Liquor Franchise Fees assessed, by State - 1993-94\***

<b>Premises</b>	<b>ACT (%)</b>	<b>NSW (%)</b>	<b>WA (%)</b>	<b>VIC (%)</b>	<b>NT (%)</b>	<b>SA (%)</b>	<b>TAS (%)</b>	<b>QLD (%)</b>	<b>AUST (%)</b>
Hotels/taverns	2	34	41	43	47	65	<b>77</b>	83	49
Restaurants	5	5	3	5	4	4	<b>3</b>	6	4
Retail Off	81	41	44	46	30	25	<b>4</b>	-	34
Wholesale Off	-	2	1	1	4	2	<b>4</b>	2	2
Club	9	18	5	4	12	4	<b>10</b>	9	9
Other	3	6	1	3	-	2	-	-	2

Note: \* 1993-94 is the last year in which Liquor Franchise Fee data is available for all the States.

Liquor Franchise Fees were abolished in 1997-98.

Source: Commissioner for Licensing

Takeaway retail outlets dominate the liquor market in the ACT, with hotels contributing only 2%. This reflects a range of factors, including the relatively recent development of the Territory, demographic variables and the licensing structure initially introduced in the jurisdiction. In NSW, Western Australia and Victoria, market share is split reasonably equally between hotels and retail outlets, reflecting their relatively mature retail markets combined with a traditional hotel industry. Hotels dominate the liquor market in those States where supermarkets are prohibited from selling liquor (Queensland, South Australia and Tasmania).

It could be expected that, based on the experience of those jurisdictions where outlets other than hotels can access the general off-licence market, the removal of Section 25(A) would result in a market profile similar to the Australian average, with an income shift from hotels to supermarkets in the order of 25% – 30% of turnover in the short to medium term.

The results of such a shift would not be evenly spread throughout the industry or throughout the State. For example, many smaller regions are not currently serviced by a supermarket, so the shift from existing outlets in those areas would be negligible. In addition, the impact of such a shift will be felt in a number of areas, not simply the existing liquor outlets.

As noted in Section 7.3, the absence of satisfactory data for Tasmania has limited the Review Group's ability to undertake econometric modelling of market deregulation. We have

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<sup>92</sup> Revenue from Liquor Franchise Fees serves as a proxy for turnover.

<sup>93</sup> The Licensing Branch has advised that the percentages for Tasmania are unlikely to have altered significantly since 1993-94.



therefore considered relevant modelling that was undertaken by KPMG (Queensland), as part of the Queensland Government's Liquor Act review, into the short-term reallocation impacts of deregulating the packaged liquor market.

The General Equilibrium (Input/Output) modelling of the Queensland liquor market showed that there would be a considerable short-term dislocation in the Queensland economy, particularly in regional areas<sup>94</sup>. The modelling indicated that in almost every region there was negative short-term regional dislocation. Dislocations were identified primarily in the employment area, with additional major losses across the board in value added.

The Queensland Review Panel observed that these findings contradicted the argument advanced in support of deregulation of the liquor market that it would create investment and jobs. The analysis found that, even in the short-term, surplus capacity and existing resources might well be able to accommodate the sale of packaged liquor and the negative regional dislocation would outweigh any economic gain. Other issues not captured in this economic analysis were the losses to community funds, which could occur if major dislocation took place. It also noted that its analysis was based on a conservative estimate of the likely shift from existing outlets to supermarkets and that the negative short term impact could, in fact, be more pronounced than estimated.

In the longer term, the Queensland Review Panel noted that, *all things being equal*, markets would adjust, economic flows would equilibrate resource flows to their most efficient usage and economic aggregates at the national and regional levels would converge. Ultimately, therefore, the short term economic dislocation will adjust such that the net impact on the economy will be either positive or zero. However, a key assumption of this relocation is that no economic agents would be forced from the marketplace and that they would continue to trade at the margin, albeit with reduced turnover. The Panel concluded that this is unlikely to occur, as there was sufficient evidence provided to indicate that regional hotels are already operating at low margins. Such closures, it noted, are likely to have ongoing negative economic implications for the regions, which is not captured in their analysis:

“...those hotels which close as a result of changed market conditions brought on by deregulation cease to provide economic and social benefits to the region, which are greater than the revenues they currently generate. The aggregate economic impact of hotel closures across the regions is therefore not captured in the short term, nor is it likely to fully dissipate over the medium to longer term”<sup>95</sup>

The Queensland Review Panel therefore concluded that to deregulate the sales of packaged liquor would see a major dislocation economically across Queensland, with regional areas

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<sup>94</sup> Queensland Government, *National Competition Policy Review of the Queensland Liquor Act 1992, 1999*, p54. Full details of GE methodology are included in pages 62 – 71.

<sup>95</sup> *ibid*, Attachment 1, p71.

particularly affected, and it therefore recommended against extending licenses for takeaway liquor to supermarkets<sup>96</sup>.

The Review Group considers that, based on the current distribution of liquor licences and the location of supermarkets, and on the research conducted in Queensland, some regional areas in Tasmania would be more adversely affected by the proposed change.

In Scottsdale, for example, there are currently two hotels, three licensed clubs and one nine-litre outlet servicing an immediate population of 2,000 people. The town is also serviced by a Woolworths supermarket. Clearly, if the Scottsdale Woolworths was permitted to sell liquor, the impact on the existing licensees, particularly the general and nine-litre outlets, could be significant.

A similar impact could be expected in areas such as Smithton, Deloraine, George Town and Wynyard, all of which are small communities, each with a Woolworths supermarket and with an established network of between 3 to 4 general licences in each township.

Conversely, the impact will be significantly less pronounced for those businesses in areas that are already highly competitive and serviced by a higher density of liquor outlets and supermarkets (ie major metropolitan areas).

In summary, the effects on the smaller regional areas of Tasmania, particularly those serviced by a chain supermarket, may be felt in a number of social and economic ways, including:

- reduced profit margins for existing operators possibly leading to reduced re-investment in these businesses, loss of employment and, ultimately, closure of some small businesses;
- potential market domination by monopoly supermarket outlets;
- shift in profit from local businesses to national organisations, with resulting leakage of profits outside the local community;
- potential impact on community and sporting activities, local/regional facilities, events etc that local hotels support; and
- potential loss of community amenity (ie the hotel is a traditional meeting place and social venue in many regional communities).

The Review Group has therefore assessed the potential net economic impact for the State ‘by proxy’ – that is, by seeking to estimate the potential leakage of profits out of the State, based on the results of its survey and estimated liquor sales data. This analysis was undertaken in

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<sup>96</sup> *ibid*, p55.

part to test the results of the modelling undertaken by the AHA and has taken that analysis one step further to determine the ‘net’ impact. As previously noted, the AHA estimated that turnover for existing outlets would fall by between \$24.79 million and \$39.15 million per annum and employment from bottleshops would fall by between 58 and 85 jobs. This analysis was based on an assumption of a shift in purchases of 10.45%.

This assumption was tested as part of the Review Group’s survey, where respondents were asked if they would be likely to purchase their alcohol from a supermarket if the laws were changed. Once the ‘non-buyers’ group was removed, 59% of respondents indicated they were ‘likely supermarket buyers’. This response was broken down as follows:

**Table 7.2 Supermarket purchasing intention**

	<b>Frequency</b>	<b>%</b>	<b>% of Total</b>
All of your purchases	35	16.3	8.7
Most of your purchases	37	17.2	9.2
Some of your purchases	103	47.9	25.7
Unsure	40	18.6	10.0
<b>Total</b>	<b>215</b>	<b>100.0</b>	

In the first instance, the Review Group applied these findings to Australian Bureau of Statistics (ABS) data on average weekly household expenditure for alcoholic beverages in order to measure the likely expenditure shift to supermarkets.

The ABS’s Household Expenditure Survey (1998-99) indicates that the Australian average weekly household expenditure for alcoholic beverages is \$20.43, including \$12.04 for ‘off-licensed premises’ consumption. The comparative Tasmanian figure is \$9.44 per week for off-license consumption<sup>97</sup>.

The Household Expenditure Survey indicates that, in relation to weekly income ranges, the total weekly off-licences expenditure (Australian households) for each income range is as follows:

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<sup>97</sup> ABS advice is that these consumption levels are probably well understated compared with the actual figures.

**Table 7.3 Weekly off-licence expenditure by household income, Australia 1998-99**

Household income	% average figure	Total weekly expenditure
less than \$400 per week	42.50	\$5.12
\$400 - \$800	79.15	\$9.53
\$800 - \$1200	107.6	\$12.95
\$1200 - \$1600	137.50	\$16.56
\$1600 +	221.70	\$26.69

The Review Group then applied the relative Australian expenditures for each household income range to the Tasmanian average weekly off-licence spend (\$9.44) to give the following total spend figures for Tasmania<sup>98</sup>.

**Table 7.4 Estimated weekly off-licence expenditure by household income, Tasmania**

Household income	Total weekly expenditure
less than \$400 per week	\$4.01
\$400 - \$800	\$7.47
\$800 - \$1200	\$10.16
\$1200 - \$1600	\$12.98
\$1600 +	\$20.93

These estimated weekly expenditure figures were then applied to the survey sample data for each income range, with the stated 'likely purchase intentions' (all, most, some, unsure) also factored into the calculation<sup>99</sup>.

This calculation provides a total off-licence alcohol expenditure for each income quintile as follows:

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<sup>98</sup> The Australian average figures were applied as ABS sample sizes for Tasmania are too small to provide statistically reliable spend figures for each household income category.

<sup>99</sup> 'All' has been taken as 100% supermarket purchase of alcohol, 'most' as 2/3 total alcohol expenditure, 'some' as 1/3 total and 'unsure' as the average for that group.

**Table 7.5 Estimated weekly off-licence expenditure by household income, Survey Respondents**

<b>Household income*</b>	<b>Total respondents</b>	<b>Total weekly expenditure</b>
less than \$400 per week	47	\$110.40
\$400 - \$800	65	\$272.79
\$800 - \$1200	55	\$299.71
\$1200 - \$1600	11	\$77.35
\$1600 +	16	\$126.55
<b>Total</b>	<b>194</b>	<b>\$886.80</b>

Note: \* Approximates annual household income figures from survey questionnaire.

Based on the calculations above, total off-licence expenditure for the 194 respondents who provided likely purchase intentions and household income is estimated at \$886.80 per week. This equates to a weekly spend of \$4.57 per household, or \$2.21 per household when averaged for the total survey sample (401 respondents which includes non-purchasers).

When compared with the ABS estimate of Tasmanian average weekly household off-licence expenditure, the analysis indicates that, if supermarkets were permitted to sell alcohol, the likely expenditure shift would be in the order of 23.4% - that is  $\$2.21/\$9.44 = 0.2341$ .

The Review Group was interested to note this estimate of 23.4% is over twice the magnitude of the shift assumed by the AHA, presumably as the AHA estimate was based on supermarkets being allowed to sell Tasmanian wines only.

The Review Group also noted that the estimate of 23.4% is broadly in line with the shift estimate of 25% it predicted, based on the experience in other States.

In terms of how this potential spending shift may impact on the Tasmanian economy, there are currently no reliable estimates of the total level of annual liquor sales for off-premise consumption in Tasmania or other States. The Review Group has therefore estimated the potential shift in turnover from hotels to supermarkets based on a number of alternatives, namely:

- ABS Household Expenditure Survey estimates;
- industry estimates of the average percentage of takeaway sales; and
- estimated turnover from a sample of bottleshops.

The results from these three measures are summarised below:

**Table 7.6 Estimates of takeaway liquor expenditure**

<b>Methodology</b>	<b>Total expenditure p/a</b>
ABS Household Survey	\$86.0m
National average takeaway sales/total Tasmanian sales	\$132.0m
Survey of bottleshops	\$306.0m
<b>Average</b>	<b>\$174.7m</b>

The Review Group then sought to estimate the level of profits that could be expected to leave the State, based on each of the methodologies listed above. The results are summarised in Table 7.7 and discussed in detail below.

**Table 7.7 Potential financial impact on Tasmania**

<b>Methodology</b>	<b>Total expenditure p/a<sup>1</sup></b>	<b>Potential shift in turnover<sup>2</sup> p/a</b>	<b>Estimated profit<sup>3</sup> p/a</b>	<b>Estimated net profit<sup>4</sup> p/a</b>	<b>Profit leaving the State<sup>5</sup> p/a</b>
ABS Household Survey	\$55.3m	\$12.9m	\$1.9m	\$1.2m	\$1.03m
Average takeaway sales/total liquor sales	\$101.5m	\$23.8m	\$3.4m	\$2.2m	\$1.90m
Survey of bottleshops	\$306.0m	\$71.6m	\$10.3m	\$6.7m	\$5.72m
<b>Average</b>	<b>\$154.3m</b>	<b>\$36.1m</b>	<b>\$5.2m</b>	<b>\$3.4m</b>	<b>\$2.88m</b>

Notes:

- 1 Total expenditure excludes estimated takeaway sales from Cheaper Liquor.
- 2 Shift in turnover based on Review Group's survey estimate of 23.4%.
- 3 Estimated profit of 14.46% of turnover is based on the hotel industry benchmark rate for businesses with an annual turnover in excess of \$1m, as contained in the Financial Management Research Centre (FMRC), *Business Benchmarks Gold*, 2000.
- 4 Estimated net profit equals profit after 30% tax + 5% abnormals (est).
- 5 Profit leaving the State equals net profit – 15% re-investment (est).

The ABS survey data for Tasmania indicates a total annual expenditure on takeaway liquor of approximately \$86m. (That is, \$9.44 per week x 52 weeks x 175,200 households.) Removal of estimated takeaway sales from Cheaper Liquor reduces this annual expenditure to approximately \$55m. Based on this data, a shift in consumption from bottleshops to supermarkets of 23.4% would therefore see a shift in turnover to supermarkets in the order of \$13m per annum. The Review Group and the ABS, however, have significant reservations about the veracity of the ABS survey results (in terms of respondents understating their actual alcohol spend) and the resulting estimate of total turnover, which is considered to be significantly understated.

The second method of assessment involved estimating take away liquor sales as a proportion of total liquor sales, and applying that percentage to an estimate of the total value of liquor sales. The Review Group estimates that the national average percentage of takeaway sales is in the order of 60% of total liquor sales, based on a number of sources:

- the Queensland Liquor Review Report, which estimated that takeaway sales represent between 50 – 70% of total sales in Queensland;
- the ABS Household Expenditure Survey, which indicated that takeaway sales represent 58.9% of total liquor sales;
- the Victorian Liquor Review Report, which concluded that 60% of total liquor sales in Victoria are packaged liquor;
- AHA survey results, which indicated average takeaway turnover of 63.6%; and
- supporting advice from the Licensing Branch and the AHA.

For 1994-95 (the last year in which the information was collected by the Licensing Branch), \$17.21m in liquor franchise fees was collected. At the time, licensees paid 11% of their purchases in franchise fees. Total purchases in 1994-95 were therefore in the order of \$190m. Assuming an average annual growth of 2.5%, turnover in 2000-01 is estimated at \$220m. Of this total turnover, it is estimated that 60% (approximately \$132m) relates to take away sales. Removal of estimated takeaway sales from Cheaper Liquor reduces this annual expenditure estimate to approximately \$101m. Based on this methodology, a shift in turnover to supermarkets of approximately \$24m per annum could be expected, with potential profit leakage of around \$1.9m per annum.

The final option considered by the Review Group relied on the turnover data from 32 bottleshops provided by the AHA. The Review Group also considered turnover data provided by Cheaper Liquor for comparative purposes. Turnover for the bottleshops included in the analysis averaged at \$34,208 per week per bottleshop, or \$1.779m per annum. Actual results in the sample group varied significantly - from less than \$1,600 per week to over \$65,000 per week.

When this average turnover is applied to all takeaway outlets (excluding Cheaper Liquor takeaway sales), the total weekly turnover for Tasmanian takeaway outlets equates to \$5.884m per week, or \$306.0m per annum. The likely shift to supermarkets, based on this estimate of turnover, would be in the order of \$71.6m. After taxation, abnormals and an allowance for reinvestment in the State, total leakage out of Tasmania would, on this measure, equate to more than \$5.7m per annum.

In summary, while it is very difficult to determine the size of the takeaway liquor market in Tasmania, and there is clearly a wide variation between the possible financial impacts to the Tasmanian economy, depending on the measurement methodology applied, the estimates determined above do provide a reasonable indicator.

The Review Group estimates, based on its analysis, that the negative economic impact for the State, based on profit leakage from the State, would be in the range of \$1.0m to \$5.7m per annum. An average of the results above indicates a loss in the order of approximately \$2.9m per annum.

While this would not appear to be a significant overall impact for Tasmania - given that Tasmania's Gross State Product exceeds \$11 billion per annum<sup>100</sup> - the Review Group is mindful that it will not be distributed evenly throughout the State.

It is difficult to assess how this shift in profits to supermarkets would impact on the labour market. As noted earlier, the AHA's analysis indicated a reduction in employment of between 58 and 85 full time jobs. However, this estimate takes no account of the employment that would be created in the supermarket sector. Nevertheless, given the competitive advantages of the supermarkets, such as economies of scale and their existing infrastructure, the Review Group does not believe there would be a 'one to one' shift in employment. Rather, it is likely there would be minor net reduction in employment, the bulk of the net reduction coming from the regional areas.

In summary, the Review Group has made the following observations and conclusions:

- based on the range of models considered, the Tasmanian takeaway liquor market is in the order of \$154m per annum;
- if permitted to sell alcohol, supermarkets would be expected to capture approximately 25% of the takeaway liquor market;
- this translates into a shift in turnover to supermarkets of around \$36m per annum;
- the potential overall economic impact, in terms of profit leakage from the State, would be in the order of \$2.9m per annum; and

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<sup>100</sup> Australian Bureau of Statistics, *National Accounts: State Accounts* (Cat No 5220.0), June 2000.



- the negative impact of this profit leakage would be felt mostly in small regional centres that are currently serviced by a supermarket.

It is important to note that these observations are based the assumption that supermarkets (as defined by the Review Group) would be the only new entrants in the liquor market. However, the removal of the ‘principal activity’ requirement would potentially free up the market to a range of retailers. Therefore, the magnitude of any profit shift out of the State will be reduced to the extent that other non-supermarket retailers entered the market and captured market share.

**The Review Group has therefore concluded that the removal of the restriction preventing supermarkets from selling alcohol for off-premise consumption would result in an economic cost to the State, which would be more intensely felt in regional areas.**

#### 7.6.4.6 *Net cost/benefit*

There are a number of counter-balancing benefits and costs associated with maintaining the restriction applying to supermarkets and it is incumbent upon the Review Group to determine an overall, or net, cost/benefit of its removal. A summary of the costs and benefits identified, and their relative impact, is displayed graphically below:

**Table 7.8: Summary of costs and benefits**

Cost					Benefit					
Higher				Lower		Lower				Higher
					<b>Price</b>					
					<b>Quality</b>					
					<b>Convenience</b>					
					<b>Safety</b>					
					<b>Economy</b>					

The Review Group has identified benefits of removing the restriction to allow supermarkets to sell packaged liquor in terms of increased convenience and diversity. It concludes that the short-term impact on price would be a marginal financial benefit for consumers, while the medium to long term price implications are impossible to measure. It also concluded there would be no impact on quality.

These benefits must be weighed against the potential economic, social and safety costs of removing the restrictions on supermarkets. Whilst the economic cost to the State is estimated in the order of \$2.9m per annum in lost profits, the impact for smaller regions would be more acute. Conversely, the removal of the ‘principal activity’ requirement would

free up other retailers to apply for an off-licence, thereby reducing the estimated level of profit leakage.

As indicated in Table 7.8, the costs and benefits, as assessed by the Review Group, would appear to largely counter each other. To put this to the test, the Review Group undertook some modelling to assess the interaction of these costs and benefits. Based on the modelling set out in Section 7.6.4.5, the Review Group factored in minor reductions in price in order to determine a net outcome. That modelling indicated that prices would need to fall, on average, by around 0.5% in order to offset the loss of profits from the State.

**In summary, the Review Group concluded that the net impact of removing the restriction prohibiting supermarkets from selling liquor for off-premise consumption would be negligible. On one hand, there would be some leakage of profits from the State and potentially negative implications for some regional communities. However, consumers would obtain greater convenience and, if prices fall, they would have increased disposable income. A price fall of 0.5% is all that would be required to offset the cost of profit leakage. While expanding access to alcohol raises some issues of safety, the Review Group believes these issues can be adequately addressed and that supermarkets present no greater threat to safety than other licensed outlets.**

**Therefore, in accordance with the NCP principles, in instances where there is no net cost or benefit of maintaining the restriction, the Review Group must conclude that there are no sound reasons for maintaining the restriction.**

#### **7.6.5 Less restrictive alternatives**

The Review Group considered four possible alternatives to the current restriction that could achieve the same objectives, while also allowing supermarkets to participate in the liquor market. The alternatives considered were:

- allow supermarket sales, but impose stringent guidelines on supermarkets (ie separate checkouts etc) to address safety concerns;
- allow supermarket sales, but impose a limit on total market share;
- permit supermarkets to sell Tasmanian wine only; and
- remove restrictions applying to off-licences, thereby allowing supermarkets to licence bottleshops adjacent to their supermarket site.

The first of these options was considered by the Review Group in the context of its survey results, and the fact that approximately 50% of respondents continued to oppose supermarket sales even if a stringent safety regime was imposed. In addition, whilst such a model would largely address the community's (real and perceived) safety concerns, it would not address the economic issues.

The second option considered by the Review Group reflects the model adopted in Victoria when it introduced supermarket sales. The “8% rule”, as it is commonly referred to, limits the number of takeaway liquor licences that can be held by one person or related persons to 8% of the total number of licences available. In practice, it is designed to prevent the large supermarket chains from achieving market dominance. This restriction has been the subject of criticism by the National Competition Council. The Victorian Government is currently reviewing the restriction with a view to its possible removal.

In assessing the Victorian system, the Review Group noted the difficulties associated with the practicality of the restriction, and the extent to which it achieves its objectives. In summary, the Review Group did not see this model as a positive alternative to the existing restriction.

The third option reflects the approach applied to delicatessens and similar establishments that can currently apply for a special licence to sell Tasmanian wines only. Such an approach would ensure consistent treatment between the major supermarkets and the smaller specialist retailers and would help to satisfy consumer choice. In addition, the potential economic and social consequences of such a compromise are expected to be reduced significantly.

The final alternative considered by the Review Group flows out of the recommendations relating to off-licences. If, as recommended, the restrictions applying to off-licences were removed, supermarkets, and any other interested party, could apply for an off-licence for an outlet located adjacent to a supermarket or contained in a shopping centre. Such an arrangement would remove the current cost to consumers of limited convenience and diversity, by providing for ‘one stop’ liquor and grocery shopping, while also ensuring that any interested parties are able to act upon this market opportunity.

In addition, supermarkets would be able to continue to compete in the liquor market, on a basis consistent with the current arrangements, but could also expand their networks of off-licences to achieve synergies with their supermarkets. In doing so, the proposal may not necessarily result in a shift in turnover to supermarkets, as other independent operators would be free to establish such an operation next to a supermarket.

**The Review Group therefore concludes that if the restriction were not removed, an appropriate, less restrictive alternative to the current arrangements would be:**

- **to amend Section 25A of the Act to allow supermarkets to sell Tasmanian wines only; and**
- **to remove restrictions applying to off-licences (as proposed in Recommendation 2), thereby allowing stand alone bottleshops, which could be co-located with supermarkets.**

#### **7.6.6 Draft recommendation**

The Review Group recommends that:

- **Section 25A of the Act, which prohibits the Board from granting a licence in connection with the activities of a supermarket, be repealed and supermarkets be permitted to apply for a liquor licence for off-premise sales; and**
- **if it is not repealed, that Section 25A be amended to permit supermarkets to apply for a special licence to sell Tasmanian wines.**

#### **7.7 Restriction 5: Restrictions in general licences that limit the location of bottleshops**

Whilst a general licence may provide for both on and off premise sales, the “personal and effective control” requirements contained in Section 22 (1)(b)(ii) prevent the establishment of bottleshops separate from a hotel. This restriction does not, however, prevent a person from holding more than one licence if they can demonstrate to the Commissioner that “...they have the structure and strategies in place to be able to exercise personal and effective control”<sup>101</sup>.

##### **7.7.1 Issues raised by stakeholders**

Only a limited number of stakeholders commented on this issue. Of those that did, the majority argued that the restriction should be maintained. Those opposed to the restriction supported adoption of a more general “effective control” requirement, which would permit the holder of a general licence to split a general licence into separate hotel and bottleshop localities.

The AHA suggests that the Act “...recognises that the sale of alcohol is to be closely monitored (and) the Act ensures that it is the licensee’s responsibility to ensure that the sale and consumption of alcohol on the licensed premises is in accordance with the Liquor and Accommodation Act”<sup>102</sup>. It argues the concept is well entrenched and, in an industry where labour is largely casual in nature, the notion of the licensee exercising personal and effective control is necessary.

Rae and Partners strongly supported the continuation of existing personal and effective control requirements for the following reasons:

- the ability to control premises and take an interest in the local community and the business;

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<sup>101</sup> O’Sullivan, P, and Thomas D., p4.

<sup>102</sup> AHA, p 36.

- the ability to control patrons and respond to any problems that may exist at the premises;
- the ability to monitor staff in the Responsible Serving of Alcohol (RSA);
- higher, more specialised knowledge of product being sold at the particular establishment; and
- the ability to control the amenity of the premises<sup>103</sup>.

Conversely, Bleasel notes that, under the current restrictions, "...a licensee cannot have 'personal control' unless the licensee is present whenever the business is operating and is moving constantly between the various areas of the business"<sup>104</sup>. He suggests, like a number of other stakeholders, that the licence should only require the licensee to have 'effective control' over the whole area covered by the licence. Under this arrangement, the licensee would be responsible for the training of all staff working under the licence and for the design, implementation and monitoring of appropriate RSA systems.

Burgess suggested that the restriction could be addressed if a new category of special licence was created to allow for the establishment of separate bottleshops, which could fall under the 'personal and effective control' of a general licence holder<sup>105</sup>.

Kimber notes that the issue of split licences also exists in Queensland, and the issue was dealt with at some length under the Queensland Liquor Review<sup>106</sup>. Under the Queensland legislation, following a 1992 amendment, general licensees are able to apply to have other premises from which they may sell liquor for consumption off the premises – these are referred to as detached bottleshops. Restrictions applying to these shops include:

- the licensee may have no more than three detached bottleshops; and
- they can be no further than five kilometres by road from the main general licence<sup>107</sup>.

The reasons Queensland has maintained these restrictions is to ensure that the licensee can maintain effective control whilst at the same time ensuring adequate service coverage for consumers. In addition, size, location and stock requirements are designed to ensure that the general licensee keeps a hands-on management approach and they are directly responsible for the sales through their outlets.

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<sup>103</sup> *ibid.*

<sup>104</sup> Bleasel, J, p3.

<sup>105</sup> Burgess, B (Tourism, Hospitality and Catering Consultant), *Liquor and Accommodation Review Submission*, p3.

<sup>106</sup> Queensland Government, p56.

<sup>107</sup> The five kilometre limit was increased to 10 kilometres as a result of a recommendation of the Queensland Liquor Review Group.

Kimber notes that the inclusion in the Tasmanian Act of specific authority to permit the splitting of general licences, on a basis similar to that adopted in Queensland, "...would appear to meet the NCP criteria, and promote efficiency and competition"<sup>108</sup>.

### 7.7.2 **Benefits and costs of maintaining the restriction**

The Review Group has identified the following benefits and costs associated with maintaining the 'personal and effective control' requirements:

<b>Benefit</b>	<b>Who is affected</b>
Ensures licensee can maintain effective control of the establishment	<ul style="list-style-type: none"> <li>• The community</li> <li>• Consumers</li> </ul>
Provides one point of contact	<ul style="list-style-type: none"> <li>• The regulators (Police, Licensing Branch)</li> <li>• Consumers</li> <li>• Licensees</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Prevents establishment of stand alone bottleshops	<ul style="list-style-type: none"> <li>• Consumers</li> <li>• Licensees</li> </ul>

### 7.7.3 **Assessment of benefits and costs**

The current restriction is designed to ensure that the licensee maintains active control over the licensed premises, and this enhancement to safety is clearly the greatest benefit of the restriction.

However, this benefit comes at the cost of reduced diversity and limited outlet options for consumers, as the restriction effectively prevents the establishment of stand alone bottleshops.

In weighing up these competing benefits and costs, the Review Group considered the apparent inconsistency with this restriction and the fact that an individual may possess a number of licences, for establishments in different locations if they can demonstrate to the Licensing Branch that "...they have the structure and strategies in place to be able to exercise personal and effective control"<sup>109</sup>. If a licensee can put arrangements in place to

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<sup>108</sup> Kimber, P. p12.

<sup>109</sup> O'Sullivan, P, and Thomas D. , p4.

ensure effective control over a number of general licences, what prevents a licensee from maintaining effective control over one general licence split between two sites?

**The Review Group concludes the need for licensees to maintain effective control is essential to the integrity of the Act, however, the “personal” control requirements are overly restrictive.** Further, the Commissioner has indicated a very broad definition of “personal control” is applied when considering multiple general licence applications, which appears to undermine the arguments of those opposed to splitting general licences between hotel and bottleshop sites.

#### **7.7.4 Less restrictive alternatives**

There are two issues to consider in terms of less restrictive alternatives. The first relates to the narrow issue of ‘personal and effective control’. The second relates to the broader issue of stand-alone bottleshops.

In the first instant, the Review Group believes that the ‘personal and effective control’ requirements are too restrictive and the term ‘personal’ appears to be open to subjective definition by the Commissioner. It would be more appropriate, as argued by a number of stakeholders, for the Act to require only effective control, thus minimising restrictions whilst ensuring the integrity of the system.

Turning to the broader issue of stand-alone bottleshops, the Review Group does not believe it is appropriate for this restriction to be used as a mechanism to prevent the establishment of stand-alone facilities. The Review Group believes the appropriate mechanism to regulate the types of establishments is through the range of licence categories available, rather than through the applicant assessment process.

In this regard, the Review Group notes that, **if the current restrictions applying to nine litre licences are removed, in accordance with the recommendations contained in Section 6.5, stand alone bottleshops would be permitted and would not need to be tied to a general licence.**

#### **7.7.5 Draft recommendation**

**The Review Group recommends that the ‘personal and effective’ control requirements contained in Section 22(1)(b)(ii) be amended to require ‘effective control’ over the licensed premises.**

#### **7.8 Restriction 6: Conditions contained in the Liquor Guidelines, and the Board’s associated discretionary powers**

The Liquor Guidelines provide:

“...the policy which the Licensing Board of Tasmania **intends** will generally be followed when consideration is given as to whether or not a liquor licence or liquor permit should be granted and the conditions or variations to those conditions to be imposed in a special licence or permit, and other matters in relation to the administration of the Act.”<sup>110</sup>

The Guidelines indicate that the Board is to grant a licence or permit unless, among other things, it is contrary “...to the interests and concerns of the community”. The Guidelines define this phrase to mean:

- representations made to the Board by the Council of the municipality in which the application relates, or by any other person;
- the extent to which the businesses carried on under the licences and permits in the area to which the application relates are satisfying the **need** intended to be satisfied by the applicant; and
- whether the grant of the application is likely to have an adverse effect on the interests of the community in that area.

The Guidelines go on to specify that the phrase does not have regard to:

- whether the business of any other licensee or permit holder may be adversely affected by the grant of the application; or
- whether the business proposed to be conducted under the licence or permit would be successful.

In addition, Section 216 of the Act, as amended, requires the Board or Commissioner to make decisions with regard to licence and permit applications that “...will best aid and promote the economic and social growth of Tasmania by encouraging and facilitating the orderly development of the hospitality industry in the State”.

It should be noted that reference to “...encouraging and facilitating orderly development of the hospitality industry” will be repealed under the Government’s Amendment Bill. At present, the inclusion of this reference in Section 216 is somewhat contradictory to the exclusions contained in the Board’s Guidelines.

The assessment of licence and permit applications based on ‘the public interest’, as defined by the Board, provides significant latitude for restrictive practices, and is commonly referred to as the “needs criterion”.

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<sup>110</sup> Licensing Board of Tasmania. *Liquor Guidelines: Liquor and Accommodation Act 1990*, p1. (emphasis added)



### **7.8.1 Issues raised by stakeholders**

Most stakeholders who commented on this matter supported the retention of the discretionary powers of the Board, primarily in terms of providing balance between flexibility and certainty. As Corney notes "...they allow the Board to quickly and effectively mirror social changes without requiring changes to legislation"<sup>111</sup>.

Kimber highlights the benefits that accrue as a result of the Board being a semi-judicial body<sup>112</sup>. In the first instance, the Board is required to provide written decisions that serve as precedent, and therefore help to maintain certainty and a logical assessment process by the Board. Secondly, its semi-judicial status means that its discretion is subject to Supreme Court review.

In noting these benefits, Kimber emphasises that the discretionary power is "...an important anti-competitive barrier, and may be seen as the fundamental issue in liquor licensing"<sup>113</sup>. He goes on to suggest that the "needs" assessment is not appropriate, and not warranted, and should be discontinued.

In support of this view, Kimber argues that, once the Board has considered the issue of the suitability of the licence applicant, issues associated with the suitability of the premises should be dealt with under the Building Code of Australia, and issues associated with amenity should be dealt with by local government. He concludes "...there is no need for a separate authority to consider whether a licence should issue in exercise of a general discretion"<sup>114</sup>.

In terms of protecting 'the public interest', Kimber suggests it is sufficiently served by the Board's capacity to limit the use of premises or activities of licensees if problems arise.

"General offence penalty provisions, common law nuisance powers, local government nuisance powers, and licence suspension and cancellation powers are sufficient to ensure the public interest is met, without it also being necessary to prevent potential entrants in a general discretion"<sup>115</sup>.

While a number of other jurisdictions have a similar 'needs' criterion, Victoria, the ACT and New Zealand have all removed their licensing authority's discretionary powers. Kimber suggests that these changes have been introduced without contributing to an increase in harm associated with alcohol consumption<sup>116</sup>.

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<sup>111</sup> Corney, C., p3.

<sup>112</sup> Kimber, P. p6.

<sup>113</sup> *ibid* p4.

<sup>114</sup> *ibid*.

<sup>115</sup> *ibid*.

<sup>116</sup> *ibid*.

Taylor also identified costs associated with the Board’s discretionary powers in terms of impact on investment decisions. Taylor notes “...discretionary authority is like discretionary law, an investor cannot properly evaluate the market to determine how much money to risk unless that person knows the rules applying to that market”<sup>117</sup>.

### 7.8.2 **Benefits and costs of maintaining the restriction**

The Review Group has identified the following benefits and costs associated with maintaining the Liquor Guidelines, which enshrine the Board’s discretionary powers:

<b>Benefit</b>	<b>Who is affected</b>
Provides flexibility for Board in assessing applications	<ul style="list-style-type: none"> <li>• The regulators (Police, Commissioner for Licensing)</li> <li>• Applicants</li> <li>• Consumers</li> </ul>
Provides a mechanism to ensure applications reflect ‘the public interest’	<ul style="list-style-type: none"> <li>• The community</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Cost of maintaining the Licensing Board	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Creates uncertainty regarding licence application conditions	<ul style="list-style-type: none"> <li>• Potential investors</li> <li>• Applicants</li> </ul>
Potential for decisions that are inconsistent with the objectives of the Act	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Applicants</li> <li>• The community</li> <li>• The liquor industry</li> </ul>
Duplication of local government planning requirements	<ul style="list-style-type: none"> <li>• Applicants</li> <li>• The taxpayer</li> </ul>

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<sup>117</sup> Taylor, J. p4.

### **7.8.3 Assessment of benefits and costs**

In assessing the costs and benefits associated with maintaining the Board's discretionary powers, the Review Group has drawn heavily on the views of Kimber, given his extensive experience on the Licensing Board and his appreciation of the issues associated with the conduct of that discretion.

While there are, no doubt, benefits associated with the Board being able to consider issues such as 'the public interest', the question of to whom these benefits accrue is very much dependent on how the Board exercises its discretion. For example, if the Board was to adopt a very narrow definition of 'public interest', it may result in a range of licence approvals that may not have been approved if a broader definition was applied. Under this scenario, consumers would benefit due to increased diversity, access etc, at a potential cost to local residents/businesses. Conversely, a broad definition of public interest would be of benefit to existing operators, at the expense of potential market entrants.

It is therefore difficult to say with any certainty whom, at any one time, are the main beneficiaries of the Board's discretionary powers.

It is clear, however, that the 'public interest' test provides a benefit for the community in that the Board must consider how the licence application will impact on the community.

It is important to note, however, that this 'public interest' assessment process represents a duplication of existing local government planning requirements and, as such, it raises the potential for Board decisions that are inconsistent with such requirements. The Hobart City Council (HCC) provided the Review Group with some examples of the way in which its planning requirements interact with the Liquor and Accommodation Act requirements. Rydges Hotel, in North Hobart, was originally issued with a limited general licence. However, the Hotel is situated in a residential area and the application of a general licence was inconsistent with the HCC's zoning restrictions. A review by the Planning Tribunal found that the limited general licence exceeded Council's restrictions and, as a result, the licence was surrendered to the Commissioner and a special in-house licence issued for the establishment.

Kimber, in proposing that the discretionary powers be removed, noted that in the absence of these powers, there would be no need to have a Licensing Board, with semi-judicial powers. Instead, the functions of the Commissioner and the Branch would become one of administering the Act, rather than interpreting and determining policy. The abolition of the Board would streamline the liquor licence application and appeals process.

Whilst it accepts there are benefits associated with the current discretionary powers of the Board, the Review Group:

- is concerned by the potential for inconsistent determinations by the Board;

- is concerned by the potential for the discretionary powers to be applied to prevent market entry for reasons other than safety, quality and diversity;
- notes that issues dealt with by the Board under the topic of ‘public interest’ can generally be dealt with under existing State or local government regulations; and
- notes the uncertainty created by the discretionary powers of the Board.

**In summary, therefore, the Review Group concludes that the costs of maintaining the system of Guidelines and associated discretionary authority outweigh the benefits of the system.**

#### **7.8.4 Less restrictive alternatives**

The less restrictive alternative considered by the Review Group is the model suggested by Kimber, whereby the Guidelines and discretionary powers to assess ‘need’ are removed. Under this proposal, the Commissioner for Licensing would only be responsible for assessing the suitability of the licence applicant. Issues associated with the location of the premises, impact on the community and other businesses would be considered under the relevant local authority’s planning laws.

Under this model, there would be no need for a Licensing Board, and the role of the Licensing Branch would be focussed on administering the Act and assisting the Commissioner in assessing the suitability of licence applicants. In particular, the Commissioner would become responsible for determining liquor restriction orders (Section 39). Appeals against decisions by the Commissioner could be dealt with at an administrative, rather than judicial level.

**The Review Group concludes there is significant merit in the simplified licensing system proposed by Kimber, in terms of:**

- **administrative simplicity;**
- **removal of a potentially anti-competitive power;**
- **certainty and consistency in licence application decisions; and**
- **reduced duplication with other areas of government and regulation.**

#### **7.8.5 Draft recommendation**

**The Review Group recommends that:**

- **Section 216 of the Act, which requires the Commissioner or the Board to approve an application only if it will “...best aid and promote the economic and social growth of Tasmania ... (having) ... regard for the legitimate interests and concerns of the community as a whole”, be repealed;**
- **the requirement contained in the Liquor Regulations to grant a licence or permit only if it is in the public interest to do so be repealed;**
- **the Act be amended to remove reference to the Licensing Board and to place administrative responsibility with the Commissioner for Licensing;**
- **the Liquor Regulations cease to have effect and the Act be amended where necessary; and**
- **prior to repealing the Regulations, arrangements be made with Local Government, the Tasmania Fire Service and other relevant regulators to ensure that the proposed assessment process is understood and accepted.**

## **7.9 Restriction 7: Qualifications for licensees and permit holders**

Under Sections 22 and 31 of the Act and Amendment Bill, licences and permits can only be granted to persons who meet the following criteria:

- attained the age of 21 years;
- in the opinion of the Commissioner for Licensing, is ‘fit and proper’ to hold a licence or permit;
- can exercise ‘personal and effective’ control over the sale and consumption on the licensed premises; and
- has successfully completed a course or traineeship approved by the Commissioner or has relevant qualifications.

The issue of ‘personal and effective’ control has been dealt with separately as Restriction 5.

### **7.9.1 Issues raised by stakeholders**

Stakeholders were requested to comment on whether the age, ‘fit and proper person’ and qualification requirements should be maintained.

All those who commented on this matter agreed that the ‘fit and proper person’ requirements are essential to the credibility of the licensing system and any costs of maintaining the system are far exceeded by the benefits to the community and the industry.

The Commissioner mainly relies on a check of the applicant's police record (if any) when determining whether the applicant is 'fit and proper'.

A number of stakeholders noted that, whilst the current system is essential and should be maintained, they argue that, by focussing solely on the licence applicant, the restrictions can easily be circumvented. This issue is discussed further in Section 8.

With regard to the age barrier, approximately two thirds of stakeholders supported retention of the restriction, primarily on the basis of the level and extent of responsibilities imposed on a licensee and the level of maturity required.

Support among stakeholders for some form of training requirement, in order to ensure safety and quality, was universal. However, a number expressed some concern at the proposed legislative training/qualification requirement, arguing that a legislative imposition may not be the most effective means of achieving the Government's quality and safety objectives<sup>118</sup>.

### **7.9.2 Benefits and costs of maintaining the restriction**

The Review Group has identified the following benefits and costs of maintaining the existing age minimum, the 'fit and proper person' requirements and the proposed training/qualification requirements:

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<sup>118</sup> See Tourism Tasmania for example.

<b>Benefit</b>	<b>Who is affected</b>
<p><i>Minimum age limit</i> Provides a mechanism to ensure maturity and responsibility of licensees</p>	<ul style="list-style-type: none"> <li>• The community</li> <li>• Consumers</li> <li>• The regulators (Police, Commissioner for Licensing)</li> </ul>
<p><i>'Fit and proper' person</i> Ensures that “inappropriate” individuals are excluded from possessing a licence</p>	<ul style="list-style-type: none"> <li>• The community</li> <li>• Consumers</li> <li>• Licensees</li> </ul>
<p>Ensures integrity of the licensing and permit system</p>	<ul style="list-style-type: none"> <li>• The community</li> <li>• Licensees</li> <li>• The regulators (Police, Commissioner for Licensing)</li> <li>• Consumers</li> </ul>
<p><i>Training/qualifications</i> Ensures responsible serving of alcohol</p>	<ul style="list-style-type: none"> <li>• The community</li> <li>• Consumers</li> <li>• The regulators (Police, Commissioner for Licensing)</li> </ul>
<p>Ensures licensees are trained in the industry</p>	<ul style="list-style-type: none"> <li>• Consumers</li> <li>• Licensees</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
<i>Minimum age limit</i> Prevents those aged 18 – 21 years from possessing a licence or permit	<ul style="list-style-type: none"> <li>• Applicants aged 18 – 21 years</li> </ul>
<i>'Fit and proper person'</i> Cost of undertaking assessment	<ul style="list-style-type: none"> <li>• The taxpayer</li> <li>• The regulators (Police, Commissioner for Licensing)</li> <li>• Licensees</li> </ul>
Prevents those deemed unfit or improper persons are excluded from possessing a licence or permit	<ul style="list-style-type: none"> <li>• Applicants deemed as unfit or improper persons</li> </ul>
<i>Training/qualifications</i> Cost of undertaking training	<ul style="list-style-type: none"> <li>• Applicants</li> </ul>
Prevents those who have not completed 'approved' training or qualifications from possessing a licence	<ul style="list-style-type: none"> <li>• Applicants not qualified in 'approved' areas</li> </ul>

### 7.9.3 **Assessment of benefits and costs**

It is argued that those aged 18 to 21 should be excluded from applying for a licence on the basis they lack the necessary maturity and would be unable to ensure maintenance of safety standards<sup>119</sup>.

While there is relatively strong support among stakeholders for this view, the Review Group considered the following matters:

- Does an age-based restriction achieve the objective of ensuring maturity and responsibility?
- Why does a 21 year age minimum apply to liquor licences, but not to gaming licences?
- Would the removal of the restriction impact on licence applications and the liquor industry?

After considering these questions, the Review Group has concluded:

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<sup>119</sup> See AHA for example.



- assessment of maturity and responsibility can more adequately be assessed in terms of the ‘fit and proper person’ requirements, rather than the use of an arbitrary age limit;
- the age restriction is inconsistent with the requirements applying under the *Gaming Control Act 1993*, which generally applies to the same outlets and the same individuals; and
- the number of individuals aged between 18 and 21 seeking to obtain a licence would be negligible, and the impact of removing the restriction would be minimal.

While the Review Group is concerned about the appropriateness of the age restriction, it recognises the need to ensure the maturity and responsibility of licensees. However, it concludes that **the current age-based assessment method is not the most appropriate method for achieving these needs.**

With regard to the ‘fit and proper person’ requirements, the Review Group agrees this is essential to the licensing system, and is a key mechanism by which licences are allocated. This is particularly so when considered in light of the ‘safety’ objective of the Act, and the need to exclude ‘inappropriate’ individuals from participating in the market.

**The Review Group therefore strongly endorses the need to maintain the ‘fit and proper person’ requirements, in order maintain the integrity of the licensing system.**

There is clearly strong support from all quarters for the need for some form of training for licensees, particularly in the area of RSA. The Review Group appreciates the strong links between training and the maintenance of the Act’s safety and quality objectives.

However, under the proposed amendments it is unclear how the Commissioner will define “qualifications”, and whether relevant work experience will be recognised. In addition, the Review Group is concerned that the requirement only rests with the licensee and not also with those employed to serve alcohol. Again, these issues are discussed further in Section 8.

The Review Group therefore **considers the benefits to the community of the training restriction outweigh the costs to the individual applicants.**

#### **7.9.4 Less restrictive alternatives**

As indicated above, the Review Group is concerned that the age limit does not provide the most appropriate mechanism to ensure maturity and a capacity to operate responsibly. The Review Group believes that, on those rare occasions when an individual aged 18 to 21 would apply for a licence, they would necessarily be well prepared, responsible and mature. Certainly, if that is not the case, **there are other avenues, such as the ‘fit and proper persons’ and training requirements, that are more appropriate mechanisms through which to vet irresponsible and immature licensees.** The Review Group considers that the

removal of the aged based restriction would not impact on the quality, safety or diversity of the industry.

In terms of the 'fit and proper person' requirements, the Review Group is not aware of any alternative approaches, either adopted in other jurisdictions or considered in other State reviews, that could achieve the required objectives.

The training requirement has received strong support from stakeholders and represents a very effective means of ensuring responsible serving and consumption of alcohol. It has also received strong industry support.

### **7.9.5 Draft recommendation**

The Review Group recommends that:

- **Section 22(1)(a) of the Act be amended to reduce the age restriction to 18 years, in line with the age restriction applying under the *Gaming Control Act 1993*; and**
- **the 'fit and proper person' requirements be retained.**

### **7.10 Restriction 9: Amenity and condition of premises**

Sections 47 – 50 of the Act specify conditions of amenity and other requirements, such as needing the Commissioner's approval before any alterations can be made to the premises, and requiring that the establishment, its furniture and its fittings are in good repair.

Under normal market conditions, such issues would be the sole investment decision of the establishment concerned.

#### **7.10.1 Issues raised by stakeholders**

Approximately two-thirds of stakeholders commented on this issue, with only two of those opposed to the restriction. Most stakeholders expressed the view that the amenity requirements ensure that minimum safety standards are maintained, which is of benefit to consumers, particularly tourists. The requirements also impose minimum standards of quality, which provides consumers with certainty of standards.

The Review Group noted in its Discussion Paper that Tasmania was one of the few States to impose, through its Liquor Act, amenity standards on licensed establishments<sup>120</sup>. Some

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<sup>120</sup> The Western Australian Liquor Licensing Act imposes similar restrictions, however, its Review Group has recommended that these be removed.

stakeholders identified this as a competitive advantage for Tasmania, in that it can ensure standards while other States cannot<sup>121</sup>.

The Australian Institute of Building Surveyors (AIBS) argued that, whilst these requirements are unique, other States compensate by having an annual certification system for essential health and safety systems that apply to all buildings – provisions that are not yet present in Tasmania<sup>122</sup>. AIBS goes on to argue that:

“While ... it is preferable for the licensee to be responsible for the risks given that (in reality) they alone control the building risks, we think that deregulation should be postponed until the implementation of the *Building Act 2000*. This Act will have provision for the annual maintenance of essential safety systems installed in a building...”<sup>123</sup>.

This issue is discussed further in Section □.

Those opposed to the restriction argued that such decisions should be left to the market and the Commissioner should not have a role in assessing proposed alterations, unless such alterations impact on the terms of the licence.

It was also suggested that the current amenity requirements do not address issues of substance in relation to quality and safety, but rather, they focus on issues of detail (eg number of tables).

### **7.10.2 Benefits and costs of maintaining the restriction**

The Review Group identified the following benefits and costs associated with maintaining the amenity requirements:

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<sup>121</sup> See Tourism Tasmania for example.

<sup>122</sup> Australian Institute of Building Surveyors (AIBS), *Submission to the Review of Liquor and Accommodation Act*, p1.

<sup>123</sup> *ibid.*

<b>Benefit</b>	<b>Who is affected</b>
Minimum safety standards are maintained	<ul style="list-style-type: none"> <li>• Consumers (especially tourists)</li> <li>• The community</li> </ul>
Minimum 'quality' standards are maintained	<ul style="list-style-type: none"> <li>• Consumers</li> <li>• The community</li> </ul>
Ensures establishment/licence types are not varied without the Commissioner's approval	<ul style="list-style-type: none"> <li>• The community</li> <li>• The regulators (Commissioner for Licensing)</li> <li>• Consumers</li> </ul>
Provides competitive advantage over other States	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Tourism industry</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Cost of maintaining premises	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Consumers</li> </ul>
Cost of development/alteration approval process	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Consumers</li> <li>• The regulators (Commissioner for Licensing)</li> <li>• The community</li> </ul>
Duplication of other State and Local Government building and safety requirements	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Consumers</li> <li>• The taxpayer</li> </ul>
Cost of inspections	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Taxpayer</li> </ul>

### **7.10.3 Assessment of benefits and costs**

Most stakeholders supported the view that the amenity requirements provide significant benefits in terms of ensuring safety and quality standards.

It has been argued that the legislative restrictions provide the tourism industry with a marketing edge, relative to interstate competitors, in that prospective clients can be guaranteed minimum standards throughout the State.

The restrictions do, however, impose costs on the industry, particularly licensees, which are then passed on to customers. In the first instance, applicants must ensure their establishment meets certain standards before a licence will be issued. Additional costs are then imposed any time the licensee wishes to change the amenity of the premises. This requirement imposes additional costs in terms of:

- the cost of ensuring plans are consistent with the Commissioner for Licensing's requirements;
- the time required to lodge the application;
- the time taken for the Licensing Branch to undertake the assessment; and
- the cost of making any changes if required.

The Review Group notes the level of support expressed by stakeholders for retention of the amenity requirements, which indicates that those who currently face the greatest cost also receive significant benefit.

The Review Group also notes, however, that a number of conditions imposed on licensees, in terms of maintaining health, safety and amenity standards, are already catered for by existing State and Local Government planning requirements. For example, the Building Code of Australia (BCA) includes the requirements that:

- dining rooms and bar rooms must provide for the comfort, convenience and health of customers; and
- bottleshops, with adequate storage facilities, must provide for the display of goods for sale and for shelter of customers<sup>124</sup>.

The duplication of such requirements therefore imposes unnecessary costs on licensees and the taxpayer.

In addition, the Review Group is concerned by the nature of a number of the conditions imposed on licensees that do not directly relate to 'quality'. Section 49(b), for example, requires licensees to provide and maintain such furniture, equipment, fixtures and fittings as may be necessary to provide and maintain in good repair an appropriate degree of comfort and service to patrons. In the first instance, the Act does not provide guidance on what constitutes "appropriate". Secondly, the issue of "comfort" is a subjective matter that is

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<sup>124</sup> Building Code of Australia, Vol 1, Appendix 1 (Amendment No 9), Tas Parts H103 and H104, 1996.

open to broad interpretation. Finally, the 'good repair' requirement replicates general public liability and occupational health and safety requirements and is therefore an unnecessary impost on licensees.

Section 47 requires licensees to seek the approval of the Commissioner prior to altering the licensed premises. While some level of regulation over physical alterations to licensed premises is required in order to ensure that license conditions are not breached, the Review Group believes there is opportunity to significantly amend the provisions of Section 47 so that:

- licensees and/or owners of licensed premises can be relatively more innovative; and
- the industry in general is more exposed to the benefits of commercial outcomes from competition.

**On balance, therefore, the Review Group concludes that the costs of the amenity restrictions, and their duplication with other existing State and Local Government requirements, outweigh the benefits of the restriction.**

#### **7.10.4 Less restrictive alternatives**

Relying on existing State and Local Government requirements to ensure maintenance of health and safety standards represents a significantly simpler alternative to the current arrangements.

Limiting the requirement to obtain the approval of the Commissioner to alter licensed premises to only those alterations that result in an addition to, or reduction in the area of the premises will maintain the integrity of the licensing system, while providing greater flexibility for licensees to innovate.

#### **7.10.5 Draft recommendation**

**The Review Group recommends that:**

- **Section 48 (Licensee to keep premises in good repair), Section 49 (Furniture and equipment, &c., to be provided) and Section 50 (Licensee to keep premises clean), be repealed; and**
- **Section 47, which prohibits a licensee from altering the premises without approval, be amended so that**
  - **an alteration requiring the prior approval of the Commissioner is restricted to only those alterations that result in an addition to, or reduction in, the area of the premises; and**

- **all other lawful alterations, whether structural, decorative or otherwise; or any substantial change in the use of the premises which do not result in an addition or reduction in the licensed area of the premises should be left to the discretion of the licensee/owner concerned.**

## **7.11 Restriction 10: Accommodation licensing scheme**

The Review Group's Discussion Paper foreshadowed the introduction of an amended accommodation licensing scheme to replace the current compulsory requirements, which are contained in Sections 105-109 of the Act.

As described in Section 6.11, under the proposed accommodation licensing scheme, the Commissioner will be able to approve accommodation schemes if they meet certain requirements and those establishments participating in one of the schemes will be exempt from needing to hold an accommodation licence or permit.

The Commissioner will still retain a power to licence accommodation operators that do not belong in an accommodation scheme.

### **7.11.1 Issues raised by stakeholders**

Stakeholders overwhelmingly supported the retention of an accommodation standards scheme of some form in order to support and maintain quality (i.e. minimum standards) in the tourism industry.

The costs identified in stakeholder submissions were 'marginal', and related primarily to the cost of the licence fee (currently \$52.50 per annum), the cost to licensees of complying and the cost to the Government (ie taxpayer) of undertaking inspections.

AIBS submitted there are a number of health and safety advantages of the compulsory accommodation licensing system including:

- it compensates for not having an annual certification system for essential health and safety systems that apply in all buildings;
- reducing risk, especially for tourists, in unfamiliar surrounds; and
- a building surveyor is necessary to properly execute the task of assessing health and safety in buildings<sup>125</sup>.

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<sup>125</sup> AIBS, p2.

AIBS suggested that deregulation of accommodation licensing should be deferred until the *Building Act 2000* has been proclaimed. It also suggested that some analysis of the present state of compliance of tourist accommodation places should be included in the RIS<sup>126</sup>.

The Tourism Council Tasmania (TCT) also noted the safety issues involved and suggested that the major issue associated with not licensing accommodation premises is the impact on safety requirements through the non-enforcement of the Tasmanian Fire Service biennial inspection<sup>127</sup>.

The Independent Tourism Operators of Tasmania (ITOT) suggested that the current licensing system has the advantage of providing legislative ‘bite’ – that is, it provides the capacity to deny a licence for unsuitable premises, management etc, and allows for regulatory intervention if necessary<sup>128</sup>. It also argued that retention of the scheme is consistent with the Government’s commitment to ‘quality’<sup>129</sup>.

The President of Bed and Breakfast and Boutique Accommodation of Tasmania (BBBAT) highlighted the level of growth in the tourism accommodation sector and argued that this shows that the legislation has not restricted competition in the industry<sup>130</sup>. In fact, he stresses the concern within the B&B sector of the negative impact of this growth:

“The general concern by existing B&B operators and B&B marketing groups since about 1994 has been the ease with which new businesses have been allowed to be established and the low level of profitability within many existing B&B’s. This concern has prompted ITOT to produce two publications aimed at warning new entrants from entering this sector of the industry”<sup>131</sup>

BBBAT goes on to request that a study be undertaken by the Review Group to assess the impact of the growth of B&B properties, including profit margins for existing businesses, changes in ownership patterns etc and to consider what is likely to happen to the sector in the future<sup>132</sup>. Unfortunately, however, such a study is beyond the scope of this review.

BBBAT also argues that one of the strengths of the current system is that there is a central register of all licensed accommodation, which is unique to Tasmania and “...is the envy of other States...”<sup>133</sup>.

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<sup>126</sup> *ibid*, p1.

<sup>127</sup> Tourism Council Tasmania, p5.

<sup>128</sup> Independent Tourism Operators of Tasmania, *Submission to the Liquor and Accommodation Act Review*, p6.

<sup>129</sup> *ibid*, Attachment 1, p1.

<sup>130</sup> White, G, *Response to the Liquor and Accommodation Review Group – Legislation Review Program*, p1.

<sup>131</sup> *ibid*.

<sup>132</sup> *ibid*.

<sup>133</sup> *ibid*.



Corney argues that a move to applying industry based accreditation schemes will create enforcement problems in terms of ensuring such schemes have the power to remove accreditation. In addition, he is concerned that it will take a long time before customers become aware of the removal of an establishment from an accreditation scheme, due to the time taken to reprint brochures, remove stickers etc<sup>134</sup>.

### 7.11.2 Benefits and costs of maintaining the restriction

The Review Group identified the following benefits and costs of maintaining the proposed accommodation licensing scheme:

<b>Benefit</b>	<b>Who is affected</b>
Ensures minimum accommodation safety and amenity standards	<ul style="list-style-type: none"> <li>• Consumers (especially tourists)</li> <li>• Licensees</li> <li>• The tourism industry</li> <li>• Regulatory authorities (fire, health)</li> </ul>
Ensures unsuitable operators are excluded from providing accommodation services	<ul style="list-style-type: none"> <li>• Consumers (especially tourists)</li> <li>• The tourism industry</li> <li>• Regulatory authorities</li> </ul>
Provides a database of all accommodation establishments	<ul style="list-style-type: none"> <li>• The tourism industry</li> <li>• Consumers (especially tourists)</li> <li>• The Licensing Branch</li> <li>• The community</li> </ul>
Supports positioning of “Brand Tasmania”	<ul style="list-style-type: none"> <li>• The tourism industry</li> <li>• The community</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Cost of licence fee	<ul style="list-style-type: none"> <li>• Licensees</li> </ul>
Cost of maintaining standards	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Consumers, especially tourists</li> </ul>
Cost of undertaking inspections	<ul style="list-style-type: none"> <li>• The licensee</li> </ul>

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<sup>134</sup> Corney, C. p5.

	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Duplication of other State and Local Government building and safety requirements	<ul style="list-style-type: none"> <li>• Licensees</li> <li>• Consumers</li> <li>• The taxpayer</li> </ul>
Barrier to entering the accommodation market	<ul style="list-style-type: none"> <li>• Those not wishing to participate in a licensing scheme</li> </ul>

### 7.11.3 Assessment of benefits and costs

The Review Group notes the high level of support among stakeholders for retention of the scheme, with 13 of 14 respondents supporting its retention. There are clearly a number of benefits to the tourism industry, and to individual accommodation establishments, of maintaining a system that guarantees industry-wide minimum standards of safety and quality.

However, the Review Group has a number of concerns regarding the current and proposed schemes that need to be balanced against this support:

- There appears to be considerable overlap and duplication with existing State and Local Government legislative requirements;
- There is no evidence to suggest that the scheme has provided any ‘competitive advantage’ to the State, in terms of ensuring a ‘superior quality’ tourism product; and
- Advice from the Licensing Branch that data gathered as a result of the scheme is not in a readily accessible form and is not regularly sought by the industry.

Consultations with the Building Standards and Regulation Branch of the Workplace Standards Authority (WSA) indicate that the requirements of the accommodation scheme are largely replicated in the BCA – a Code that all States and Territories have adopted. Tas Part H105 of the Code requires, in summary, that “...accommodation facilities must provide for the comfort, convenience and security of travellers”<sup>135</sup>. The Code includes a number of specific requirements (H105.1 to H105.14) for accommodation licensees.

The WSA advised the Review Group that the Liquor and Accommodation Act imposes some conditions that go beyond, or are inconsistent with, the requirements contained in the BCA and, where it does, the Act is *ultra vires*. It advised that it has been working with the Licensing Branch and Tourism Tasmania to identify and remove unnecessary requirements from the accommodation licensing scheme.

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<sup>135</sup> BCA, p50,304.

There is also a high degree of duplication with Local Government planning requirements. When lodging an accommodation licence application, applicants are required to include written confirmation from the relevant Council that the use of the premises for the purpose of tourist accommodation is permitted under the relevant Planning or Zoning Scheme. They must also provide a floor plan and exterior elevations consistent with Local Government requirements.

Local Governments play an active role in the accommodation establishment approval process, particularly in those areas where tourism is an important economic activity. The Review Group understands that, if an establishment has received Council approval, the licensing authority considers that the establishment meets appropriate zoning and building standards and, unless other issues arise, a licence will be issued. It is noteworthy that the planning schemes of most councils apply the definitions contained in the Liquor and Accommodation Act as part of their planning approval process, which reflect the definitions contained in the BCA. This issue was also discussed in Section 6.7, in the context of the Board's 'public interest' assessment.

At present there are some 69 planning schemes throughout the State, administered by 29 Councils. As a result there is a degree of inconsistency between Councils in terms of the level of 'rigour' imposed on accommodation establishments. However, the State and Local Governments are currently working together to simplify planning schemes by developing common key elements for inclusion in the schemes<sup>136</sup>. Adoption of a consistent framework and themes will further enhance the capacity of Local Government to take full responsibility for approving the establishment of accommodation premises in their respective jurisdiction.

Gauging the effectiveness of the scheme, in terms of ensuring quality standards, enhancing the profile of Tasmania's tourism industry and providing a competitive advantage over other States, is fraught with difficulty. The Review Group has, however, examined the following:

- Trends in tourist visitations for Tasmania (see Section 4.4);
- The effectiveness of the scheme in terms of preventing entry by inappropriate operators or establishments; and
- The effectiveness of the inspections regime in identifying and redressing issues.

The Licensing Branch has advised that, on average, only one or two licence applications per year are not issued to the applicant. However, these generally reflect a decision by the applicant not to proceed. Officers from the Branch could only recall one instance, in recent years, of an application being rejected because it failed to meet the standard sought. This outcome could be interpreted one of two ways – either the system is operating as a 'rubber-stamping' exercise or applicants are well versed on issues to address and they are putting in

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<sup>136</sup> For further details see *The Way Forward – A feedback report on the Discussion Paper 'Simplifying Planning Schemes'*, Department of Premier and Cabinet, May 2001.

applications that already meet all requirements. In either case, it is clear that requirements under the BCA and local government planning legislation are ensuring that all requirements of the accommodation licensing scheme are already met prior to submission of a licence application.

Given that the number of B&Bs in Tasmania has almost doubled in the last eight years, at a time when visitations increased by less than 5% and margins for operators are being squeezed, it could be argued by some that the scheme has failed to ensure high quality standards by allowing marginal operators into the market<sup>137</sup>.

Data from the Licensing Branch indicates that, of the 817 establishments currently registered under the licensing scheme, 202 establishments (approximately 25%) have been issued with a First Notice within the last five years. Of these establishments, only three have received a Second Notice. While the nature of the Notices is not known, only three of the First Notices have been required to be remedied “forthwith” – with all other Notices allowing approximately three months to correct. This indicates to the Review Group that Notices generally relate to ‘non-urgent’ amenity issues rather than serious breaches of licence conditions.

It was also suggested that the data collected by Licensing Branch under the scheme served as a valuable resource to the industry. However, consultations with the Branch indicate that:

- The information is not collected and maintained in a readily accessible and usable manner; and
- The Branch rarely receives requests for the information from industry bodies or individuals.

The Review Group therefore believes that, whilst the scheme does result in the collection and maintenance of useful data, these benefits are outweighed by the apparent lack of interest in the information and the cost to the Licensing Branch of its collection and extraction.

Finally, it has been argued that the accommodation licensing scheme supports the State’s positioning as a high quality holiday destination (eg Brand Tasmania). However, it has been similarly argued that the licensing scheme merely imposes a minimum standard, rather than a ‘high quality’ standard.

**The Review Group therefore concludes that, on balance, the costs of maintaining the accommodation licensing scheme outweigh the perceived benefits of the regulation.**

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<sup>137</sup> See White, G.

#### **7.11.4 Less restrictive alternatives**

As is the case with Restriction 9, the alternatives to a comprehensive accommodation licensing scheme are:

- allow the market to determine standards;
- apply a ‘negative licensing’ scheme;
- adopt industry based standards; or
- rely on existing local government and health and safety regulations.

The Review Group does not believe that standards could be guaranteed in a market driven system. There would be no capacity to ensure a minimum industry standard.

Application of a negative licensing scheme raises the same concerns as those for amenity provisions, as outlined in Section 7.10.4.

An industry based standards scheme is the proposed model contained in the Government’s Amendment Bill. It represents a compromise approach between the current compulsory system and a negative licensing system. Under the arrangements proposed, operators will be free to participate in relevant industry based schemes rather than fall under the Government scheme. However, standards will be maintained, as the Government scheme will serve as a ‘safety net’ of standards.

The Review Group sees no real benefits in adopting this approach. The benefits of any reduction in workload or costs will only accrue to those licensees that are currently already covered by an accredited scheme. No benefits will accrue to other operators, as they will be required to be covered by either the Government scheme or an accredited scheme. In addition, the Licensing Branch has indicated its concern at the likely increase in complexity and in its workload for administering, monitoring and enforcing a range of schemes. The Review Group notes, however, that this additional workload will be offset by a reduction in the number of properties under the existing scheme requiring inspections.

There is also a concern that adoption of the proposed scheme will ‘water down’ the benefits of having a single Government backed scheme which can be marketed as enhancing the profile of Tasmania’s tourism industry.

The fourth option considered, which is the system relied upon in other States, is to ensure safety and quality standards are met through local government planning and fire safety regulations. Adoption of such a system would, however, remove the guarantee of Statewide consistent minimum standards of quality and, in some areas, safety. As discussed in Section 7.10, there is considerable overlap between the requirements of the Liquor and Accommodation Act and existing State and Local Government health and safety and planning and zoning requirements. These reflect, in part, requirements contained in the

Building Code that are consistent throughout Australia. Fire safety standards are a statutory requirement on all commercial premises that is monitored by the Tasmania Fire Service

The Review Group sees merit in reducing the degree of overlap between the Liquor and Accommodation Act and other legislative requirements and it believes it is appropriate to consider the orderly withdrawal of the liquor licensing authority from involvement in setting and monitoring tourist accommodation standards.

#### **7.11.5 Draft recommendation**

**The Review Group recommends that:**

- **the accommodation licensing scheme cease;**
- **all reference in the Act to the scheme be removed; and**
- **assessment and approval of establishments and monitoring of health and safety standards be conducted solely by the appropriate State and/or Local Government authorities.**

### **7.12 Restriction 11: Strategic plan**

As discussed in Section 6.12, the Amendment Bill requires the Minister to prepare an industry strategic plan, in consultation with the industry.

It is envisaged the plan will be used by the Board to assist in its licence application assessment process.

#### **7.12.1 Issues raised by stakeholders**

The Review Group's Discussion Paper indicated that the proposed strategic plan did not represent a restriction to competition.

However, some stakeholders questioned this conclusion, and argued that the proposal will, in fact, impose restrictions<sup>138</sup>. Further, they argue the proposal will impose costs that are not outweighed by potential benefits.

Kimber notes that it is important that, if such a plan is prepared, it does not impose anti-competitive restrictions or barriers to entry. In addition, he notes that the scope of the proposed plan is limited and should encompass the entire hospitality industry<sup>139</sup>.

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<sup>138</sup> See O'Sullivan, P. and Thomas, D. for example.

The financial cost to the taxpayer of undertaking such a comprehensive plan was also identified.

### 7.12.2 **Benefits and costs of maintaining the restriction**

The Review Group has identified the following potential benefits and costs of the proposal to prepare an industry strategic plan.

<b>Benefit</b>	<b>Who is affected</b>
Provides information relevant to the Tasmanian industry	<ul style="list-style-type: none"> <li>• Applicants/potential investors</li> <li>• Licensees</li> <li>• The tourism industry</li> <li>• The community</li> </ul>
Provides a medium term framework for the development of the industry	<ul style="list-style-type: none"> <li>• Regulatory authorities</li> <li>• Licensees</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Cost of preparing the plan	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Potential for allegations of bias	<ul style="list-style-type: none"> <li>• The regulatory authorities</li> <li>• The community</li> <li>• Licensees</li> </ul>
Potential to limit access to the market if the application is not consistent with the plan	<ul style="list-style-type: none"> <li>• Applicants</li> <li>• Consumers</li> </ul>

### 7.12.3 **Assessment of benefits and costs**

The Review Group's understanding of the purpose of the plan is such that its primary benefits will be:

- to provide information for industry participants and potential participants to assist in their investment decisions; and

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<sup>139</sup> Kimber, P. p17.

- to provide the Board with a medium term industry framework within which to assess licence applications.

Whilst the Review Group appreciates the benefits that will accrue to existing and potential participants of having relevant information on which to plan their investment decisions, the use of such a plan to determine licence applications presents a potential cost that may outweigh the potential benefits.

This cost relates to the potential for the plan to be used to prevent market entry. The potential cost is magnified when coupled with the proposal to increase the Board membership to include members nominated by selected industry representatives.

In the absence of the plan it is difficult to assess the extent of such concerns. Having said this, however, the simple presence of such a plan will, at regular intervals, provide the potential for restrictive practices, as it will be subject to review every five years.

The Review Group also raises the issue of who should be responsible for preparation of an industry strategic plan. In the first instance, the Review Group believes that this is a matter for the industry to determine and, as such, responsibility for preparing such a plan should rest with them. Under such a scenario, however, the results of the plan would be the sole responsibility of the industry to implement and would have no legislative backing.

Alternatively, if the Government believes it does have a role in determining the strategic outlook for the industry, the Review Group believes that responsibility for the plan would more appropriately rest with the area of government responsible for the tourism industry, or industry development. That is, responsibility for preparing a strategic plan for the industry should rest with either Tourism Tasmania or the Department of State Development.

**The Review Group therefore concludes that the proposed strategic plan could restrict entry to the market and these costs to the industry outweigh the benefits it could bring.**

#### **7.12.4 Less restrictive alternatives**

As noted, there are benefits associated with having a comprehensive strategic plan for the tourism and related industries. However, the introduction of the plan in its current form presents the possibility of a restrictive plan enshrined by legislation.

The Review Group strongly suggests that an alternative be considered which will shift responsibility for preparing and implementing the plan to the industry, and which removes the proposal from the statute books.

If this is not acceptable, the Review Group considers that responsibility for preparation and ownership of the plan could be allocated to the Department of State Development or Tourism Tasmania, in consultation with industry.



This arrangement would ensure that the plan could be developed in the context of the Government's Industry Development Plans.

#### **7.12.5 Draft recommendation**

**It is recommended that:**

- **Section 6 of the Amendment Bill, which requires the Minister to prepare a strategic plan in respect of the sale of liquor, be withdrawn or, if already enacted it be repealed;**
- **if it is not withdrawn, responsibility for the preparation and implementation of the plan be allocated to industry representatives; and**
- **if responsibility for development and maintenance of the industry strategic plan is to remain within government, it should be allocated to the Department of State Development, to be advanced in the context of the Government's Industry Development Plans, and contain no restrictions on competition.**

### **7.13 Restriction 12: Applications to be based on sound commercial principles**

It is proposed under the Amendment Bill that applicants will be required to submit a business plan with their application to illustrate that the proposal is based on 'sound commercial principles'.

The proposal means that some applications could be rejected on the basis of dubious commercial prospects.

#### **7.13.1 Issues raised by stakeholders**

This issue was identified as a restriction on competition in the Review Group's Discussion Paper, although the details surrounding the proposal were unclear at that time and, as a result, few stakeholders commented on the matter.

O'Sullivan and Thomas argue that this is not a matter for the Board or the Commissioner to consider<sup>140</sup>. They stress the difficulty such a requirement would impose on the Commissioner and Board in terms of determining appropriate criteria and then assessing applications on the basis of those criteria.

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<sup>140</sup> O'Sullivan, P. and Thomas, D. p9

Secondly, they argue that it should be assumed that "...an applicant who has obtained sufficient funding for their proposed development would have satisfied a more relevant financial scrutiny, such as a bank or other financial institution"<sup>141</sup>.

In subsequent discussions with the Review Group, the AHA suggested that the proposal will limit the entry of financially marginal establishments that may resort to unsafe operating practices, such as selling to under-age or encouraging excessive consumption.

### **7.13.2 Benefits and costs of maintaining the restriction**

The Review Group has identified the following benefits and costs associated with maintaining the proposed business plan requirements:

<b>Benefit</b>	<b>Who is affected</b>
Ensures applicants are commercially prepared	<ul style="list-style-type: none"><li>• Applicant</li><li>• The industry</li></ul>
Possible reduced start-up business closures	<ul style="list-style-type: none"><li>• The licensee</li><li>• The industry</li><li>• The community</li></ul>
Reduced potential for 'unprofitable' establishments to adopt unsafe practices	<ul style="list-style-type: none"><li>• The community</li><li>• The regulators (Police, Commissioner for Licensing)</li></ul>

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<sup>141</sup> *ibid.*

<b>Cost</b>	<b>Who is affected</b>
Potential litigation against Board decisions	<ul style="list-style-type: none"> <li>• The regulators (Police, Commissioner for Licensing)</li> <li>• The community</li> <li>• Applicants</li> </ul>
Excludes applicants without a business plan from entering the market	<ul style="list-style-type: none"> <li>• Applicants</li> </ul>
Cost of preparing business plan	<ul style="list-style-type: none"> <li>• Applicants</li> </ul>
Increased resources to assess business plans	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Increased delays in assessment process	<ul style="list-style-type: none"> <li>• The applicant</li> </ul>
Increased complexity in assessments	<ul style="list-style-type: none"> <li>• Commissioner for Licensing</li> </ul>

### **7.13.3 Assessment of benefits and costs**

While the Review Group accepts the benefits of ensuring that licence applicants have undertaken a thorough self-assessment, it questions the rationale of imposing such a requirement through the Liquor and Accommodation Act.

In the first instance, the Licensing Board is a quasi-judicial body tasked primarily with assessing the fitness of licence applicants. It has no experience or skills in the areas of financial analysis and business principles. As suggested by O’Sullivan and Thomas, these skills rest more appropriately with financial institutions, such as the relevant lending authority<sup>142</sup>.

In this context, the ‘value-adding’ that such a requirement will provide is likely to be minimal, particularly for existing establishments wishing to change licence types or, in the case of a restaurant, wishing to convert from BYO to licensed.

In terms of costs, there will be direct costs to applicants in preparing the plan, although the Review Group believes that most applicants would already possess such documents.

Further, the proposal again puts at risk the perceived independence of the Licensing Board. If the Board were to reject an application on the basis of dubious commercial prospects, it invokes the prospect of litigation on the basis of its financial and business analysis.

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<sup>142</sup> *ibid.*

Similarly, it raises the question of potential liability of the Board if it approves a proposal on the grounds of commercial soundness, which subsequently proves to be uncommercial.

In this context, the Review Group considered a number of major developments in the State, which would not have proceeded if they had been required to prove their commercial soundness.

The Review Group also notes that, when considering a licence application under the current liquor guidelines, the Board "...will not have regard to whether the business proposed to be carried on under the licence or permit would be successful". This requirement was included in the guidelines to prevent the potential costs outlined above.

In terms of the safety objective of the proposal, the Review Group acknowledges that unprofitable establishments may encourage unsafe practices and increased consumption. However, there already exists an extensive range of penalties in place to deal with establishments that contravene their licence. The Review Group therefore believes that the exclusion of 'potentially' unprofitable establishments from the market is an ineffective instrument by which to address these valid safety concerns.

**The Review Group therefore concludes that the costs of delays, increased complexity and the potential for litigation that would result from the proposed business plan requirements for applicants outweigh the potential benefits of the regulation.**

#### **7.13.4 Less restrictive alternatives**

The Review Group does not believe there is a role for the Licensing Board in the assessment of commercial proposals.

Issues associated with the commercial viability of development proposals are best left with the financial institutions supporting such developments, and the market.

#### **7.13.5 Draft recommendation**

**It is recommended that Section 10 of the Amendment Bill, which requires the demonstration of sound commercial principles for licence applicants, not be introduced and if they are, that they be repealed.**

### **7.14 Restriction 13: Membership of the Licensing Board**

It is proposed that membership of the Board will be expanded to include:

- a person with experience in the hotel industry nominated by the Minister after consultation with the AHA;

- a person with experience in the management of clubs nominated by the Minister after consultation with Clubs Tas;
- a person nominated by the Minister after consultation with the Australian Liquor, Hospitality and Miscellaneous Workers' Union;
- a person nominated by the Minister after consultation with the Restaurant and Caterers' Association; and
- a person nominated by the Minister after consultation with the department responsible for the *Public Health Act 1997*.

While not expressly restrictive, expanding the Board's membership to include Ministerial appointments determined after consultation with selected industry bodies provides the opportunity for restrictive practices to emerge to protect those groups and the proposal has therefore been included for assessment.

#### **7.14.1 Issues raised by stakeholders**

As the issue of the Board's membership was not identified by the Review Group as a restriction on competition, few stakeholders commented on the matter.

O'Sullivan and Thomas highlight that the amendment will raise the threshold for applicants and that interest group membership of the Board could lead to possible litigation as action before the Supreme Court on decisions made by the Boards due to the vested interest of members<sup>143</sup>. They note the Supreme Court case: *R v Kimber, Morris and Voss*.

They note that an increase in Board membership will result in hearings taking longer. They also express a concern that, with vested interest groups represented, arguments will be put to refuse applications to protect the traditional market place<sup>144</sup>.

Finally, they argue that the inclusion of vested interests on the Board "...will have a negative profile with no tourism or development focus"<sup>145</sup>.

Kimber adds his objection to the proposal, noting that it will result in:

- additional administration costs;
- perceptions of bias by the Board in its assessments; and
- a general perception of a lack of objectivity by the Board<sup>146</sup>.

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<sup>143</sup> *ibid.*

<sup>144</sup> *ibid.*

<sup>145</sup> *ibid.*

**7.14.2 Benefits and costs of maintaining the restriction**

The Review Group has identified the following benefits and costs of expanding membership of the Licensing Board.

<b>Benefit</b>	<b>Who is affected</b>
Provides the Board with industry specific expertise	<ul style="list-style-type: none"> <li>• The Licensing Board</li> <li>• Applicants from represented groups</li> </ul>
Provides a balance of represented views	<ul style="list-style-type: none"> <li>• The Licensing Board</li> <li>• Applicants from represented groups</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Potential for allegations of bias	<ul style="list-style-type: none"> <li>• The Licensing Board</li> <li>• Applicants</li> <li>• The liquor industry</li> <li>• The community</li> </ul>
Does not include members nominated by other relevant interest groups	<ul style="list-style-type: none"> <li>• Other affected interest groups</li> <li>• Tourism industry</li> </ul>
Loss of perception of independence	<ul style="list-style-type: none"> <li>• The Licensing Board</li> <li>• Applicants</li> <li>• The liquor industry</li> <li>• The community</li> </ul>
Increased operating cost of the Board	<ul style="list-style-type: none"> <li>• The taxpayer</li> </ul>
Increased processing time	<ul style="list-style-type: none"> <li>• The Licensing Board</li> <li>• Applicants</li> </ul>

**7.14.3 Assessment of benefits and costs**

The Review Group identified two key benefits associated with expanding membership of the Board, both relating to providing industry specific input into the licence assessment process.

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<sup>146</sup> Kimber, P, p16.

Balanced against these benefits, the Review Group identified a number of costs, some of which could have significant ramifications for the effective operation of the licensing system.

As identified by experts in this field (Kimber, O'Sullivan and Thomas), expanding the Board's membership to include selective industry representation opens the prospect for allegations of bias, and possible litigation before the Supreme Court.

The Board is a semi-judicial body, charged with administering the Liquor and Accommodation Act. The inclusion of industry nominated representatives will remove the perceived independence of the Board and potentially undermine the credibility of the licensing system.

In addition, the Review Group is concerned by the selective nature of the proposed industry nominations and the fact that representatives of the accommodation and tourism industries are not specifically included. This observation illustrates the potential for allegations of bias.

**The Review Group therefore concludes that the costs of expanding the membership of the Licensing Board to include Ministerial appointments determined after consultation with selected industry bodies significantly outweigh the potential benefits.**

#### **7.14.4 Less restrictive alternatives**

As discussed in Section 7.8, removal of the Liquor Guidelines and Board's associated discretionary powers would take the policy-making responsibilities from the Board. Under this model, the Licensing Branch would be responsible for assessing and issuing licences, while the role of the Board would be one of review and assessment of objections.

Expanding membership of the Board under this model would not be necessary or feasible.

#### **7.14.5 Draft recommendation**

**The Review Group recommends that the membership structure of the Licensing Board remains unchanged, if the Board continues to exist, and, if already enacted that the amendment be repealed.**

### **7.15 Restriction 14: Conditions applying to club licences**

The Amendment Bill proposes that a licensed club may only sell alcohol "...to prescribed persons". "Prescribed persons" are defined in the draft Regulations as:

- a member of the club;

- a guest of that member who attends a social function or meeting of the club, or is invited by a member of the club;
- a guest of that member who attends a private function at the premises;
- a person who competes or has competed on that day in any event conducted at those premises;
- a person who is or has been a spectator on that day at any event conducted on those premises; and
- a member of another club incorporated under the *Associations Incorporation Act 1964* who attends a meeting of the club.

The Bill also proposes that licensed clubs may only sell alcohol “...subject to any conditions specified in the licence”. It is intended that these conditions will replicate the provisions currently contained in Schedule 1 of the guidelines, which require that:

- a membership register must be maintained;
- members must be approved by the club committee before admission to membership;
- a visitor’s register be maintained;
- a functions book must be maintained in specific instances;
- the membership and visitor registers and functions book must be presented to a police officer or authorised officer (under the Act) on demand;
- a member is entitled to invite no more than 10 guests as casual visitors on any one occasion;
- casual visitors must be in the company of a member and each of them must have signed and dated the visitor’s book on that day in the presence of each other;
- no advertising is to be undertaken which states or implies that the general public is invited into the club, unless authorised by a special permit from the Commissioner; and
- the club will only be available for activities in conjunction with the club’s objectives and predominantly commercial functions will not be permitted.

The Schedule also contains a number of specific exemptions to the above restrictions.



Under the Amendment Bill, however, the proposal to include "...conditions specified in the licence..." is open-ended and provides the Commissioner for Licensing with the capacity to impose any restrictive conditions upon club licences as he/she sees fit.

Relative to other States, licensed clubs in Tasmania are some of the least restricted in Australia in terms of off-premise sales. Victoria and Western Australia restrict take away sales from licensed clubs to members only, while take-away sales from licensed clubs in South Australia are only permitted to lodgers and to members if not readily available in the area. In NSW, where club licences provide for the sale of take-away liquor to members and guests only, such licences are not covered under the *Liquor Act 1982*, but under a separate *Registered Clubs Act 1976*.

In terms of on-premise sales, most States apply similar restrictions, although a number allow entry and sales to 'travellers' – residents of the State that live more than a defined distance (eg 20kms) from the licensed club. Victoria also allows entry to non-members for gaming purposes only.

**7.15.1 Issues raised by stakeholders**

As noted in Section 6.15, due to timing issues stakeholders have been unable to comment on this proposed restriction.

**7.15.2 Benefits and costs of maintaining the restriction**

In the absence of input from stakeholders, the Review Group has identified the following benefits and costs of the proposed restrictions applying to club licences.

<b>Benefit</b>	<b>Who is affected</b>
Provides for liquor outlets dedicated to special interest clubs	<ul style="list-style-type: none"> <li>• Interest/community clubs</li> <li>• The community</li> </ul>
Allows licensed clubs to set and maintain standards	<ul style="list-style-type: none"> <li>• Interest/community groups</li> <li>• Licensed clubs</li> <li>• The community</li> </ul>
Provides a mechanism to ensure licence conditions are maintained	<ul style="list-style-type: none"> <li>• Regulators (Police, Licensing Branch)</li> <li>• The community</li> </ul>

<b>Cost</b>	<b>Who is affected</b>
Limits the sale of liquor from clubs to specific individuals	<ul style="list-style-type: none"> <li>• Licensed clubs</li> <li>• Individuals not provided for under the regulations</li> </ul>
Imposes administrative conditions on licensed clubs	<ul style="list-style-type: none"> <li>• Licensed clubs</li> <li>• Tourism industry</li> </ul>

### 7.15.3 Assessment of benefits and costs

Club licences provide special interest groups (ie sporting and social clubs) with the opportunity to purchase and consume liquor as an adjunct to their primary club activity.

Club licences have been established, not as ‘commercial’ licences (in the sense that they do not permit the sale and supply liquor in competition with other licence types), but rather as a service to club members and their bona fide guests. As a result, it has been argued that many of the restrictions relative to club licences are outside of the scope of the national competition policy review<sup>147</sup>.

The restrictions currently applying to club licences serve to maintain the spirit and intent of the licence category by restricting access to liquor sales to members, guests and specific individuals. Whilst this limits the market opportunities of clubs, and the purchasing options of certain individuals, the nature of the establishments is such that:

- As not-for-profit organisations, providing services, rather than maximising market share/profit, is their main objective; and
- these services are primarily focussed on members and their guests.

There is clearly a need to achieve a balance between the level of restriction required to achieve these aims, without adversely affecting the operations of these establishments.

In doing so, however, it is important to recognise that the ‘community-based’ nature of these entities is reflected in the special taxation treatment they are afforded, which can potentially place them at a competitive advantage relative to other ‘commercial’ participants in the market.

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<sup>147</sup> The Western Australian Liquor Review adopted such a conclusion in its report – National Competition Policy Legislation Review, Liquor Licensing Act 1988, Office of Racing, Gaming & Liquor, Western Australia, March 2001, p195.

Section 10 of the Act currently limits the sale of liquor from a licensed club to members, introduced guests and members of clubs with reciprocal arrangements. This restrictive clause is ‘balanced’ by the Guidelines, which have the effect of providing greater flexibility for licensed clubs. In the absence of the Guidelines to achieve this balance, licensed clubs would be severely restricted as to who they could sell liquor.

As noted above, under the proposed amendments, the primary restriction in Section 10 will be achieved through the “prescribed persons” requirement, which is defined in the draft Regulations. The list of “prescribed persons” is more extensive under the amendment than that currently provided for in Section 10. However, it does not capture all the restrictions and exclusions that are set out in Schedule 1 of the Guidelines. Instead, the Review Group understands that this additional ‘balance’ will be achieved through the “...conditions specified in the licence” requirement, which will replicate the conditions that are set out in Schedule 1.

Whilst the Review Group appreciates that the proposed amendments simply seek to replicate the current restrictions under a ‘regulations based’ as opposed to a ‘guidelines based’ model, it believes the approach is somewhat ‘cumbersome’ and provides the opportunity for the Commissioner to impose restrictions not currently envisaged in Schedule 1.

The Review Group’s concerns could be addressed by removing reference to “...conditions specified in the licence” and incorporating into the definition of “prescribed persons” those parts of Schedule 1 relating to licensed clubs.

**Despite these concerns, the Review Group concludes that the benefits of the restrictions applying to licensed clubs (in terms of their not-for-profit status) outweigh the costs of the restrictions.**

#### **7.15.4 Less restrictive alternatives**

A potentially less restrictive alternative to the current arrangement would be to remove the club licence category, thereby requiring clubs to apply for either a general, on, or special licence, depending on their requirements.

Under this scenario, clubs would be free to seek the most appropriate licence to meet their members’ needs (eg general licence for on and off premise sales or on licence for bar sales only). Clubs could continue to impose restrictions relating to customer types, if they wish, through their individual constitutions. It should be noted, however, that under existing arrangements, clubs are already able to apply for other licence types, besides a club licence, if they believe they meet the relevant licence criteria.

Given that the alternative licensing arrangements are already available to clubs, if they meet the relevant criteria, the Review Group believes that removing the club licence category would only serve to reduce licensing opportunities for this market segment. In addition,

retention of the club licence category ensures continued recognition of clubs as being not-for-profit organisations that have different objectives than commercial operators.

A further less restrictive alternative, which was proposed by the Victorian Liquor Review Group, and that could address the Review Group's concerns regarding the "...conditions specified in the licence..." requirement, is for licensed clubs to incorporate Schedule 1 of the Liquor Guidelines into their respective constitution. Such a requirement would need to be met prior to the issue of the licence. Under such a model, the enforcement of such conditions would be achieved by the Commissioner through Section 42(j)(ii) of the Act (Cancellation of a club licence if the rules or constitution of the club are not being observed).

#### **7.15.5 Draft recommendation**

**The Review Group recommends that:**

- **the restrictions applying to licensed clubs be maintained; and**
- **options be considered to remove reference to "...conditions specified in the licence..." and to incorporate requirements contained in Schedule 1 of the Guidelines into clubs' constitutions.**

## **8 Other issues and draft recommendations**

### **8.1 Introduction**

Whilst the Terms of Reference require the Review Group to identify and recommend removal of unnecessary restrictions, during the course of the review, a number of issues were raised in which the Review Group believes restrictions should be introduced or strengthened.

As noted in Section 7.9, under the Act and the Amendment Bill, licences and permits can only be granted to a person who, among other things:

- in the opinion of the Commissioner for Licensing, is ‘fit and proper’ to hold a licence or permit; and
- has successfully completed a course or traineeship approved by the Commissioner or has relevant qualifications.

While the Review Group has recommended that these restrictions be maintained, it was concerned that these restrictions should, in fact be strengthened in order to maintain the integrity of the licensing system.

### **8.2 Fit and proper person – inclusion of ‘associates’**

A number of stakeholders noted that, whilst the current system is essential and should be maintained, they argue that, by focussing solely on the licence applicant, the restrictions can easily be circumvented. As noted by O’Sullivan and Thomas:

“The process is currently deficient in that it does not allow for an assessment to be made of the suitability of associates ... On some occasions applicants have been granted licenses when acting for other persons who control the sale and supply of liquor when they would not have satisfied the ‘fit and proper’ persons test”<sup>148</sup>.

They argue, together with the AHA and others, that the Act should be extended to include associates, and the influence they may have over the licensee. The AHA suggests requirements should be brought into line with the probity checks made by the Gaming Commission.

Kimber noted, however, during his meeting with the Review Group the difficulty in determining the definition of ‘associates’.

It should also be noted that the applicant for a gaming licence is the owner or lessee of the premises and they may be a company, whereas liquor licence applicants must be a ‘natural

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<sup>148</sup> O’Sullivan, P, and Thomas D., p5.

person', but they may not necessarily be the owner/lessee of the premises. These differences have bearing on how an 'associate' should be defined.

### **8.2.1 Draft recommendation**

While the Review Group appreciates the difficulties of defining 'associates' and of undertaking assessments of known associates, it believes the current arrangements are deficient and open for manipulation.

**It therefore recommends that the definition of 'licence applicant' be expanded to include known associates, in line with the requirements imposed under the Gaming Control Act.**

## **8.3 Qualifications and training requirements**

While the training requirements contained in the Amendment Bill are supported, the Review Group is concerned to ensure that competency through existing experience is included in the definition of qualifications.

Under the terms of the proposed amendments, it is unclear how the Commissioner will define "qualifications", and whether relevant work experience will be recognised. It is widely accepted among industries and the training sector that skills are best measured on a 'competencies' basis. That is, whether the person has the proven ability to achieve standards of competence – whether through on the job training and experience or through accredited institutions of learning.

This concern was expressed by some stakeholders, including Tourism Tasmania, which argued that the proposal is "...contrary to current thinking in respect of training and is discriminatory"<sup>149</sup>.

In addition, the Review Group considers it anomalous for the training requirement to apply only to the licensee and not to those employed to serve alcohol. This is particularly relevant if the Review Group's recommendations relating to the 'personal and effective control' requirements (Restriction 5) are accepted.

Given the practicalities of meeting this requirement, the Review Group believes it would be appropriate to provide the licensee with a period of three months, after commencement of operations, in which to ensure all staff are appropriately trained.

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<sup>149</sup> Tourism Tasmania, p5.

### **8.3.1 Draft recommendation**

**The Review Group recommends that:**

- **the definition of qualifications be expanded to include competencies through experience; and**
- **a condition of issuing a licence requires that all staff serving alcohol in general, on and off-licence establishments be trained in RSA, with such requirements for special licences to be assessed upon application; and**
- **a period of three months' grace applies, following the commencement of trading by the licensed establishment, to allow for the training of all staff to be completed.**

## **Appendix 1: Terms of Reference**

### **INTRODUCTION**

At the meeting of the Council of Australian Governments (COAG) on 11 April 1995, the Tasmanian Government (along with the Commonwealth and all other State and Territory governments) signed three inter-governmental agreements relating to the implementation of a national competition policy (NCP). The agreements signed were:

- • the Conduct Code Agreement;
- • the Competition Principles Agreement; and
- • the Agreement to Implement the National Competition Policy and Related Reforms.

The Competition Principles Agreement (CPA), among other things, requires the State Government to review and, where appropriate, reform by the year 2000 all legislation restricting competition. This requirement is outlined in clause 5.

The State Government's Legislation Review Program (LRP) meets Tasmania's obligations under clause 5 of the CPA by, *inter alia*, outlining both a timetable for the review of all existing legislation that imposes a restriction on competition and a process to ensure that all new legislative proposals that restrict competition or significantly impact on business are properly justified. Further, the LRP details the procedures and guidelines to be followed by agencies, authorities and review bodies in this area. Details of the LRP's requirements are contained in the *Legislation Review Program: 1996-2000 Procedures and Guidelines Manual* (the "Manual").

### **TERMS OF REFERENCE**

The Liquor and Accommodation Review Group (Review Group), as detailed in Attachment 1, will conduct a major review of the Liquor and Accommodation Act 1990 and all subordinate legislation under that Act, having regard to the following guiding principle: "That legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition."

#### ***Review Requirements***

As a minimum, the review shall:

- clarify the objectives of the legislation;
- identify the nature of the existing restrictions on competition;
- consider whether the existing restrictions should be retained by:



- analysing the likely effect of the existing restrictions or any other form of restriction on competition within the liquor industry, the accommodation industry and on the economy generally;
  - assessing and balancing the costs and benefits of the restrictions; and
  - considering alternative means for achieving the same result, including non-legislative approaches; and
- identify the broader impact of the legislation on business and assess whether this impact is warranted in the public benefit.

In addition, the Terms of Reference for the Review Group may be expanded during the course of the review to include consideration of any proposed legislation to amend the Liquor and Accommodation Act 1990.

The review shall not consider matters relating to restrictions in the Act or its subordinate legislation that limit the availability of liquor to minors.

In undertaking the review, regard will be had to legislative restrictions on liquor, accommodation and wine production industries in other Australian States and Territories, and, where possible, the outcome of legislation reviews elsewhere.

The Review Group shall take other broad policy considerations of the Tasmanian Government into account when determining whether legislative restrictions on competition or significant impacts on business are warranted. These considerations include, but are not limited to:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

***Format of the Review***

The Review Group must complete a Regulatory Impact Statement (RIS) in accordance with the proforma contained in Appendix 3 of the Manual. The RIS should explain:

- the objectives of the legislation;
- the issues surrounding any restriction(s) on competition;
- the benefits and costs which flow from those restriction(s); and
- the broader impact of the legislation on business and whether this impact is warranted in the public benefit.

***Reporting Requirements***

The Review Group must produce a final review report in accordance with the Manual. The final review report must contain:

- a copy of the RIS;
- clear recommendations on the possible actions that can be taken by the Government, including retaining, amending or repealing the specific legislative restriction(s) on competition in question. Where retention or amendment is recommended, the report must include a clear demonstration of the benefit to the public;
- clear recommendations on any possible actions that can be taken by the Government in relation to the broader impact of the legislation on business; and
- an outline of any transitional arrangements which may be required under the recommended course of action and the rationale for these arrangements.

***The Date of Completion***

The Review Group shall provide a copy of both the completed review report and RRU endorsement of the RIS to the Treasurer and the Portfolio Minister by 30 June 2001<sup>150</sup>.

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<sup>150</sup> The date of completion has been extended by the Treasurer to 31 August 2001. Due to unavoidable delays in finalising the draft RIS, the Review Group is currently seeking a further extension to 31 October 2001.

## **Appendix 2: Review and Reference Group Membership**

### **The Review Group**

The Review Group, as constituted by the Government, comprises:

- Martin Rees - Senior Partner, KPMG (Chair)
- Peter Bennett – Assistant Director, Economic Policy Branch, Department of Treasury and Finance
- Deb Lewis – Manager, Industry Services and Training, Tourism Tasmania.

Additional research is provided by KPMG, while the Department of Treasury and Finance is providing secretarial support.

### **The Reference Group**

The Reference Group, as constituted by the Government, comprises:

- Daniel Leesong, State Director, Australian Hotels Association
- Michael Roberts, General Manager, Tourism Council Tasmania
- Peter Coe, Commissioner for Licensing
- Phil Capon, Restaurant and Caterer's Association
- Michael Watts, Secretary, Clubs Tasmania

### **Appendix 3: Schedule of written submissions**

1. Graeme Gill, Licensee, Sorrell Wine Cellars
2. Phillip Kimber, Chairman of the Licensing Board
3. David Johnstone,
4. Grant Stump, Derwent Park Cellars
5. Rae and Partners, on behalf of Jimmy's Liquor (Scottsdale), Pindari Cellars (Launceston) and St Helens Liquor Markets (St Helens)
6. Glenn Travers, on behalf of Woolworths Pty Ltd
7. Gerry White, Herons Rise Vineyard
8. Colin Corney, Tasmanian Wine Education
9. Mr S Bramish, on behalf of the Australian Institute of Building Surveyors
10. Paul Harding, on behalf of the Independent Tourism Operators of Tasmania
11. Tourism Tasmania
12. James Bleasel, Nine-Eleven Tasmania Pty Ltd
13. Tourism Council Tasmania
14. Brent Burgess
15. Peter O'Sullivan and David Thomas, staff of the Licensing Branch
16. Australian Hotels Association
17. John Thomas, on behalf of the Hospitality and Tourism Association of Tasmania
18. Philip Jacobson, King Island IGA Everyday
19. Dr Alex Wodak, Director, Drug and Alcohol Services, St Vincent's Hospital
20. Phil Capon, President, Restaurant and Caterers' Association of Tasmania

## Appendix 4: Stakeholders submissions – summary of responses

### Summary of Responses

Issue	Submission No																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
<b>PART 1 - Objectives of the legislation</b>																				
Should a Statement of Objectives be included in the Act?	yes	yes	yes	yes	-	yes	-	yes	-	yes	yes	yes	yes	yes	yes	yes	yes	-	-	-
Are the objectives set out in the Second Reading Speech appropriate?	yes	no	no	yes	-	yes	-	no	-	-	yes	no	yes	yes	yes	yes	-	-	-	-
															*	*				
<b>PART 2 - Regulation of the liquor industry</b>																				
<i>Requirement to possess a licence or permit:</i>																				
Does the liquor licence and permit system meet the objectives of the Act?	yes	yes	yes	yes	yes	yes	-	yes	-	yes	yes	yes	yes	yes	yes	yes	yes	-	-	-
Should the liquor licence and permit system be maintained?	yes	yes	yes	yes	yes	yes	-	yes	-	yes	yes	yes	yes	yes	yes	yes	yes	-	-	-
<i>Types of licences and permits:</i>																				
Does the system of licence and permit types meet the objectives of the Act?	yes	yes	yes	no	yes	yes	-	yes	-	-	yes	yes	no	yes	yes	yes	yes	-	-	no
<i>Sale of liquor in supermarkets:</i>																				
Does the prohibition of liquor sales from supermarkets meet the objectives of the Act?	?	no	yes	-	yes	no	-	no	-	-	no	yes	yes	yes	no	no	yes	-	-	-
<i>Nine litre limit:</i>																				
Does the nine-litre limit policy meet the objectives of the Act?	no	no	no	no	no	no	-	no	-	no	no	yes	no	no	no	yes	yes	no	no	-
Should the nine litre limit policy be abolished?	yes	yes	yes	yes	yes	yes	-	yes	-	yes	yes	no*	yes	yes	yes	no	no	yes	yes	-
<i>Restrictions in general licences that restrict the location of bottleshops:</i>																				
Does the “personal and effective control” requirement meet the objectives of the Act?	yes	-	yes	-	yes	no	-	yes	-	-	-	no	yes	-	-	yes	no	-	-	-
Should this restriction be maintained?	yes	no	yes*	-	yes	no	-	yes	-	-	-	no	yes	-	-	yes	no	-	-	-
<i>Discretionary authority and the liquor guidelines:</i>																				
Does the Board’s discretionary authority meet the objectives of the Act?	yes	-	yes	-	-	yes	-	yes	-	yes	yes	no	yes	yes	yes	yes	yes	-	-	-

Should this discretionary authority be maintained?      yes   no   yes   -   -   yes   -   yes   -   -   yes   no   yes   yes   yes   yes   yes   -   -   -

**Qualification requirements for licensees and permit holders:**

Does the 'fit and proper persons' requirement meet the objectives of the Act?      yes   yes   yes   -   yes   yes   -   yes   -   yes   yes   yes   yes   yes   yes   yes   yes   -   -   -

Should the 'fit and proper person' requirement be maintained?      yes   yes   yes   -   yes   -   -   yes   -   yes   yes   yes   yes   yes   yes   yes   yes   -   -   -

Should the age limit requirement be maintained?      no   -   no   -   yes   -   -   no   -   yes   no   yes   yes   yes   yes   yes   yes   -   -   -

Should the training requirement be maintained?      yes   yes   yes   -   yes   -   -   yes   -   yes   yes   yes   yes   yes   yes   yes   yes   -   -   -

**Good Friday trading:**

Does the restriction on trading on Good Friday meet the objectives of the Act?      -   -   no   -   yes   no   -   no   -   no   no   no   no   no   no   no   yes   -   -   -

Should this restriction be maintained?      -   -   no   no   yes   no   -   no   -   no   no   no   no   no   no   no   yes   -   -   -

If this restriction is to remain, should it continue to apply only to hotels and taverns? Why?      no   -   -   -   yes   -   -   -   -   -   -   -   -   -   -   -   -   -   -   -

**Conditions applying to unlicensed clubs:**

Does the condition applying to unlicensed clubs meet the objectives of the Act?      ?   no   no   -   -   -   -   no   -   -   -   yes   -   yes   no   yes   yes   -   -   -

**Amenity and condition of premises:**

Do the amenity and condition requirements meet the objectives of the Act?      yes   yes   yes   -   yes   yes   -   yes   -   -   yes   no   yes   yes   yes   yes   no   -   -   -

Should the requirements be maintained?      yes   yes   yes   -   yes   yes   -   yes   -   -   yes   no   yes   yes   yes   yes   no   -   -   -

**PART 3 - Regulation of the accommodation industry**

Is the accommodation licensing scheme consistent with the objectives of the Act?      ?   yes   yes   -   -   -   yes   yes   yes   yes   yes   no   ?   yes   yes   yes   yes   -   -   -

Should a licensing system be maintained for tourist accommodation?      yes   yes   yes   -   -   -   yes   yes   yes   yes   yes   no   yes   yes   yes   yes   yes   -   -   -

**Key:** 1. Graeme Gill – Sorrell Wine Cellars; 2. Phil Kimber – Licensing Board; 3. David Johnstone – Tas Wine and Spirit Merchants; 4. Grant Stump – Derwent Park Cellars; 5. Rae and Partners; 6. Woolworths Pty Ltd; 7. Gerry White – Herons Rise Vineyard; 8. Colin Corney – Tasmanian Wine Education; 9. S Bramish – Australian Institute of Building Surveyors; 10. Independent Tourism Operators of Tasmania; 11. Tourism Tasmania; 12. James Bleasel – Nine-Eleven Tasmania P/L; 13. Tourism Council Tasmania; 14. Brent Burgess – Tourism, Hospitality and Catering Consultant; 15. Peter O'Sullivan and David Thomas; 16. Australian Hotels Association; 17. Hospitality and Tourism Association of Tasmania; 18. King Island IGA Everyday; 19. Dr Alex Wodak, 20. Phil Capon – Restaurant and Caterers' Association.

## **Appendix 5: Schedule of verbal submissions**

Meetings were conducted in Hobart with the following stakeholders on 2 May 2001:

<b>Name</b>	<b>Organisation</b>
Daniel Leesong and selected industry representatives	Australian Hotels Association
James Bleasel	Nine-Eleven Tasmania Pty Ltd
Michael Kent and Glenn Travers	Woolworths Pty Ltd
Phil Kimber	

## **Appendix 6: Criteria to be considered when applying the public benefit test**

### *Matters to be considered when applying the Public Benefit Test*

The following matters are listed in subclause 1(3) of the CPA as possible issues governments may take into account when assessing whether a course of action is in the public benefit:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

### *Criteria used by the Australian Competition and Consumer Commission for assessing the Public Benefit*

Agencies and Authorities may find it useful when applying the public benefit test to have regard to the criteria used by the ACCC in the assessment of applications for authorisations under section 88 of the TPA. Such applications request the Commission to "authorise" certain activities that would otherwise be held to be in breach of the restrictive trade practices provisions of the TPA.

The ACCC assesses the public benefit by determining whether the restriction:

- promotes competition in an industry;
- assists economic development (for example, in natural resources through the encouragement of exploration, research and capital investment);
- fosters business efficiency, especially where this results in improved international competitiveness;
- encourages industry rationalisation, resulting in a more efficient allocation of resources and lower, or contained, unit production costs;



- expands employment growth or prevents unemployment in efficient industries and employment growth in particular regions;
- fosters industry harmony;
- assists efficiency in small business (for example, by providing guidance on costing and pricing or marketing initiatives which promote competitiveness);
- improves the quality and safety of goods and services and expands consumer choice;
- supplies better information to consumers and business, thereby permitting more informed choices in their dealings at a lower cost;
- promotes equitable dealings in the market;
- promotes industry cost savings, resulting in contained or lower prices at all levels of the supply chain;
- encourages the development of import replacements;
- encourages growth in export markets;
- implements desirable community standards with a minimum impact on competition in the marketplace; or
- implements steps to protect the environment.

## **Appendix 7: Myriad Consultancy – Survey of consumer attitudes**

### ***Executive Summary.***

As part of its obligations under the National Competition Policy, the State Government is conducting a review of the Liquor and Accommodation Act, which among other restrictions, currently prevents the sale of alcohol by supermarkets within Tasmania.

The Review Group commissioned Myriad Consultancy to conduct a community survey to measure the level of support for possible changes to the Act, which would allow supermarkets to sell alcohol, and to estimate the potential shift in purchasing patterns.

A telephone survey was subsequently conducted with a random cross section of Tasmanian householders during the first week of June 2001. Respondents were interviewed statewide (401 respondents aged 18 years plus), with random selection from Telstra White Pages.

### **Main research findings.**

#### **The survey first looked at current shopping patterns for purchases of alcohol for off license consumption, ie. not consumed on the premises.**

- 18.5% of people interviewed were non purchasers of alcohol.
- Purchasers were most likely to buy their beer, wine, spirits, etc for off license consumption from a **bottleshop**, ie. a liquor outlet licensed for single bottle sales, which may or may not be attached to a hotel (71% of total respondents).
- A bottleshop was significantly more likely to be the point of purchase for urban compared with rural respondents, and proportionally higher for the Northwest and North compared with the South of the State.
- **Convenience** was the main reason given for buying from the preferred outlet (59% of all mentions), with price also an important factor (25%).

**Respondents were then asked if they agreed or disagreed with a proposal to allow supermarkets to sell alcohol on a restricted basis.**

- Just over half of all respondents (50.6%) were against this idea, with 41.6% in favour.
- Support was strongest in the South, with Northwestern respondents more likely to be against the idea.
- Younger respondents were more likely to be in favour of the proposed extension (60.6% of 18 – 24 year olds in favour), whereas older respondents were more likely to be against the idea (60% of respondents 65 years and over against).

**Respondents were asked *why* they agreed or disagreed with an extension to allow supermarkets to sell alcohol.**

- Reasons given **in support of the proposal** have been summarised into main themes (*with some relevant comments*) ...
  - **convenience** (87 responses relating to)
  - **the situation in other states/countries** (54 responses)
  - **the importance of proper policing and control** (29 responses)

*‘convenient and available in other states, so why not Tasmania’*

*‘same risks as a bottleshop as far as underage people getting alcohol’*

*‘it would make things easier, but has to be policed properly’*

*‘more convenient, one stop shopping. Would be great’*

*‘successful in Europe – why not here? Good for the consumer, better prices’*

It was noted that ‘pricing’ was not a major theme (14 responses).

- Reasons given **against the proposal** have likewise been summarised into main themes (*with some relevant comments*) ...
  - **the social impact** (105 responses relating to)

- **the adequacy of number of existing outlets** (43 responses)
- **the economic impact** (44 responses)

*'already have enough liquor outlets'*

*'I have young children and wouldn't want them to associate alcohol with a supermarket; it's just not appropriate'*

*'supermarkets have everything as it is. It would disadvantage small hotels and bottleshops'*

*'policing age; not sure if supermarkets can properly do it'*

*'will make it hard for hotels to survive. A lot of country hotels struggling now'*

Respondents were then asked if they would be likely to buy their alcohol from a supermarket if the law were to be changed.

- **The result was fairly evenly split between those who thought they would (48% of all respondents) and those who felt they would not (46%).**
- **With the non-buyer group removed, 59% indicated they were 'likely supermarket buyers' should the law be changed.**
- **The likely buyers were higher proportionally in the South, compared to the Northwest and North, and with a much stronger purchase intention indicated by the younger respondents (73% of 18 – 24 year olds, compared with 38% of respondents 55 plus).**
- **Those with a lower household income were less likely to be supermarket purchasers (of alcohol) than those with higher household incomes.**

The appendices to this Report comprise the survey instrument (*Appendix A*), alcohol expenditure by household income (Australian Bureau of Statistics 1998/9) (*Appendix B*), and 'likely expenditure shift calculation' (*Appendix C*).

### **Likely expenditure shift – purchase of alcohol for off license consumption.**

The household expenditure figures have been used to calculate the *likely shift* in expenditure from traditional outlets to supermarkets in the event of a license extension.

**We calculate that for the total of 194 respondents reporting a purchase intention (*all, most, some or unsure*) and household income, weekly expenditure is approximately \$887, which equates to \$4.57 per household per week.**

**For the total sample (401 respondents), this equates to \$2.21 per household per week which, when compared with the relevant Tasmanian figure of \$9.44, gives a likely expenditure shift of 23.4% of total.**

**ie. based on the indicated likely purchase intentions of the survey sample ... if Tasmanian supermarkets were permitted to sell alcohol, around 23% of purchases of alcohol for off license consumption would be expected to be from supermarkets, all other factors being constant.**

Brian and Ros Correy  
Myriad Consultancy.

29 June 2001

## **1. Background.**

The State Government is conducting a review of the Liquor and Accommodation Act as part of its obligations under the National Competition Policy.

One aspect under review is the restriction on sale of liquor, which currently excludes supermarkets.

The Review Group commissioned Myriad Consultancy to conduct an appropriate survey to objectively measure the level of support within the Tasmanian community for an extension of liquor licenses to include supermarkets.

## **2. Research Objectives.**

**By way of valid market research method, and with a representative sample of the Tasmanian population,**

- 1.1 To establish current patterns of consumer behaviour in relation to purchase of alcohol for takeaway consumption;
- 1.2 To measure levels of support for the extension of liquor licenses to include supermarkets;
- 1.3 To ascertain likely shifts in purchasing patterns if alcohol was able to be purchased in supermarkets.
- 1.4 To obtain relevant demographics for the sample selected – age range, gender, household income.

## **3. Methodology.**

- A telephone survey was conducted with a random cross section of Tasmanian householders between June 1 and June 8, 2001 via a structured questionnaire, developed in conjunction with our client – refer to *Appendix A* – survey questionnaire.

- **The survey sample comprised 401 respondents aged 18 years plus, randomly selected from Telstra White Pages (*last birthday method*) with representation in the sample approximately proportional to the relative population and urban/rural ratios for each region (based on latest Australian Bureau of Statistics figures).**
- *The total sample provides an estimated sampling error of less than plus or minus 5% at the 95% confidence level.*
- Interviewing was conducted by the Myriad Research field team, in accordance with the relative Quality Assurance guidelines for market research telephone surveys (IQCA – Interviewer Quality Control Australia).
- *Data input of hard copy questionnaires and subsequent analysis has been completed by Myriad Consultancy.*

#### 4. *Research Findings.*

Results are grouped with the relevant survey question – refer to *Appendix A* survey questionnaire.

*Note that the total sample provides an estimated sampling error of less than plus or minus 5% at the 95% confidence level, ie. there are 95 chances in 100 that the survey result for a particular measured aspect lies within 5 percentage points of the actual figure for the total population. Note also that the sampling error is higher for smaller samples, eg. age, region sub groups.*

*As a general rule, sub group samples of less than 100 should not be taken as statistically significant for extrapolation purposes. Sub samples of 30 or more may be taken as ‘indicative’ rather than statistically significant.*

#### 1a. Firstly, where do you currently buy beer, wine and spirits from?

<i>Table 1a</i>			
	<b>Freq.</b>	<b>%</b>	<b>% *</b>
hotel	36	7.7	9.5
club	13	2.8	3.4
<b>bottleshop</b>	<b>268</b>	<b>57.6</b>	<b>70.7</b>
liquor store	52	11.2	13.7
other	10	2.2	2.6
don't buy	86	18.5	
	465	100.0	99.9

**Notes:**

1. *Table contains multiple responses.*
  2. *A ‘liquor store’ has been taken as a minimum 9 litre outlet; a bottleshop – outlet with single bottle sales permitted.*
- \* % with ‘don’t buy’ group removed

**‘other’ places**

<i>direct sales</i>	<i>Qantas Club</i>
<i>interstate wine clubs</i>	<i>wine club</i>
<i>mail order</i>	<i>wine clubs</i>
<i>mail order, wine club</i>	<i>wine merchant</i>



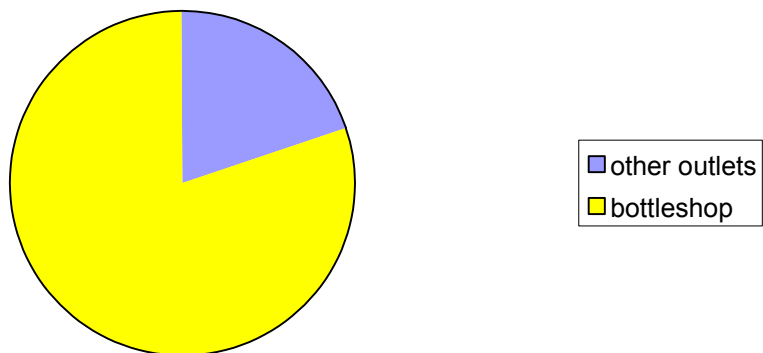
membership

winery

**1b. (if multiple) Where would you mostly buy these items from?**

	Freq.	%
hotel	19	6.0
club	10	3.2
<b>bottleshop</b>	<b>252</b>	<b>80.0</b>
liquor store	30	9.5
other	4	1.3
	315	100.0

**Q1b - Where do you mostly buy these items from?**



	Urban		Rural	
	Freq.	%	Freq.	%
hotel	5	2.8	14	10.4
club	5	2.8	5	3.7
<b>bottleshop</b>	<b>155</b>	<b>86.1</b>	<b>97</b>	<b>71.9</b>
liquor store	12	6.7	18	13.3
other	3	1.7	1	0.7
	180	100.0	135	100.0

<i>Table 1b (iii)</i>	<b>South</b>		<b>Northwest</b>		<b>North</b>	
	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>
hotel	15	9.8	3	4.0	1	1.1
club	5	3.3	5	6.7	0	0.0
bottleshop	117	76.5	64	85.3	71	81.6
liquor store	15	9.8	1	1.3	14	16.1
other	1	0.7	2	2.7	1	1.1
	153	100.0	75	100.0	87	100.0

## 2. What is your main reason for buying from there?

<i>Table 2</i>		
	<b>Freq.</b>	<b>%</b>
<b>price</b>	<b>98</b>	<b>24.9</b>
<b>convenience</b>	<b>233</b>	<b>59.1</b>
range	23	5.8
service	6	1.5
habit	8	2.0
other	26	6.6
	394	100.0

**Note:** multiple responses

**‘other’ reasons given** (with Question 1b – where mostly buy items from)

*Hotel*

*Support the locals*

*Club*

*Ex serviceman*

*Atmosphere*

*Support the club*

*Bottleshop*

*Support local hotel  
Advertising  
Deliver to home  
Don't always buy 9ltrs  
Don't have to walk into a hotel  
Easy parking  
Frequent Shopper Card/points (2 responses)  
It's the only place I can get it  
Nowhere else to buy it  
Only place I can go  
Only place where alcohol is available  
Open late  
Patronage to local business  
Sponsor my football club*

*Liquor store*

*Shopper vouchers  
Frequent shopper points (2)  
Only place on King Island (spend most time on King Island)  
Member of Cheaper Liquor*

**other – wine club**

*Good quality  
Quality*

<i>Table 2 (ii)</i>	<b>Urban</b>		<b>Rural</b>	
	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>
price	58	25.3	40	24.2
convenience	131	57.2	102	61.8
range	15	6.6	8	4.8
service	3	1.3	3	1.8
habit	6	2.6	2	1.2
other	16	7.0	10	6.1
	229	100.0	165	100.0

<i>Table 2 (iii)</i>	South		Northwest		North	
	Freq.	%	Freq.	%	Freq.	%
price	47	25.5	22	22.7	29	25.7
convenience	108	58.7	58	59.8	67	59.3
range	11	6.0	9	9.3	3	2.7
service	2	1.1	1	1.0	3	2.7
habit	3	1.6	2	2.1	3	2.7
other	13	7.1	5	5.2	8	7.1
	184	100.0	97	100.0	113	100.0

***(Introduction – Question 3)***

The Government is reviewing the Liquor Licensing Laws, which do not currently allow supermarkets to sell alcohol. If the law was to be changed it is likely that the supermarkets would be allowed to sell alcohol on a restricted basis – in a separate area with a separate checkout and with staff supervision. Only people aged 18 and over would be allowed to make purchases – as is the case in hotel bottleshops.

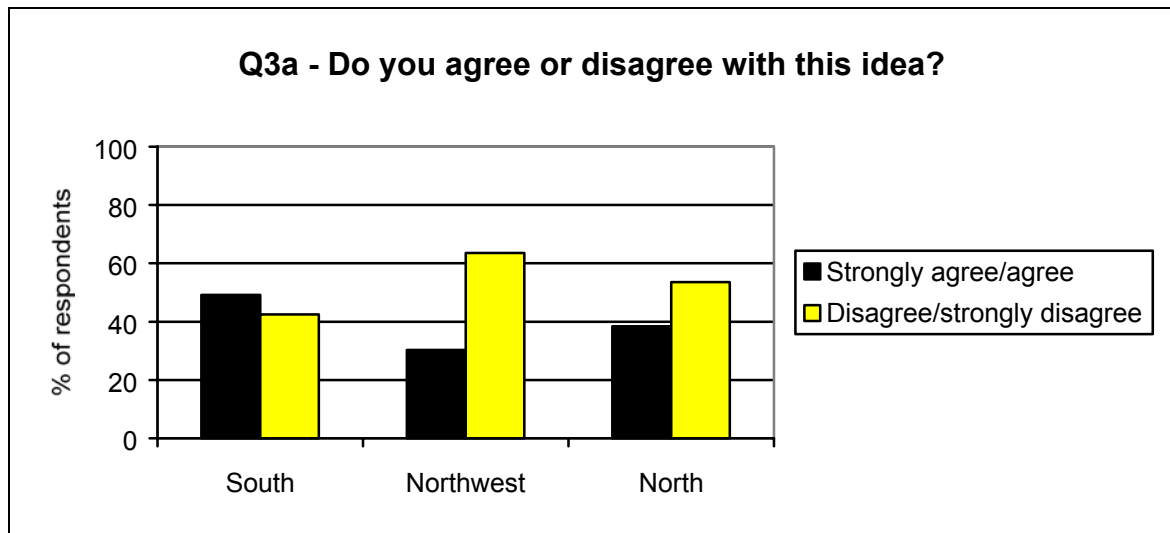
**3a. Do you agree or disagree with this idea?**

<i>Table 3a</i>		
	Freq.	%
strongly agree	29	7.2
agree	138	34.4
neither agree nor disagree	31	7.7
disagree	122	30.4
strongly disagree	81	20.2
	401	100.0

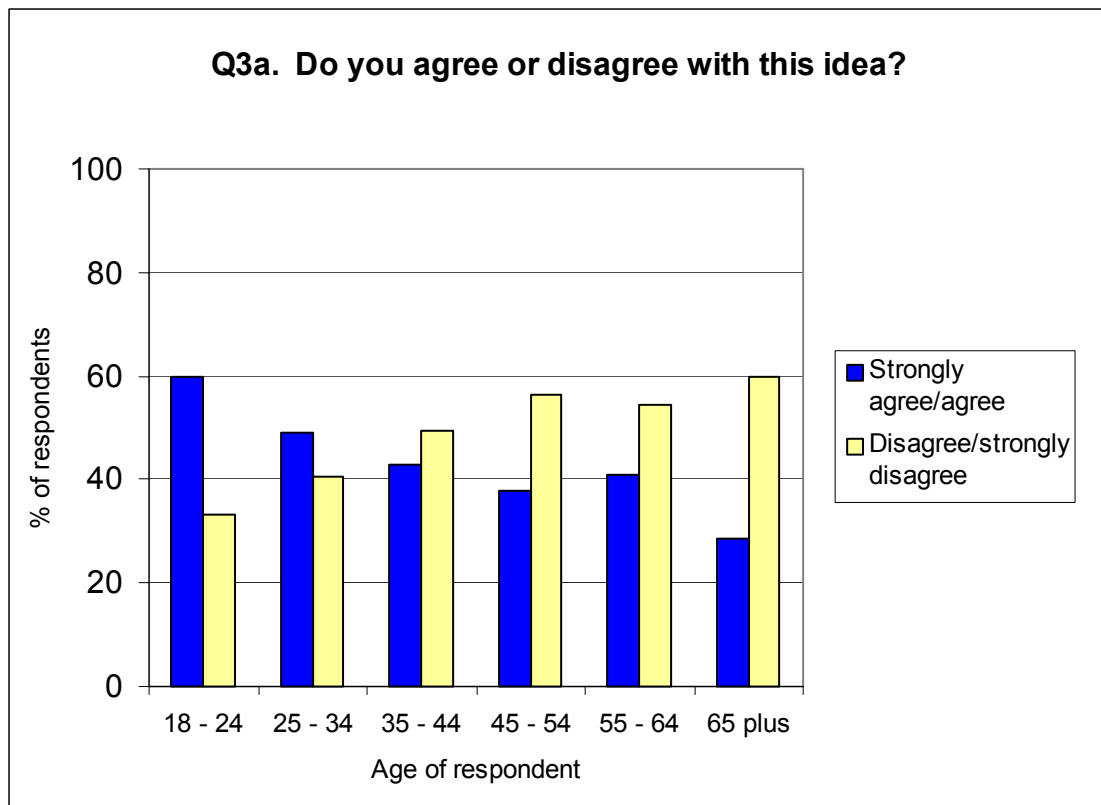
Don't buy group removed		
<i>Table 3a (i)</i>		
	Freq.	%
strongly agree	26	8.3
agree	123	39.0
neither agree nor disagree	27	8.6
disagree	90	28.6
strongly disagree	49	15.6
	315	100.0

<i>Table 3a (ii)</i>	Urban		Rural	
	Freq.	%	Freq.	%
strongly agree	21	9.2	8	4.6
agree	80	35.1	58	33.5
neither agree nor disagree	17	7.5	14	8.1
disagree	65	28.5	57	32.9
strongly disagree	45	19.7	36	20.8
	228	100.0	173	100.0

<i>Table 3a (iii)</i>	South		Northwest		North	
	Freq.	%	Freq.	%	Freq.	%
strongly agree	19	9.8	6	6.3	4	3.6
agree	76	39.4	23	24.0	39	34.8
neither agree nor disagree	16	8.3	6	6.3	9	8.0
disagree	57	29.5	23	24.0	42	37.5
strongly disagree	25	13.0	38	39.6	18	16.1
	193	100.0	96	100.0	112	100.0



<i>Table 3a (iv)</i>	18 - 24		25 - 34		35 - 44		45 - 54		55 - 64		65 +	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%
strongly agree	2	6.1	11	15.9	7	7.7	4	5.6	2	3.0	3	4.3
agree	18	54.5	23	33.3	32	35.2	23	32.4	25	37.9	17	24.3
neither agree nor disagree	2	6.1	7	10.1	7	7.7	4	5.6	3	4.5	8	11.4
disagree	10	30.3	18	26.1	29	31.9	23	32.4	20	30.3	21	30.0
strongly disagree	1	3.0	10	14.5	16	17.6	17	23.9	16	24.2	21	30.0
	33	100.0	69	100.0	91	100.0	71	100.0	66	100.0	70	100.0



<i>Table 3a (v)</i>	Male		Female	
	Freq.	%	Freq.	%
strongly agree	17	9.2	12	5.5
agree	64	34.8	74	34.1
neither agree nor disagree	17	9.2	14	6.5
disagree	52	28.3	70	32.3
strongly disagree	34	18.5	47	21.7
	184	100.0	217	100.0

<i>Table 3a (vi)</i>	less than \$20,000		\$20,000 - \$40,000		\$40,000 - \$60,000		over \$60,000	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%
strongly agree	4	3.6	8	7.0	7	9.0	6	12.2
agree	38	34.2	36	31.3	35	44.9	15	30.6
neither agree nor disagree	6	5.4	12	10.4	5	6.4	3	6.1
disagree	32	28.8	37	32.2	19	24.4	15	30.6
strongly disagree	31	27.9	22	19.1	12	15.4	10	20.4
	111	100.0	115	100.0	78	100.0	49	100.0

### 3b. Why is that?

Reasons given

#### **Strongly agree**

- *Convenience; can shop for both.*
- *Been to Europe and it works well there.*
- *More convenient to buy alcohol with groceries.*
- *It would make things easier; has to be policed properly.*
- *Government should be more flexible, should sell wine and beer, not average stuff. Under ages will get hold of alcohol wherever it is sold.*
- *If it's being properly run, I can't see that there would be a problem with people underage buying it.*
- *I work in a supermarket, would be OK if supervised properly. Good for competition, maybe prices would go down.*
- *No different to the bottleshop now (where I go) as it's right next door to a supermarket.*
- *They do it in Europe and they don't even have separate checkouts. Convenient.*
- *Convenience, can do all your shopping in one go, less running around.*
- *It's in Europe and other Australian states, I don't see why Tasmania shouldn't go*

*along with everyone else.*

- *Lived in Canberra where that was the case and it seemed to work well. More convenient to buy wine when you've just bought groceries for your meal.*
- *Good for sales. Stupid not to allow supermarkets to sell alcohol.*
- *They sell it in London at supermarkets, why not here? Very convenient.*
- *NT have supermarket sales and it works well.*
- *Wine is a normal grocery item. Wine should be supported. Available in most states.*
- *Don't believe alcohol sales should be restricted to hotels.*
- *Easier to purchase from supermarkets. Supermarkets would allow hours of purchase to be broader. Open earlier than bottleshops.*
- *More convenient.*
- *Successful in Europe, why not here? Good for consumer, better prices.*
- *Much easier, most convenient.*
- *Convenient, one stop shopping.*
- *More convenient. Busy lifestyle, one stop shopping. Would be great.*
- *Because they would buy in bulk and it would be much cheaper, like in Asia.*
- *I would be able to buy it with my groceries.*
- *I buy it from supermarkets on the mainland and find it convenient.*
- *I found it very convenient in WA to buy it in the supermarket; would buy it here if I could.*
- *I would like to be able to buy it with my groceries.*
- *I would be able to buy it with my groceries.*

## **Agree**

- *Up to each individual. Convenience sake, small places have supermarkets, but no liquor outlets. If supermarkets do get it, it should be policed so that regulations are followed.*
- *Can sell cigarettes. Should be able to sell alcohol. More competition. More places to have specials - cheaper liquor. Can buy at same time as grocery shopping.*
- *Logical thing to do.*
- *Convenience - do all the shopping at one place.*
- *If supervised and licensed no difference to a bottleshop.*
- *Make it easier for buying only if 9 litre license did not apply. Could be single purchases.*
- *Provided checkout operator is over 18 years. Responsibility should not be on a young person at a checkout to supervise sales.*
- *More convenient to buy groceries and purchase alcohol at same premises.*
- *Far more convenient.*
- *Can shop in the one place. Most other states already operate like this, and other countries.*



- Convenience
- Some people don't like going into bottleshops.
- More convenient.
- I holiday regularly on mainland – have been exposed to the shops selling alcohol next to supermarkets. Could be handy - would go well, but concerned that it could be easier for underage people to buy.
- Everything all at once, convenient.
- Makes it easier to buy, as long as supervised.
- Prior experience in Melbourne; separate from supermarkets section - easy.
- No reason why not.
- Convenience.
- Easier on consumer, convenience.
- Past experience overseas - have been able to get it at supermarkets, used to it.
- Previous experience in Melbourne; convenience.
- Prior experience in UK, a good idea.
- Convenience.
- Makes no difference as long as same restrictions apply.
- Convenient; can do both at once.
- Previous experience, seen it overseas, no reason not to have it.
- As long as the same regulations as bottleshops; can't see any other problems.
- Convenient.
- Easier to get goods - party food, alcohol all together.
- Convenience; increased competition - lower prices.
- Convenient
- Can't see anything wrong with idea; done in Victoria.
- Provided ID's are checked
- More convenient.
- Previous experience in WA; have bought alcohol for friends
- Only if separate place; if nowhere for underage to purchase beer; if those guidelines were strictly monitored to reduce underage sales.
- As long as policed properly.
- Create more competition which means prices will decrease; it's better for the consumer
- Easier to buy all the groceries at once.
- Should be able to buy it wherever you want; to do it all in one stop is easier; I would probably buy more if the law was changed.
- Seen it in Europe and I found it to be convenient.
- Works on the mainland but may hurt hotel business.
- More convenient; can do that at the same time as shopping.
- Works on the mainland and it's convenient.

- *It's everywhere else in Australia so why shouldn't Tasmania keep up with the rest of Australia.*
- *Only if under proper supervision; definitely not over a regular counter.*
- *Works in England; convenient.*
- *For those who drink it's more convenient; it keeps prices competitive; keeps hotels honest.*
- *More convenient; provided it was correctly supervised.*
- *Works well overseas; if the price stayed the same.*
- *Lived on the mainland and it's fine over there; they should have the right to sell, shouldn't be restricted to only licensed premises.*
- *When I am doing my shopping, if I fancy a drink I can get one then instead of making a separate trip to the bottle shop and having to carry the bottle all the way home.*
- *Supermarkets are where people shop, our supermarket has a Cheaper Liquor attached to it already.*
- *Better than men going to a hotel bottleshop and then forgetting to come home. Come from NSW and it worked well there.*
- *Lived in England and it worked well there to get some alcohol when doing the grocery shopping. Convenience; seen as separate bottleshop even though it was part of supermarket (in England).*
- *Convenient, as long as it's supervised properly it would be OK.*
- *Seen it on mainland and it's good that you can do all your shopping together. Wouldn't be too good for the hotels though.*
- *My daughter lives on the mainland and can do her shopping and get alcohol at the same place. Where as here we have to run around all over the place.*
- *Convenient, prices might be better.*
- *Kids are going to get if they want it anyway. It won't make any difference if it's in a bottleshop or a supermarket.*
- *If it's all sold under supervision it would be OK as long as people under 18 don't have access.*
- *I come from the mainland and have bought alcohol from the special section because of the convenience. As long as it's supervised and kids aren't allowed to run about, I can't see any problems.*
- *If the restrictions were there, there shouldn't be a problem. Convenient.*
- *If you need a stubby and you're near a supermarket, it would save burning up petrol driving to a bottleshop.*
- *Make more jobs, save calling into the tavern on the way home.*
- *Convenient, they do it in every other state.*
- *Convenient and available in other states, so why not Tasmania.*
- *If the person is over 18 can't see any problems.*
- *Would be convenient.*
- *Works OK in Vic and NSW, why not here? No problems.*
- *Widely available already. Why not supermarkets. Supervision would be better in*

*supermarkets than in bottleshops.*

- *Convenient to purchase wine with groceries.*
- *Would be convenient.*
- *Happens in other states.*
- *Can't see any reason why not. Better access for it.*
- *Is allowed in other states.*
- *Pricing*
- *As long as rules and regulations adhered to.*
- *Done in other states. Price.*
- *Can not see any reason why not.*
- *Come into the 20th Century! Is allowed on mainland.*
- *Same risks as a bottleshop as far as underage people getting alcohol.*
- *Convenience.*
- *As long as they are over 18.*
- *No reason why can't be sold elsewhere. No one should have monopoly.*
- *Easier to get beer when doing shopping.*
- *Done in other states.*
- *Saves going to two places.*
- *Price and convenience.*
- *Doing it everywhere else in Australia.*
- *Works well on the mainland.*
- *As long as it's separate.*
- *Easy.*
- *Works in other countries and on the mainland.*
- *Don't see a problem with it.*
- *Works well overseas.*
- *Works well in Qld.*
- *Sounds alright to me.*
- *Makes it harder for youth to buy it (than it is from bottleshops).*
- *Easier*
- *Makes it one less trip out.*
- *Easier - but some bad long terms effects.*
- *Easier.*
- *Can't see a problem with it.*
- *Much easier.*
- *Very convenient.*
- *Convenient.*
- *If it's separate.*
- *Convenience.*

- *Works well elsewhere, easy.*
- *Good idea.*
- *Convenient.*
- *Easier.*
- *As long as strictly monitored.*
- *As long as it was supervised.*
- *Easier.*
- *Worked well overseas.*
- *Convenient.*
- *Convenient for me, especially for a dinner party.*
- *More convenient - really good.*
- *I have lived interstate - it was much easier to buy while shopping.*
- *I would save a stop at the bottleshop; more convenient to buy both the groceries and the liquor.*
- *I found it convenient to buy both at the supermarket in Melbourne.*
- *They sell it in the mainland supermarkets and it is convenient to be able to buy it there.*
- *I buy it at supermarkets in other states, so I would like to do it here with my weekly shopping.*
- *In Germany they sell it in supermarkets so I would find it convenient to buy my cognac with groceries here.*
- *In Bendigo I buy it in the supermarket and find it convenient.*
- *I would buy it with my groceries; I would save time when I am going out not needing to stop at the bottleshop.*
- *They could buy in bulk and sell it cheaper.*
- *I'm used to it in Vic; people who drink are responsible for themselves - it's their own choice and they should be able to get it from a supermarket - never saw any problems with it in Vic.*
- *They've been doing it for years in Melbourne; it's handy.*
- *Works well in Vic; in England they sell it from the corner shop. Couldn't see a problem with supermarkets.*
- *Parents have a shareholder thing which would get them more points.*
- *Seen them in Melbourne; if it was separate then there shouldn't be a problem.*

### **Neither agree nor disagree**

- *Don't purchase alcohol.*
- *No problem with it; doesn't matter either way.*
- *Not sure - need to see how it goes; but if the wine industry was to suffer I'd disagree.*
- *It is convenient, however I would like to support local bottleshops.*

- *Works in Victoria and overseas but underage drinkers shouldn't be encouraged.*
- *I don't drink and my husband only drinks occasionally so where I get it is no bother to me.*
- *I'd rather not see people drinking in supermarket car parks.*
- *Doesn't bother me, don't buy alcohol.*
- *Doesn't worry me, would be quicker to go to a bottleshop than wait in a supermarket checkout, but it would be convenient for others in my household.*
- *Can see anything for it but I can't see anything against it.*
- *Wouldn't make any difference to me because I don't drink.*
- *Won't make much difference to consumption of alcohol.*
- *More concerned about hours, not outlets.*
- *Happens in other states, why not here? People are using supermarkets to purchase most things, why not alcohol.*
- *Not against supermarket selling alcohol. Seen it happen overseas. Doesn't cause any problems.*
- *Sales of alcohol allowed in Victoria. No reason why shouldn't occur here.*
- *Still would prefer to see hotels only selling alcohol.*
- *Doing it in every other state.*
- *Doing it everywhere else.*
- *Hotels would lose business.*
- *Depends on how well over 18 aspect is policed.*
- *Reasons for and against it.*
- *Doesn't really affect me.*
- *Not sure.*
- *Don't like the idea.*
- *Haven't really thought about it.*
- *Not fussed either way.*
- *If it was there I would probably buy it, but I don't mind calling to the bottleshop.*
- *I like the way it is now but wouldn't care if it changes because that's the way it was in NSW.*

## **Disagree**

- *Live in a country town. Use hotel only. Hotels should be only ones to sell alcohol.*
- *Hotels are having a bad enough time as it is. It will take trade away from hotels.*
- *Unnecessary. Supermarkets can sell almost anything. Unnecessary to sell alcohol.*
- *Readily enough available as it is. Take revenue away from one source to another. Small towns. All business need to be patronised.*
- *Supermarkets have a stranglehold on almost everything. Now including petrol. Change could result in bottleshops closing or job losses.*

- *Been overseas, seen where sold. Not absolutely supervised. Underage can purchase.*
- *Do not need to encourage more alcohol sales. Too much around now.*
- *Currently not supervised well. Family members have been able to purchase alcohol since 14 years old and they're tightening up supervision as is. Don't make alcohol more available. Trend for young ones to drink until they're sick.*
- *Bottleshops are not allowed to sell groceries. Should remain as hotels selling alcohol, service stations - petrol, supermarkets - groceries.*
- *Gives young ones more access to alcohol. Should be at a licensed premise such as hotel, not at a supermarket.*
- *Not appropriate to buy alcohol at supermarkets. Too open to families.*
- *Already a place to buy alcohol (bottleshops). Supermarkets selling alcohol would make it easier for young ones to purchase.*
- *Will make it hard for hotels to survive. A lot of country hotels struggling now.*
- *It would be there for everyone. Temptation for young ones and ones on low income. Can see it right in front of them - tempted to buy.*
- *Giving more to the big business and results in less to pubs.*
- *Too easy to get by younger persons.*
- *Already have enough liquor outlets.*
- *Have seen what it does to other peoples' lives. Do not want to see it more readily available.*
- *There is a time and a place. Should not be that convenient.*
- *Allows opening for young people to access alcohol; underage can get away with it more.*
- *Policing age; not sure if supermarkets can properly do it.*
- *Too many young kids could get it.*
- *Couldn't be policed properly; underage drinkers.*
- *Easy access by underage drinkers.*
- *Supermarket for groceries only.*
- *Just keep in bottleshops; keep away from under 18's.*
- *Bottleshops would lose business to supermarkets.*
- *One more opportunity for under age drinkers.*
- *No need for it; younger kids have opportunity to steal alcohol.*
- *Supermarkets for groceries only; encourages younger people to try and buy alcohol.*
- *More available to under age.*
- *Supermarkets getting too big.*
- *Supermarkets have got too much; take away business from hotels.*
- *Adequate outlets - we don't need more - it just gives underage drinkers more opportunity.*
- *Need to be policed properly; a supermarket is not an appropriate place to see alcohol.*

- *The supermarkets have too much power; multinationals shouldn't be able to push local business out.*
- *We have enough outlets already.*
- *It would drive bottleshops out of business.*
- *I think drinking is rubbish; the less places to buy alcohol the better.*
- *I have young children and wouldn't want them to associate alcohol with a supermarket; it's just not appropriate.*
- *There are enough outlets already; it would do the hotels out of too much business.*
- *I'm against alcohol; enough hotels around, Tassie is too small to need it.*
- *A hotel is the place to sell alcohol; shopping centres are family places.*
- *Shoplifters encouraged; supermarket is for food.*
- *Happy with how it is; multinationals are too greedy.*
- *I have family in Melbourne and I've seen how easy it is for underage drinkers to get alcohol.*
- *Enough outlets already; Woolworths already have liquor outlets anyway.*
- *Alcohol sales shouldn't be any easier; there are too many young people acquiring alcohol and it's already abused.*
- *Too easy for underage drinkers to get alcohol.*
- *It's an area where there are still too many young people around. Rather it be a separate site, like bottleshops at hotels.*
- *I've seen what it's like in the UK and I don't like it. It's mixing the two and it's not right, can't be supervised.*
- *The supermarkets will get bigger and bigger and take away from the smaller alcohol outlets.*
- *Hotels don't sell groceries, alcohol is their main form of income, so supermarkets should just stick to selling groceries.*
- *Alcohol shouldn't be anymore accessible than it is now. It could get out of control more in supermarkets.*
- *Supermarkets have everything as it is. It would disadvantage small hotels and bottleshops.*
- *Would make it more accessible to those who already buy too many litres. Too convenient.*
- *Convenient, but there are already a lot of outlets. Supermarkets should be just for food.*
- *Current system is fair. Don't see it as required to mix alcohol with the sale of food.*
- *Too accessible. There are enough outlets for alcohol as it is without supermarkets selling it as well.*
- *It would make it harder for pubs. Supermarkets have enough to worry about already.*
- *Don't see that it's necessary. There are enough places to get alcohol from as it is.*
- *Hotels are enough. No need for supermarkets.*
- *Can't see how 18 or under can be policed. Not possible. Too many underage buy*

*cigarettes now.*

- *Could cause drinking around supermarkets by 18-19 year olds.*
- *Could be tempting for thieves. Need to be strong supervision re underage children stealing and sampling in shop.*
- *Enough bottleshops to cater for people's needs. Commercial greed by supermarkets.*
- *Difficult to police age limit.*
- *Supermarkets are becoming too greedy, wanting to sell everything. Leave alcohol to hotels.*
- *Supermarkets are monopolising market. Prefer to see business stay with hotels.*
- *Takes jobs away from another industry.*
- *Too easy for kids to get.*
- *Should only be in pubs.*
- *Clubs and hotels would lose out.*
- *Access too easy for young people.*
- *Should stay with hotels.*
- *More underage drinking.*
- *Hotels would lose business.*
- *Enough bottleshops around already.*
- *Should be sold at a hotel. Supermarkets can already sell too much.*
- *Supermarkets just for groceries, hotels for alcohol.*
- *Not appropriate for supermarkets.*
- *Plenty of outlets already.*
- *Enough bottleshops already.*
- *Enough places already.*
- *Have lived in Vic - children should not be in supermarkets when they sell alcohol.*
- *Hotels are for liquor, supermarkets for food.*
- *Enough bottleshops already.*
- *Damage small business of pubs and bottleshops.*
- *Supermarkets getting too much monopoly.*
- *Enough liquor outlets already - only greed that supermarkets want to get in on the act. Supermarkets have enough already.*
- *Supermarkets are family areas, not really appropriate to sell alcohol.*
- *Don't really need it.*
- *Don't encourage buying alcohol.*
- *No need to diversify.*
- *There's a place for alcohol - not in supermarkets - not appropriate.*
- *Enough liquor outlets anyway in the area.*
- *Easier access for kids.*
- *Easier to obtain.*



- *Adequate outlets anyway.*
- *Supermarkets make enough now.*
- *Not an appropriate place*
- *Enough drunks around now.*
- *Enough outlets now.*
- *Enough outlets now.*
- *Too easy to get now.*
- *Too many outlets now, no need for more.*
- *Hotels doing it well enough.*
- *Don't really think it's necessary.*
- *Growing monopoly of supermarkets over small businesses; it would give alcohol a higher profile in the community.*
- *Not a good idea; encourages people (especially teenagers) to drink.*
- *Very small population, small business struggling anyway; should support local centres.*
- *It would need very close watching; people under 18 could end up buying it the same way they buy cigarettes under age at supermarkets.*
- *There are too many hotels and clubs selling it now.*
- *There are too many outlets now for liquor eg. bottleshops, clubs, hotels.*
- *Some places on the mainland sell it, but I don't think we need any more outlets for it.*
- *I think it would be too easy for young people to get it.*
- *There are enough places to go and buy it now; don't need any more outlets.*
- *More young people (under 18) would have more opportunity to buy it.*
- *Makes it too convenient; more open to being abused by under-ages.*
- *They've got enough pubs around now; the more places that are selling it the more chance people underage will get hold of it.*

## **Strongly Disagree**

- *Let the bottleshops keep the income from sales. Don't let it go to multi/large supermarkets.*
- *Going to do the hotel sales out of business. Supermarkets will be able to bulk buy and sell cheaper and will put others out of work.*
- *The place to sell alcohol is at a hotel etc., as it is now.*
- *Hotels are not being adequately patronised by the public - if supermarkets enter market patronage decreases further. No supermarket sales.*
- *Supermarkets have enough monopoly with what they sell. Will take business away from hotels and bottleshops. Result - no competition.*
- *A supermarket is for buying groceries, too exposed. Too easy to purchase alcohol. People in bottleshop tend to know customers and can judge ages better. Have a smaller staff.*

- *Alcohol will be too readily available, easier to get.*
- *Plenty of outlets now; large supermarkets ruining economy and small supermarkets*
- *Seen what happens on the mainland with underage drinkers; people may be purchasing alcohol instead of groceries; it's a temptation.*
- *Too many problems with alcohol already; just gives alcoholics and underage drinkers more opportunity.*
- *Enough outlets already.*
- *Enough opportunity to buy alcohol already.*
- *Supermarket is not a bottleshop; too easy for underage drinkers to obtain alcohol.*
- *Bottleshops and pubs is where alcohol belongs, not in supermarkets.*
- *A supermarket is a supermarket and a bottleshop is a bottleshop. Wouldn't get expertise level and service level that you get in a bottleshop. Too easy for someone underage to get someone else to buy for them, as with cigarettes.*
- *Have had friends die from alcohol, ie. the cheap stuff that would be sold at the supermarkets. Drinking age should go up to 21.*
- *Supermarkets are food places not alcohol places. It would be too easy for the kids to get in there and buy alcohol.*
- *Don't think supermarkets should sell alcohol. You go there to buy food, not alcohol.*
- *There's enough hotels without selling it in supermarkets. Kids could easily slip it into their school bags whereas they're not even allowed to go into bottleshops.*
- *Shouldn't have alcohol available to anyone. It only breaks up families and kills people and animals.*
- *Anyone who's had a few can go into the supermarket to buy more (if they're over 18) and cause a fuss there. If they can't get enough in the hotels then it's too bad for them.*
- *Supermarkets have everything now, they've done away with small butchers and bakers. We don't want them to out do the small bottleshops as well. How much do they want?*
- *Too open for kids. They can walk in and out of the supermarket, whereas they're less likely to be hanging around bottleshops.*
- *Much rather it from a bottleshop. Too many young kids around. Supermarkets are for food, not alcohol.*
- *The sale of liquor shouldn't be opened up any more than it is.*
- *Underage drinkers are going to get hold of it no matter what. There's no way you'll stop them, especially if there's more outlets for them to go to.*
- *Don't think it's necessary, people are happy buying alcohol where they do at the moment. It will take away business from bottleshops and liquor outlets. Staff won't be trained to ID people and will let underage people in.*
- *Supermarkets are not an alcohol place, just like petrol stations are not for groceries. Petrol stations should sell petrol and supermarkets should sell groceries.*
- *Should be left to hotels. Too available to the young.*
- *Alcohol should be limited to hotels. Too strong a drive to be placed in supermarket.*
- *Would not be able to control age limit.*

- *Supermarkets should stick with food items, not alcohol. Undesirables hanging around supermarkets.*
- *Supervision would not work. People under 18 would be purchasing.*
- *Supermarket is for buying food etc., not alcohol. Hotels should be left to sell alcohol.*
- *Less places that sell alcohol the better. Should be restricted to hotels only.*
- *Alcohol too accessible in supermarket.*
- *Bottleshops are for alcohol and supermarkets should be for food.*
- *Too easy for people to get.*
- *Hotels are for alcohol and that's how it should stay.*
- *Pubs are for that.*
- *Have enough trouble policing outlets now.*
- *Lot of underage people would be able to obtain. alcohol.*
- *Plenty of bottleshops. Competition that existing outlets can do without.*
- *Every club and pub will go to the wall.*
- *Supermarkets already have a monopoly on everything else.*
- *Hotels would lose business.*
- *Unfair competition. Don't think supermarkets should sell alcohol.*
- *Not the place for alcohol to be sold.*
- *Not right in a supermarket.*
- *Too easy to get for underage people.*
- *Alcohol too easy to get, people would spend their money on alcohol instead of groceries.*
- *Don't agree with liquor.*
- *There are too many avenues now with clubs, pubs and bottleshops; pubs could close down.*
- *There are too many outlets now; the hotels wouldn't like it, they would lose business.*
- *Too many people of all ages have an alcohol problem and it means it is easier for them to get access to it; they have to make another stop at the hotel now.*
- *Young people would have easier access to it; there are too many bottleshops around now.*
- *Every shop to its own; supermarkets for groceries and hotels for liquor.*
- *Supermarkets have too much monopoly now; liquor should only be sold through hotel outlets.*
- *There is too much under age drinking now and it would mean another outlet where they could buy it; too many outlets now, not necessary.*
- *I have a 14 year old son who may get people to buy it for him; too easy to access, and inexperienced shop people would find it hard to tell their age.*
- *Too easy to access; there are enough outlets now; I would not like to see it*
- *Too many liquor outlets now; supermarkets should stick to groceries and not liquor.*
- *The casual young staff around 14 or 15 years would probably be too lenient with*

*under age liquor purchasers; it would not be controlled strictly enough.*

- *Supermarkets should trade in groceries only and hotels for liquor.*
- *There are enough outlets for people to buy alcohol without supermarkets as well.*
- *There are plenty of hotels selling it in our area now.*
- *Too easy for young people to access it; easy for older ones to get it for them.*
- *Plenty of pubs for it now; only encourage drinking more if it was in the supermarket.*
- *Too easy for young people to buy it; there would be more underage drinking.*
- *Too easy for people who shouldn't have it eg. young people under 18.*
- *There are enough bottleshops around now.*
- *Too many bottleshops now; hotels would go out of business.*
- *There are too many outlets around now.*
- *There's enough liquor places around; young kids could find it easier to get hold of it in a supermarket.*
- *There are too many outlets now.*
- *Supermarkets have enough hold on the rest of the food without needing to sell alcohol.*
- *Two separate areas - shouldn't be part of supermarkets at all.*
- *There's enough alcohol outlets without bringing it into supermarkets.*
- *If they could check ID it would be OK but I don't think supermarkets should sell it. Leave it to the hotels, bottleshops and liquor stores.*
- *If you want liquor there's places you can go for it; it shouldn't be shoved down our throats and made so easy. There are enough places as it is.*
- *Supermarkets are not the place to sell alcohol, there are plenty of other places to get it from.*

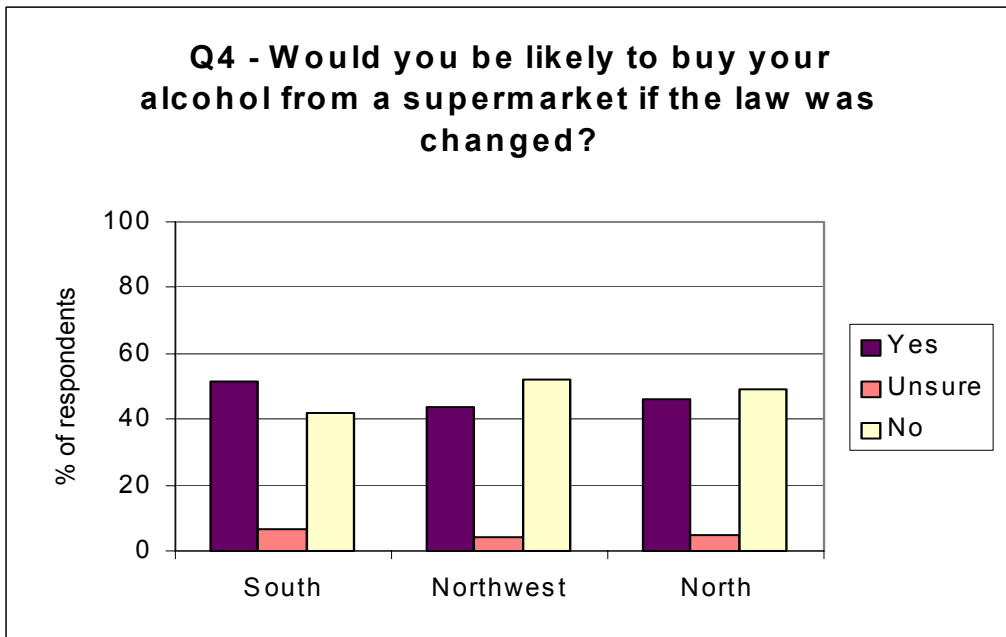
4a. Would you be likely to buy your alcohol from a supermarket if the law was changed?

<i>Table 4a</i>		
	<b>Freq.</b>	<b>%</b>
yes	193	48.1
unsure	22	5.5
no	186	46.4
	401	100.0

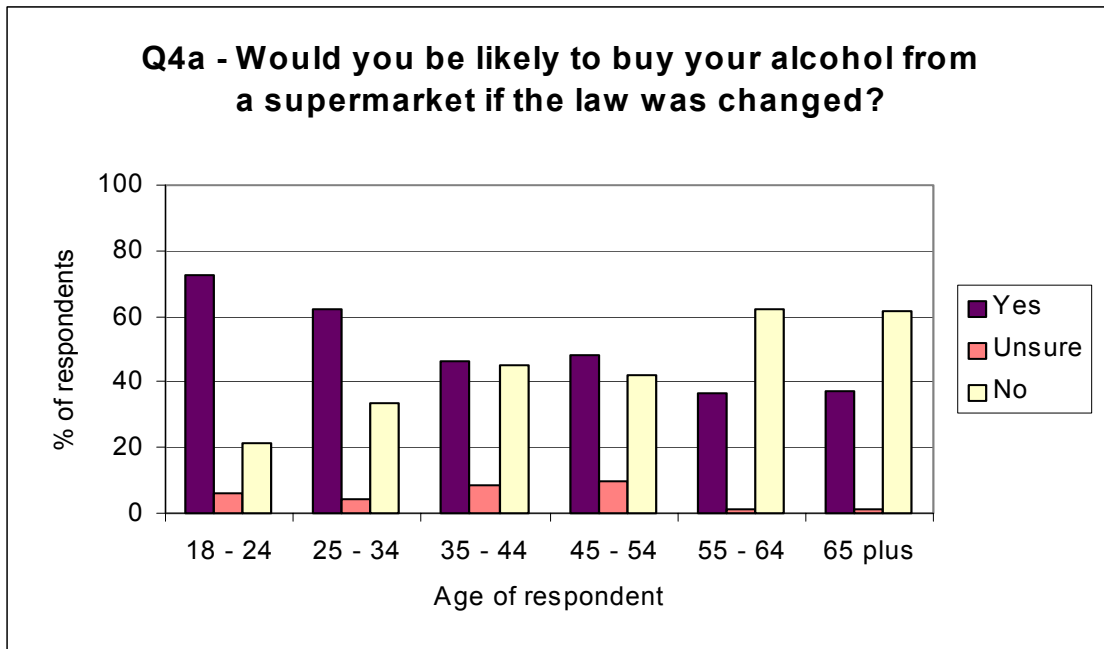
Don't buy group removed		
<i>Table 4a (i)</i>		
	<b>Freq.</b>	<b>%</b>
yes	186	59.0
unsure	21	6.7
no	108	34.3
	315	100.0

<i>Table 4a (ii)</i>	<b>Urban</b>		<b>Rural</b>	
	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>
yes	113	49.6	80	46.2
unsure	16	7.0	6	3.5
no	99	43.4	87	50.3
	228	100.0	173	100.0

<i>Table 4a (iii)</i>	<b>South</b>		<b>Northwest</b>		<b>North</b>	
	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>
yes	99	51.3	42	43.8	52	46.4
unsure	13	6.7	4	4.2	5	4.5
no	81	42.0	50	52.1	55	49.1
	193	100.0	96	100.0	112	100.0



	18 - 24		25 - 34		35 - 44		45 - 54		55 - 64		65 +	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%
yes	24	72.7	43	62.3	42	46.2	34	47.9	24	36.4	26	37.1
unsure	2	6.1	3	4.3	8	8.8	7	9.9	1	1.5	1	1.4
no	7	21.2	23	33.3	41	45.1	30	42.3	41	62.1	43	61.4
	33	100.0	69	100.0	91	100.0	71	100.0	66	100.0	70	100.0



	Male		Female	
	Freq.	%	Freq.	%
yes	90	48.9	103	47.5
unsure	11	6.0	11	5.1
no	83	45.1	103	47.5
	184	100.0	217	100.0

	less than \$20,000		\$20,000 - \$40,000		\$40,000 - \$60,000		over \$60,000	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%
yes	42	37.8	58	50.4	51	65.4	25	51.0
unsure	5	4.5	7	6.1	4	5.1	2	4.1
no	64	57.7	50	43.5	23	29.5	22	44.9
	111	100.0	115	100.0	78	100.0	49	100.0

**4b. And is that likely to be**

<i>Table 4b</i>			
	<b>Freq.</b>	<b>%</b>	<b>% total</b>
all of your purchases	35	16.3	8.7
most of your purchases	37	17.2	9.2
some of your purchases	103	47.9	25.7
unsure	40	18.6	10.0
	215	100.0	

<i>Table 4b (vi)</i>	<b>less than \$20,000</b>		<b>\$20,000 - \$40,000</b>		<b>\$40,000 - \$60,000</b>		<b>\$60,000 - \$80,000</b>		<b>over \$80,000</b>	
	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>	<b>Freq.</b>	<b>%</b>
all of your purchases	8	17.0	14	21.5	8	14.5	2	18.2	0	0.0
most of your purchases	12	25.5	9	13.8	12	21.8	1	9.1	2	12.5
some of your purchases	17	36.2	31	47.7	26	47.3	5	45.5	13	81.3
unsure	10	21.3	11	16.9	9	16.4	3	27.3	1	6.3
	47	100.0	65	100.0	55	100.0	11	100.0	16	100.0



And just to finish, to make sure we get a good cross section of people in our survey, may I ask ...

## 5. Your age range

<i>Table 5</i>		
	<b>Freq.</b>	<b>%</b>
18 - 24	33	8.3
25 - 34	69	17.3
35 - 44	91	22.8
45 - 54	71	17.8
55 - 64	66	16.5
65 plus	70	17.5
	400	100.0
refused	1	

## 6. Gender

<i>Table 6</i>		
	<b>Freq.</b>	<b>%</b>
Male	184	45.9
Female	217	54.1
	401	100.0

## 7. Your household income

<i>Table 7</i>		
	<b>Freq.</b>	<b>%</b>
less than \$20,000	111	31.4
between \$20,000 and \$40,000	115	32.6
between \$40,000 and \$60,000	78	22.1
between \$60,000 and \$80,000	25	7.1
over \$80,000	24	6.8
	353	100.0
refused/don't know	48	
	401	