



Discussion Paper

'A Safer Night Out'

Review of the *Liquor Licensing Act 1997* to address some elements of alcohol-related crime and antisocial behaviour in and around licensed premises

July 2010



Message from the SA Government

Pubs, clubs and other licensed venues form a vital part of our State's economy and provide for a vibrant and colourful culture and nightlife.

The South Australian Government is working hard to ensure that everyone can enjoy a safe and enjoyable night out at pubs and clubs and in our entertainment precincts.

Most people drink responsibly and enjoy the fantastic restaurants, pubs and clubs and entertainment venues we have on offer.

Unfortunately there are still people indulging in binge drinking and alcohol-related crime which can ruin what is meant to be a fun night out. When large groups come together, violence can erupt and this can impact on others' enjoyment.

At a National level, we are participating in developing strategies that aim to prevent and minimise alcohol-related harm and develop safer and healthy drinking cultures in Australia.

At the State level, we recognise the need to look broadly at issues related to alcohol consumption in the community, as we know the harmful consumption of alcohol impacts on:

- families
- young people
- work places
- health services
- neighbourhoods.

It also has a major impact on our law enforcement agencies and emergency services through alcohol-related violence, drink driving and road crashes.

Our entertainment precincts have changed over time with more licensed venues open until the early hours of the morning. We should be able to have a vibrant and exciting city – but a city free from alcohol-fuelled, antisocial behaviour.

That's why it's time to re-visit how we regulate and manage licensed premises to help control binge drinking and reduce the number of serious alcohol-related crimes.

Most licensees actively promote responsible service of alcohol and we applaud their initiatives. We also need to make sure that regulators have adequate powers to deal with those licensees who are not doing the right thing and putting patrons and the community at risk.

A targeted review of the *Liquor Licensing Act 1997* gives us an opportunity to look at the existing laws and assess what works well, and what can be improved across the state.

As well, the Capital City Committee (a strategic forum for revitalising Adelaide) has been given the responsibility for developing a comprehensive City Safety Strategy for the Adelaide Central Business District. The Strategy will incorporate integrated design concepts and could form a set of principles for application in other entertainment precincts across SA.

The City Safety Strategy group will consider areas such as policing, use of public space, planning, transport and other environmental and social factors.

The review of the *Liquor Licensing Act 1997* will complement and inform the development of the City Safety Strategy.

It is anticipated that the City Safety Strategy will be developed by late September 2010.

We are interested in hearing from the community on how best to reduce alcohol-related crime and anti social behaviour in and around licensed premises particularly in our entertainment precincts.

The Government will work together with industry, workers and the community, to make sure the people of SA and visitors to our great State can enjoy a safer night out.

Our achievements so far

The Government in conjunction with stakeholders has been working hard to promote the responsible supply and consumption of alcohol including:

- establishing Liquor Licensing Accords and Precinct Management Groups in partnership with local councils, police and licensees to promote the responsible service and consumption of alcohol in a specific area
- introducing new laws making it easier to determine whether someone is intoxicated
- conducting a 12-month trial (started in November 2009) of a new radio network called Street Link to enable participating venues in the West End to share information about incidents and raise the alert
- working with Adelaide City Council on Safety Audits to identify safe and unsafe areas in entertainment precincts
- establishing the West End, East End, Adelaide Railway Station and Glenelg managed taxi ranks that's provided a safe dispersal option for over 69,000 patrons since inception
- introducing legislation for police to bar offensive or disorderly people in or around licensed premises across South Australia, which has resulted in over 1800 patrons barred
- running a number of TV, radio and print advertising campaigns about drink driving
- developing *That Next Drink* initiative – a campaign to remind drinkers that every extra drink increases their risk
- developing the *Safe Partying* initiative – to assist parents, families and communities to develop harm minimisation strategies that address alcohol consumption at parties or special events (developed collaboratively with agencies such as South Australia Police, Department of Education Children's Service and Drug and Alcohol Services South Australia);
- promoting responsible consumption of alcohol messages at festival events
- producing the *Teenage Parties & Alcohol – A Parent's Guide* brochure, featuring party tips and outlining legal responsibilities, widely circulated to schools, council offices and police stations.

Many pubs and clubs do the right thing but we want to make sure those that don't are held to account.

We also want people to take personal responsibility for their alcohol consumption and make sure they are aware of the health risks and violent behaviour that can flow from excessive drinking.

That's why we are seeking comments on a range of measures to help tackle alcohol-related crime and anti-social behaviour in and around our entertainment areas.

Introduction

The *Liquor Licensing Act 1997* (the Act) regulates and controls the sale, supply and consumption of liquor for the benefit of the community as a whole.

On 3 December 2009 the Minister for Consumer Affairs and the Attorney-General announced a review of the Act focused on measures to reduce alcohol-related crime and antisocial behaviour in and around licensed premises in entertainment areas.

This Discussion Paper canvasses a range of options for discussion including legislative change to:

- provide greater powers to the Liquor and Gambling Commissioner and the Commissioner of Police to address alcohol-related crime and antisocial behaviour in and around licensed premises
- further promote responsible service of alcohol
- create timely and efficient processes to respond to compliance and public safety issues at licensed premises
- address ancillary amendments under the *Liquor Licensing Act 1997*, such as a scheme for annual liquor licensing fees.

Health

In Australia in recent years there has been increased recognition of the wide range of harms which flow from excessive alcohol consumption. There is no single solution that will completely address harms associated with irresponsible drinking practices. This has resulted in a range of activity by Australian governments to address and reduce these harms.

The National Alcohol Strategy 2006 – 2011¹

The National Alcohol Strategy was developed as a response to high-risk alcohol consumption in Australia. The goal of the Strategy is to prevent and minimise alcohol-related harm to individuals, families and communities in the context of developing safer and healthy drinking cultures in Australia.

National Preventative Health Taskforce

The National Preventative Health Strategy, developed by the Preventative Health Taskforce, was released on 1 September 2009. The strategy recommends a range of interventions aimed at reducing the chronic disease burden associated with three lifestyle risk factors – obesity, tobacco and alcohol.

Regarding alcohol, the core recommendation addresses the alcohol culture:

In order to reduce the health and other burdens caused by alcohol, the Taskforce recommends the long-term goal of reshaping Australia's drinking culture to produce healthier and safer outcomes.

The core strategy aims at 'de-normalising' intoxication and reducing the social acceptability of intoxication and notes that:

A multi-pronged prevention strategy that includes a complementary set of actions is required to support this cultural shift, using economic levers such as taxation, legislative and regulatory measures, policing and law enforcement approaches, boosting support for local communities and individuals, as well as increasing awareness and shifting attitudes in the general community.

The Government has already put in place a number of measures to help those affected by alcohol-related harms and to promote awareness of the risks associated with excessive drinking.

The Government is also aware of the significant need for Aboriginal people to have effective programs to reduce alcohol-related harm in all communities.

Promoting individual responsibility

Community concern to alcohol-related, antisocial behaviour and excessive drinking has been increasing and there is now a greater focus and media attention on loutish and drunken behaviour. It is the responsibility of individuals to take charge of their own alcohol consumption. While it is important for police, local government, licensed premises and local communities to continue working together to reduce alcohol-related, antisocial behaviour in entertainment areas across the State, ultimately it is down to each of us to be responsible for our own drinking.

¹ On 24 April 2009, the Ministerial Council on Drug Strategy approved an extension of the term of the *National Alcohol Strategy 2006-2009* until 2011.

Managing irresponsible drinking

Increasing the powers of the Liquor and Gambling Commissioner

The Liquor and Gambling Commissioner can impose conditions on a licence to assist with the appropriate management of the licensed premises.

When a licensee fails to abide by these conditions, the Commissioner can impose further conditions or vary a licence. However, this process can be convoluted and fails to provide an effective and timely response.

One proposal being considered is for the Liquor and Gambling Commissioner to have the ability to respond to urgent issues of public safety in licensed premises by way of a short term interim order imposing conditions on a licence at the Commissioner's discretion, such as the need to employ more security guards. Any extension of the order would then need to be subject to the approval of the Licensing Court.

Another proposal being considered is to empower the Commissioner to order the immediate temporary suspension of a liquor licence. This power would only be exercised in response to urgent public safety issues such as a riot. The order may be reviewed by the Liquor Licensing Court but will remain in force until such time as the order is set aside by the Court.

Currently, the Liquor and Gambling Commissioner must take disciplinary action to remove inappropriate personnel from managing pubs and clubs. This is lengthy and may require a hearing before the Licensing Court. One proposal being considered is extending the Liquor and Gambling Commissioner's powers to make short-term interim orders to remove an inappropriate person from a position of authority from licensed premises. This action would only be undertaken where public interest requires the person to immediately cease their involvement with the premises.

Another mechanism to assist in dealing with alcohol-related issues is the use of lock-outs as a means of controlling patrons in and around licensed premises. This is already being trialled in Glenelg and Hahndorf and in other States.

A proposal being considered is for the Liquor and Gambling Commissioner to have the power to institute lock-out arrangements on individual licensed premises or a group of premises. This would be undertaken in consultation with licensees and could be for an agreed period.

A short-term lock-out arrangement may be imposed on licensed premises at the discretion of the Liquor and Gambling Commissioner to address serious public safety issues.

Greater powers to the Commissioner of Police

The Commissioner of Police currently has the power to close licensed premises if it is overcrowded². There is no other legal basis to close licensed premises. The powers of the police are clearly limited in responding to an urgent situation at licensed premises such as a large brawl or a riot.

One proposal being considered is empowering the Commissioner of Police to temporarily shut down a licensed venue in an emergency situation.

(A similar provision already exists in Western Australia³ and has been exercised only when absolutely necessary).

² section 83BA, *Summary Offences Act 1953*

³ section 1114 *Liquor Control Act 1988*

A plan for safer precincts

Currently the Office of the Liquor and Gambling Commissioner participates with a number of councils, police and licensees, in developing Liquor Licensing Accords. These are voluntary agreements to promote the responsible service and consumption of alcohol.

One proposal being considered is for a more formal and mandatory agreement in a particular area or precinct, with all interested parties having the opportunity to participate in its development. For example, an agreement could be developed for an area containing a number of late-night trading venues where alcohol related antisocial behaviour occurs.

Another proposal under investigation is empowering the Commissioner to make orders (including short-term interim orders) for all licensed premises in a particular location or precinct, rather than simply on an individual basis.

The concept of a more formal or mandatory plan could be extended to address local issues such as in indigenous communities, mining communities or entertainment strips in regional cities and towns if there was evidence of significant alcohol-related crime or anti-social behaviour.

Trading hours and other measures to tackle antisocial behaviour

South Australia has a number of hotels and other venues with 24-hour trading. In the Adelaide Central Business District, six entertainment venues in Hindley Street hold 24-hour licences.

There are approximately six other licensed premises nearby that provide entertainment and are licensed to trade 24 hours including the Adelaide Casino.

Approximately 100 other venues in the Adelaide Central Business District are licensed to trade to 5am.

The data in the recently released South Australia Police report, *Alcohol and Crime*, indicates a link between extended trading hours, high density of licensed premises and adverse impact on alcohol-related social harms in the Adelaide CBD.

The National Preventative Health Strategy also identifies licensed premises opening times as an area for States and Territories to work towards developing a best practice, nationally-consistent approach. The New South Wales Government recently announced it will amend its *Liquor Act 2007* to provide Communities NSW with the power to reduce or vary a venue's trading hours.

One of the issues that contributes to alcohol-related crime and antisocial behaviour is **24-hour** trading. Patrons or residents and businesses can be affected by the overlap between the nighttime and daytime economy. People leaving pubs and clubs may be in an area when daytime workers are arriving. The interaction of this diverse group of people cause issues of safety and amenity in areas where late trading and 24-hour licensed premises are located. It is proposed that an effective way of dealing with alcohol-related crime and assisting the transition between the night-time and daytime economy is by requiring hotels and entertainment venues to close between the hours of 4am to 7am or 5am to 8am. This proposal will apply to all late trading hotels, entertainment venues, clubs and special circumstances licences. Licensed premises patrons will have an opportunity to disperse during this time and the physical environment can be restored.

Hotels and accommodation venues may continue a liquor service to lodgers of the premises during this period.

Restaurants may continue to trade 24 hours, provided the sale and consumption of liquor occurs with or ancillary to a meal and subject to any other conditions on the licence.

It is also proposed that the Liquor and Gambling Commissioner has the authority to reduce trading hours for premises with a poor compliance record.

An exemption will be considered for Skycity Casino on the grounds it offers a unique experience.

Annual Liquor Licence Fees

Currently there is a once-off payment on application for a licence granted under the *Liquor Licensing Act 1997*.

The South Australian Government incurs a range of costs associated with regulating the liquor industry, including costs associated with administering the liquor-licensing system and undertaking compliance and enforcement activities related to liquor licensing. It is one of the few States that has a once-off licensing fee. Implementing an annual licence fee for liquor licences will ensure that the liquor industry contributes more towards the cost of its regulation.

The South Australian Government will learn from the experiences of other jurisdictions with annual liquor licence fees and develop a model in consultation with key stakeholders to suit the South Australian experience.

One model being considered is based on varying compliance costs for each type of licensed premises. A proposed model for SA could include:

- base fee determined by licence type ranging from \$500 to \$1,000
- a loading of \$3,000 to apply to late trading operating hours after 2.00am

It is acknowledged that a 'one-size fits all' approach to annual fees is not suitable for the South Australian liquor industry.

The model and proposed fees will therefore take into account:

- the compliance costs of each class of licence (including differences within the licence class) and an appropriate base fee
- the compliance costs associated with late trading i.e. past 2am and the level of loading which should be applied to licensees trading after this time.

The South Australian Government recognises that the model must also be flexible to ensure that businesses which do not generate high compliance costs are not required to pay fees above the base. For example, a premises may be required to stay open certain hours to comply with lease requirements (a bottle shop or restaurant) but the business poses no other compliance issues. Exemptions may apply for small country pubs which do not pose any compliance issues. Consideration also needs to be given to those community clubs with small revenue bases or where all funding goes back into the community.

Party buses

'Party buses' offer patrons a tour of licensed premises and also provide patrons with alcohol on board the bus.

Party bus operators must hold a liquor licence to provide alcohol on board. Like other licensees, party bus licensees must comply with licence conditions and responsible service of alcohol provisions under the liquor licensing legislation. Licence conditions encourage the responsible consumption of alcohol and responsible behaviour of patrons. Some licences also restrict where passengers may disembark from the bus.

Concerns have been raised by South Australia Police and other licensees about the impact of party buses on the amenity of entertainment areas.

New South Wales is proposing that party buses will not be permitted to enter designated 'no go' zones, will be required to provide access to adequate toilet facilities, minimise noise and traffic disruption, stop at designated set down points, and adopt measures to encourage the responsible consumption of alcohol.

Other measures for consideration include access to free drinking water and soft drinks on a party bus and limiting the number of licensed premises visited on a tour. Party bus operators may also be required to assist patrons with transport options at the end of a tour.

Other work that will contribute to a 'Safer Night Out'

Integrated Design Commission

The South Australian Government recently announced the establishment of the Integrated Design Commission which will provide leadership and independent strategic advice across Government. It will develop guiding design principles and measures to inform design and planning, including developing an Integrated Design Strategy in partnership with the Capital City Committee and Adelaide City Council. The Commission will focus on improving vibrancy, sustainability and quality of life of the city including:

- maximising and increasing the use of public spaces
- defining precincts that harmonise daytime and nighttime amenity
- transit-oriented developments, supporting movement into and out of the city centre
- encouraging a mix of city residents, adding to the vitality and attraction of the city.

City Safety Strategy

The Capital City Committee, a strategic forum charged with the revitalisation of Adelaide, has asked the City Safety Steering Group to develop a safety strategy for the Adelaide Central Business District. It will incorporate the integrated design concepts outlined. It could also form a set of principles for broader application in other entertainment precincts across SA.

We know that the city needs to be a vibrant place to come to, but it also needs to be safe and attractive. This steering committee is well placed to achieve this outcome.

The City Safety Strategy group will advise the Capital City Committee on a holistic strategy that addresses community safety and social harms relating to the excessive consumption of alcohol in the city. The group will consider areas such as: policing, use of public space, planning, transport and other environmental and social factors. The review of the *Liquor Licensing Act 1997* will complement and inform the development of the City Safety Strategy.

The Committee will consult with key stakeholders including business. In developing the strategy, the City Safety Steering Group will look at issues that impact on community safety in the CBD, such as the physical environment around licensed venues and entertainment areas, and will be informed by the review of liquor licensing.

This high level group consists of:

- the Commissioner for Social Inclusion
- the Commissioner for Liquor and Gambling
- the Commissioner of Police
- the Chief Executive, Department of Transport, Infrastructure and Energy
- the Chief Executive, Planning and Local Government
- the Chief Executive, Department for Families and Communities
- the Chief Executive, Adelaide City Council
- the Deputy Chief Executive, Sustainability, Aboriginal Affairs and Reconciliation, Department of the Premier and Cabinet

It is anticipated that the City Safety Steering Group will prepare a draft strategy for consideration by the Capital City Committee by late September 2010.

How to make a comment

Interested parties are encouraged to make a comment on these or any other related matters. Comments can be sent by e-mail or post, but must be received by **Friday 3 September 2010**.

e-mail: 2010_LLA_Review@agd.sa.gov.au

facsimile: 08 8226 8512

post: 2010 LLA Review
Office of the Liquor and Gambling Commissioner
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Comments should include contact details of the person. Please note that comments may be placed on the OLGC website and/or quoted in subsequent policy and/or consultation papers.

Additional copies of this paper can be obtained from www.olgc.sa.gov.au.

