



Queensland

Liquor Amendment Regulation (No. 1) 2006

Regulatory Impact Statement for SL 2006 No. 22

made under the

Liquor Act 1992

1 TITLE

Liquor Amendment Act (No. 2) 1992

Liquor Amendment Regulation 2002

2 INTRODUCTION

Recent high profile assaults and disorder in and around licensed premises in the inner city area of Brisbane raised significant community safety concerns and doubts about the capacity for licensed establishments to fulfil their obligations under the *Liquor Act 1992* (the Liquor Act). In response to the issues, Government formulated the *Brisbane City Safety Action Plan* (the Action Plan) which recommends a number of legislative strategies to address incidences of public disorder arising from alcohol misuse in the Brisbane City Council (BCC) area that have recently escalated to levels where Government intervention to safeguard community welfare was considered essential.

In accordance with the Action Plan's proposals, the Liquor Licensing Division (the Division) of the Department of Tourism, Fair Trading and Wine Industry Development (DTFTWID) proposes to introduce legislative provisions in the *Liquor Act 1992* and the *Liquor Regulation 2002* to impose tougher licence conditions on licensed premises that trade after 1:00am in the BCC area as follows:

- the employment of crowd controllers in sufficient numbers to ensure patrons are adequately controlled on and off the licensed premises with the Liquor Regulation defining the crowd controller/patron ratio;
- mandatory Responsible Service of Alcohol (RSA) training for all licensees, nominees and staff on duty at any time engaged in the supply and service of alcohol; and
- the installation of Closed Circuit Television (CCTV) cameras at each entry and exit point of the venue with the Liquor Regulation setting the provisions for standard requirements.

This document has been prepared to satisfy the Queensland Government's obligations under the National Competition Policy (NCP) principles and to meet the requirements of the *Statutory Instruments Act 1992* (SIA). Under the SIA, if a proposed regulation is likely to impose appreciable costs on the community or part of the community, a Regulatory Impact Statement (RIS) must be prepared before the regulation is made.

The key objective of NCP and SIA requirements is to help ensure that reforms of a regulatory nature are implemented where it can be demonstrated that such reforms are clearly in the interest of the community.

Accordingly, the purpose of this document is to explain to the community the need for the proposed new requirements and to set out the benefits and costs that are anticipated to flow from their adoption taking into consideration any potential restrictions on competition. Terms of reference associated with the NCP review component of the proposed amendments is provided at Attachment 1.

3 BACKGROUND

3.1 Reasons for the Brisbane Reform

The Queensland liquor industry is diverse and complex, comprising continually evolving service and marketing sectors each with specific interests and demands. To meet these challenges and to enable the industry to continue to experience growth and contribute in a meaningful way to the broader Queensland economy, Government needs to ensure that the regulatory environment is conducive to industry growth and sustainable innovation. Equal consideration and priority must also be given to community safety and the minimisation of harm arising from alcohol

misuse. Thus responsible regulation of the liquor industry forms an essential component in meeting these objectives.

Recent high profile assaults have led to a perception that the inner city of Brisbane (including the Fortitude Valley and Caxton Street precincts) is unsafe, in particular, around licensed premises that trade beyond the hours of 1:00am. Although a number of factors underpin violent behaviour in inner-city Brisbane, alcohol has been identified as a significant contributor to existing problems in late trading entertainment environments.

While the relative level of safety is open to debate, the escalation of unruly behaviour highlight the importance situational factors play in exposing the community to risks.¹ Hotel and nightclub environments, in particular, have been identified as posing a higher than average risk of assault and disturbance. Consequently, there is a clear community expectation for Government to take action and address the current environment around BCC entertainment areas. In response the Government is committed to implementing a quality legislative framework to address contemporary issues of alcohol-related disturbances faced by the community and licensed establishments in the BCC area.

The Premier and Minister for Trade hosted a summit on 25 February 2005 of Ministers, the Lord Mayor of Brisbane, the Lord Mayor of the Gold Coast, licensees, industry representatives, the Queensland Police Service and not-for-profit community organisations. The purpose of this summit was to discuss safety concerns and possible solutions to the problem.

On 1 March 2005 the Government released the Action Plan to address violence in and around licensed premises in the Brisbane CBD. One of the recommendations in the Action Plan includes the making of amendments to the Liquor Act and the Liquor Regulation to impose tougher licence conditions on licensed premises that trade after 1:00am. These conditions include:

- a requirement that licensees must employ sufficient numbers of crowd controllers;
- a requirement that all staff must complete RSA training; and

1 There is a developing theoretical literature on the contexts of alcohol and violence (Parker, 1993; PERNANEN, 1991), as well as a growth in the use of surveys to probe the antecedents of alcohol-related violence. Research findings (see the work of Stockwell, Lang and Rydon, 1993) shed light on the contexts of alcohol and intoxication as a predictor of alcohol-related harm.

- a requirement for licensees to install CCTV at each public entrance and exit points of their venues.

3.2 Existing Legislative Framework

3.2.2 The Liquor Act 1992

The Division administers the Liquor Act which regulates the sale and supply of liquor through the licensing of business operators and the approval of suitable premises. In addition to the regulation of the sale and supply of alcohol, a fundamental object of the Liquor Act is to regulate the liquor industry in a way compatible with minimising harm arising from alcohol abuse. Thus, the formulation of effective responses to industry needs, including community safety remains one of the key challenges for the Division. With this in mind, the Division has developed a wide-range of policies and guidelines on responsible service of alcohol and responsible management of licensed premises, including requirements for a wide range of security measures to be applied in all licensed premises.

Accordingly, under the provisions of the Liquor Act licensees are required to consider the broader implications of their businesses and the possible impacts on the surrounding community. The responsible service of alcohol requirements in particular provide for the protection of both consumers and the liquor industry. They ensure that the sale and supply of alcohol is conducted in a responsible manner and that licensed establishments are safe environments for both patrons and staff. This responsibility is imperative in minimising harm arising from the misuse of liquor and in reducing the unacceptable consequences of alcohol abuse.

In addressing significant community based concerns over the operation of licensed premises, the approach taken by the Division has been to initially involve relevant parties in developing workable solutions. Licensees, local councils and police representatives, affected residents, transport operators, security agencies and other stakeholders have been encouraged by the Division to participate in the development of strategies to overcome specific alcohol related issues of concern in the community. Strategies for meeting this purpose include:

- encouragement to form collaborative groups such as the Surfers Paradise Licensed Venues Association (SPLVA) or the Mooloolaba Safe Committee;
- the development of Accords outlining a range of strategies related to Liquor Act compliance;

- the development of mandatory Responsible Management of Licensed Venues (RMVL);
- development of RSA training programs;
- collaboration with indigenous communities to develop strategies to minimise harm and crime associated with excessive alcohol consumption; and
- the development of a statewide industry/community liaison program regarding liquor related activities.

Integral to the regulation of the liquor industry are associated restrictions on the operation and conduct of business which must be enforced through government compliance activity, including conditioning of licenses, warning mechanisms and prosecutions.

Licensing requirements prescribed by the Liquor Act are the primary means of securing legislative objectives. The legislation seeks to ensure that:

- only persons of an ‘acceptable character’ enter the industry to operate licensed establishments;
- licensees possess basic levels of competency for the responsible management of licensed premises in compliance with the provisions of the Liquor Act; and
- industry participants conduct business in accordance with the legislation and community expectations.

The various licence types that may be granted under the Liquor Act are:

- General licence – the primary purpose of which is the sale of liquor for consumption on the premises or on and off the premises, together with the provision of meals and accommodation (pubs and hotels).
- Residential licence – the primary purpose being the provision of accommodation (motels, resorts).
- On-premises licence – authorises the licensee to sell liquor in association with an activity (eg: the provision of meals - restaurants; provision of entertainment - nightclubs; provision of sporting facilities – golf course).
- Producer/wholesaler licence – authorises the licensee the production and wholesale sale of liquor on the licensed premises.

- Club licence – the primary purpose of a club licence is the provision of facilities and services to the club's members and the achievement of the club's objects (eg cricket, football, services clubs).
- Special Facility licence – the primary purpose of this type of licence is the provision of an activity, facility or presentation that provides enlightenment, entertainment or services to the public (eg Sanctuary Cove, Seaworld).
- Limited licence – the purpose of a business conducted under this type of licence is the provision of an activity, matter or service (eg. catering, cake shops, gift shops) to which the sale of liquor is a subsidiary aspect.

With the exception of a General licence, the sale and supply of liquor on premises for the other categories must be subsidiary to the primary purpose of the licence.

To meet these objectives applicants for licenses and/or change of nominees are required to complete the Responsible Management of Licensed Venues (RMVL) training course prior to obtaining a licence. The objective of the Liquor Act in making the completion of the approved training course mandatory is to enhance industry standards, integrity and efficiency and promote consumer confidence.

With this in mind a new RSA program has been developed by the Division for an improved risk management approach to the provision of practical training for liquor and hospitality industry participants.

As demonstrated, legislative provisions currently exist for a number of security measures and mandatory training for licensees and nominees. However, it is considered that existing provisions in the Liquor Act need to be broadened to provide for a more prescriptive regulatory system to address community concerns.

3.2.3 *The Liquor Regulation*

In summary, the Regulation provides:

- details of the licensing scheme, including documents which must accompany applications and licence particulars;
- acceptable and unacceptable practices and promotions for the service, supply and promotion of liquor; and
- fees payable under the Act.

3.3 Liquor Industry Profile

The Queensland liquor industry comprises private individual operators, national companies, family companies, members of associations and various other organisations. There are approximately 6300 individual liquor licences Queensland wide.

A brief overview of current licensing data shows that of the 6300 liquor licenses currently trading in Queensland, 1183 operate in the BCC area. For the year ending 31 December 2004, a total of 344 new licences were processed in the State. Over 50% of these were for restaurants.

The number of licenses issued for the same period for hotels and nightclubs was 23 and 3 respectively. Of these 26 licences eleven General (hotels) and two On-premises (nightclubs) licences were granted for premises in the BCC area. Currently 315 licensed premises trade beyond 1:00am in the BCC area with 60 authorised to trade past 3:00am. Only one restaurant trades beyond 3:00am.

As the data demonstrates, the majority of licensed establishments in the BCC area are restaurants, hotels and nightclubs. Of the three licence categories, the majority of nightclubs and hotels trade to or beyond 3:00am.

Trading hours for restaurant establishments authorise them to trade till midnight, with some authorised to trade to 1:00am or 2:00am. Generally, restaurant premises are not authorised to trade to or beyond 3:00am. Currently there are 448 restaurants operating in the BCC area.

4 PROPOSED COURSE OF ACTION

In March 2005, the Government endorsed an Action Plan which has been developed with the aim of curbing inappropriate behaviour associated with alcohol use in the BCC area.

In accordance with recommendations of this Action Plan it is proposed that amendments be made to the Liquor Act and Liquor Regulation which will have the effect of imposing tougher license conditions on licensed premises trading after 1:00am in the BCC area. Details follow:

- 1 The employment of crowd controllers in sufficient numbers to ensure patrons are adequately controlled on and off the licensed premises. Controllers will be required to maintain surveillance outside the premises for at least 1 hour after the designated closing time of the premises (this includes the 30 minute “grace period” that commences at closing time).

Relevant sections to be inserted in the Liquor Act will state the requirement that a licensee must employ crowd controllers in sufficient numbers, as prescribed by the Regulation. A new section will be inserted into the Liquor Regulation to outline what are considered sufficient numbers, as required by the Act. A ratio has been developed in this regard in consultation with security companies and licensees. This ratio, which is proposed to be inserted in the Liquor Regulation, is:

- a minimum of 2 for the first 80 patrons;
- a minimum of 3 for between 81 and 140 patrons;
- a minimum of 4 for between 141 and 200 patrons; and
- one crowd controller for each additional 100 patrons or part thereof.

Rationale for additional crowd controllers

The provision of adequate security at late night trading licensed premises is crucial to ensure patron safety in and around licensed premises. The additional security staff requirement is proposed to enhance the capacity of existing regulatory measures to prevent or curtail problems often generated by unruly crowds leaving licensed establishments.

The proposed ratio is considered as a minimum reasonable requirement for premises that experience problems or have the potential to experience problems. These ratios have been a mandatory requirement for licensed establishments trading on the Gold Coast for approximately ten years. In that time, the Division had no complaints or concerns from licensees about this requirement.

2. Mandatory Responsible Service of Alcohol (RSA) training course - the licensee, duty managers and all staff on duty at any time who are engaged in the service and supply of alcohol, must have completed a course in the RSA training program. Staff will be required to complete the course within one month of commencing employment at the premises.

Trainers are licensed by the Division. Trainers wishing to undertake the new training course will be selected in response to their submitted application to an Expression of Interest. This will be advertised on the Division's website and through other State media in the coming weeks. Approved trainers will be required to pay a \$550 registration fee. An annual licensing fee and contract of \$100 will also apply.

Training should take a maximum of five hours with a refresher course to be undertaken every three years. The program is innovative as it teaches the RSA competency through the development of a House Policy. This enables participants to apply their knowledge in a more practical way in the workplace.

For the first time the RSA training program also includes information on Indigenous issues and a miscellaneous section to update trainers of other initiatives undertaken by Government agencies, such as the smoking laws. The information in the new RSA program is thorough and extensive and will enable trainers to cater specifically to each training group's needs. Since there is now a comprehensive RSA program, in-house training will not be endorsed.

The proposal for mandatory RSA training is intended to increase levels of responsible service of alcohol awareness amongst staff on licensed premises.

Rationale for Mandatory RSA training

The objective is to increase staff knowledge and awareness of responsible server practices, including how staff can identify problems and respond accordingly. Trained staff will be able to employ a variety of techniques to prevent intoxication, including observing patrons to recognise signs of intoxication; promoting non-alcoholic and low alcoholic drinks; and adjusting service as necessary.

International research findings show that changes in server training and sales practices training can produce significant differences in blood alcohol levels of patrons leaving licensed premises.² The findings clearly indicate that establishments with staff trained in responsible service of alcohol are more likely to facilitate responsible level of alcohol consumption.

Recent Australian research pointed out the need to enforce responsible server practices. It was argued **that server training should be mandatory** and that **licensing laws must be routinely enforced** if the goals of responsible service are to be met (emphasis added).³

Training provisions in New South Wales (NSW) are now compulsory and apply to all liquor licensees and club secretaries, including all permanent

2 Edwards G, et al, (1994) *Alcohol and the Public Good*. Oxford University Press, p139.

3 Lawlink, Crime Prevention Division (2001) *Preventing Violence: prevention programs*. http://www.lawlink.nsw.gov.au/cpd.nsf/pages/violrep_1prevention

and casual staff members engaged in the sale, service or supply of alcohol in licensed establishments.⁴

From 1 July 2005, the NSW Government will extend the requirement for mandatory responsible service of alcohol training to security officers who work in retail licensed venues. Regulations were introduced under the *Liquor Act 1982* and the *Registered Clubs Act 1976* in 2004 to make this training mandatory.⁵

It is considered that the proposal to extend RSA training to all staff in the BCC area who engaged in the supply and service of alcohol will significantly increase staff awareness of their obligations under the Liquor Act thus contributing to the objectives of the Act.

3. The installation of Closed Circuit Television (CCTV) at each public entrance and exit point with the proviso that if the video cameras are not operational and recording, the premises must close at 1:00am.

A new subsection is to be inserted into the Liquor Act that will prescribe the installation of surveillance recording systems in licensed venues. It is proposed that a new subsection be inserted in section 42 of the Liquor Regulation to outline the minimum surveillance recording system standards for CCTV equipment installed in licensed venues as required by the Act. For the purposes of this section the CCTV equipment will be required to:

- (a) clearly record the details of all patrons entering and leaving the premises, and any interaction they may have with crowd controllers/staff at entrance/exit points;
- (b) be operational from 8.00pm until the close of business (including the 30 minute grace period);
- (c) display the actual recording time and date on the video for each day's trading;
- (d) be stored in a secure area on the licensed premises for a minimum of 28 days after the recording date; and
- (e) made available immediately when requested by a Liquor Licensing Investigator or a Police Officer.

4 *Liquor Amendment (Responsible Service of Alcohol Training) Regulation 2003* New South Wales Government.

5 Ibid.

Rationale for the Installation of CCTV

The rationale behind CCTV requirements is to ensure the adequate monitoring of entry and exit points of licensed venues to prevent problems (such as long queues at entry points which lead to aggressive behaviour) before they escalate to uncontrollable levels.

CCTV can provide instant alerts when trouble occurs at entry or exit points, such as, unruly or intoxicated patrons seeking access to the venue. When conflict and violence does occur, the incident recording facility can provide valuable evidence, improving the likelihood of a conviction.

Overseas research shows that CCTV can lead to prompt identification of a perpetrator and also provide valuable clues that can shape the direction of an investigation. Analysis of crime data shows that, at least in the short term, the presence of closed-circuit cameras can have a deterrent effect on a variety of offences, especially property offences. For example, in the section of Newcastle (UK) covered by CCTV, burglaries fell by 56 percent, criminal property damage by 34 percent, and nonmotor-vehicle theft by 11 percent.⁶

5 POLICY OBJECTIVES

In view of the overall regulatory and policy framework and in line with the Government's Priority Outcomes (for example improved community safety), the policy objective is to address public disorder in and around late trading nightclubs in the BCC area.

As highlighted previously, recent high profile assaults and disorder in and around licensed premises in the inner city area of Brisbane have raised significant community safety concerns. They have also raised doubts about the capacity for licensed establishments to fulfil their obligations under the Liquor Act.

The Action Plan, as endorsed by the Government, emphasises the need for increased security provisions in the form of additional security staff and CCTV systems and enhanced responsible service practices through mandatory RSA training requirements. These policy initiatives will enhance the existing liquor regulatory framework and expand its capacity for accommodating the proposed on-going mechanism.

⁶ Home Office Police Research Group. Crime and Policing
<http://www.homeoffice.gov.uk/crimpol/police/>

6 LEGISLATIVE INTENT

The intent of the proposed course of action is to achieve the desired policy objectives by introducing measures to ensure that licensed establishments operating past 1:00am have appropriate security and service procedures in place to safeguard the amenity in and around the premises.

In order to achieve the Government's policy objectives, the Division will be required to amend both the Liquor Act and the Liquor Regulation to enhance the existing range of respective legislative provisions.

Regulatory action is considered reasonable and appropriate in this instance to ensure that effective mechanisms are in place to help safeguard community welfare given the recent escalation of incidences of public disorder arising from alcohol misuse in the BCC area.

It is considered that the proposed reforms will significantly contribute to the safety of patrons, employees of licensed establishments and the community in the BCC area.

The proposed amendments are consistent with the policy objectives of the Liquor Act.

8 CONSISTENCY WITH OTHER LEGISLATION

The proposed amendments are consistent with the policy objectives of other legislation.

9 IMPACTED STAKEHOLDERS

The proposed amendments are likely to impact on the following stakeholders:

(a) Sufficient number of crowd controllers in proportion to patron numbers

- industry participants, ie: hotels, nightclubs and some late trading clubs;
- security guards;
- patrons; and
- government.

(b) Mandatory Responsible Service of Alcohol training for all employees in licensed establishments

- industry participants, ie: hotels, nightclubs and some late trading clubs;
- security guards;
- employees of licensed establishments;
- government; and
- trainers.

(c) The installation of CCTV at public entrance and exit points

- industry participants, ie: hotels, nightclubs and some late trading clubs;
- patrons;
- employees of licensed establishments; and
- government.

An impact matrix is provided at Appendix 2 which demonstrates the anticipated level of impact on the relevant stakeholders generated by the proposed amendments to the Liquor Act and the subordinate legislation.

7 PRELIMINARY STAKEHOLDER CONSULTATION

Limited consultation has been undertaken by the Division to gauge licensees' views on issues relating to the potential impact of the proposal in terms of costs, possible disadvantages, restriction on competition and other contingencies that may arise as the result of the proposed amendments.

On 24 March 2005 a letter was sent to each of the 327 licensees in the BCC area seeking information and feedback on the proposed amendments which will impose stricter conditions on post 1:00am traders. A total of 65 responses were received.

In addition, during June 2005 the Division conducted a telephone survey involving 150 premises in the BCC area. Comments were sought on existing management practices, in particular the number of crowd controllers employed; whether employees are trained in RSA and the extent to which licensees are prepared to meet training costs. In regards to CCTV systems information was sought on the number of existing systems in place, including storage capacity and the length of time required to store information.

With respect to RSA training and the installation of CCTV systems comments from respondents were very favourable. Almost all licensees agree with mandatory RSA training for their staff. Many already provide in-house training and also commented that they are prepared to meet or subsidise training costs. With the exception of two, all licensed venues surveyed have CCTV at the entry and exit points of their venues. Most also have the system inside the venue including in bottleshop areas.

The requirement for additional crowd controllers however is of concern to most licensees surveyed. Restaurants and services clubs operators, in particular, commented that given the nature of their business and clientele employing additional crowd controllers is not warranted.

Generally, all survey participants agreed that the major deterrent for not having crowd controllers in the ratio proposed is the cost factor. Those premises that meet the required ratio only do so on the weekends or during special events where large crowds are anticipated. Most commented that additional security on days other than these is not warranted.

8 OPTIONS AND ALTERNATIVES

Government's responsibility in formulating legislation extends to include a host of factors. It is required to take into account the interest of all stakeholders and must continue to provide those legislative conditions which encourage industry transparency, consumer protection, safer communities and fair competition.

Based on these factors consideration has been given to a number of options for achieving the desired policy objectives. These are as follows:

- **Option 1 – (preferred option)** The imposition of tougher licensing conditions on licensed premises trading past 1:00am in the BCC area. The conditions include the employment of additional crowd controllers; mandatory RSA training for licensees, managers and all staff; and the installation of CCTV.
- **Option 2 – Voluntary Code** – Licensees to voluntarily adopt and apply the proposed tougher licensing conditions that require additional crowd controllers, mandatory RSA training and the installation of CCTV requirements.
- **Option 3 – The Status Quo** – No imposition of tougher licence conditions.

Options 2 and 3 have been eliminated in favour of Option 1 as this option has been considered by the Division to be the most appropriate and effective means of achieving the desired policy objectives.

The rationale for eliminating Option 2 – Voluntary Code - is due to the recognition that voluntary codes or self-regulation of the security and training components of the liquor industry has not been adequate in preventing alcohol-related disturbance. While recognising that in some areas of activity industrial self-regulation is a necessity, it is not considered that a wholly voluntary regulatory system to achieve optimum harm minimisation with respect to the sale and supply of liquor can ever be adequate.

It is considered that self-regulation always carries a certain element of risk and must be given due consideration, especially in terms of consistency. Generally voluntary codes give rise to uncertainty, as some licensees will be reluctant for various reasons (eg reduced commercial gain) to participate in any form of voluntary measure.

Moreover, it is very likely that a voluntary code would generate inconsistencies in the areas of security and training requirements thus further complicating the issues. The current environment, with respect to security staff and RSA training, demonstrates that if left to the discretion of licensees, the adoption of preventative measures in terms of enhanced security and training programs may not be adequate in all instances. For these reasons a “voluntary code” option will not be pursued.

The rationale for eliminating Option 3 – the Status Quo - is due to the recognition that the existing practices and measures in and around late trading entertainment venues in the BCC area, as identified in the Action Plan, have not been adequate to reduce alcohol-related harm. It is acknowledged that there are many responsible members of the alcohol industry who do obey the licensing laws, however as experience has shown, the current security measures and server practices are not sufficient to curtail violence and unruly behaviour associated with alcohol misuse in the BCC area.

Furthermore, the nature of the problems identified in the Action Plan is too costly for the community to overcome, in particular third party effects without some form of government intervention. Third party effects arise because inappropriate behaviour can impact adversely on individual members of the community, the reputation and business of responsible service providers and the general community.

Consideration of the issues generated by the Status Quo suggests that tightening existing licensing conditions or introducing new provisions are appropriate mechanisms to address existing problems faced by the community and the liquor industry.

The Action Plan clearly emphasises the need for increased security provisions and enhanced responsible service practices to minimise alcohol related disturbances and associated violence that has escalated to a significant proportion in the BCC area. Regulation has been identified as a significant component in establishing the on-going mechanism to ensure community safety and enhance industry integrity and responsibility.

A summary of the anticipated costs and benefits of each of the above options is provided in an impact matrix at Appendix 2.

10 COST AND BENEFIT ASSESSMENT

The Imposition of Tougher Licensing Conditions (preferred option)

10.1 Sufficient number of crowd controllers in proportion to patron numbers

This proposal will require crowd controllers to be employed in sufficient numbers to ensure that surveillance in and around late trading premises is adequate. In practical terms, this will require licensees trading after 1:00am to employ security staff in line with the ratio prescribed by regulation. That is:

- minimum of 2 for the first 80 patrons;
- minimum of 3 for between 81 and 140 patrons;
- minimum of 4 for between 141 and 200 patrons; and
- one crowd controller for each additional 100 patrons or part thereof.

10.1.1 *Impact on Industry Participants*

Licensed establishments can derive both tangible and intangible benefits by increasing the number of crowd controllers in proportion to patron numbers. First, additional security personnel in licensed venues, particularly late trading entertainment venues, helps to prevent underage or intoxicated persons from accessing the premises. Second, where sufficient numbers of security personnel are present the supervision and management of patrons would be far more effective. Thus, increased security reduces risks for both patrons and licensees, including any damage to property.

Establishments are guaranteed increased efficiency in terms of reduced disturbances and better utilisation of staff for improved service delivery when crowds are adequately controlled. Many licensed venues recognise the benefits of solid security arrangements and already engage crowd controllers as part of their own good management practices.

It is considered that these benefits would not accrue under the Status Quo. Where security staff numbers are limited or kept at minimum, risks to licensed establishments, patrons and the community in general are likely to increase. Under-age drinking, intoxication and unruly behaviour are some of the more significant problems for licensed venues without sufficient security staff to prevent or curtail the likelihood of such incidents. It is reasonable to conclude that where adequate security is lacking, especially at entry and exit points, minors and intoxicated patrons can access the premises thus increasing the risk of non-compliance for licensees. For example, licensees can be charged if a non-exempt minor is found on the premises or where unruly crowds leave the venue and cause injury to themselves or others.

Also as mentioned above, the adoption of a voluntary code would generate inconsistencies, since some licensees would be reluctant to participate in self-regulation. An inconsistent approach to security and responsible server practices does not reflect well on industry integrity. Besides it does not eliminate the “rogue” elements in the industry and defeats the purpose of voluntary responsible management practices. Moreover, the integrity of those licensees who would willingly engage in self-regulation would suffer on account of “rogue” participants.

With Option One intangible benefits for industry with additional security include enhanced integrity and greater accountability. These are factors that generate public assurance about licensees’ commitment to responsible operational practices to maintain safe environments in and around their establishments. Where safety and security are given equal priority to commercial gain, patronage will increase as people recognise that the venue gives equal consideration to client welfare through the provision of a secure environment.

It is fair to conclude that intangible benefits can lead to direct commercial gains. Patrons are more likely to seek out those venues where they can feel safe in the knowledge that all possible measures are taken to provide a secure environment on the licensed premises and its surroundings to reduce risks to the community. Increased patronage will generate increased revenue.

The majority of respondents to the telephone survey representing hotels and nightclubs commented that additional security is a big expense, particularly when client numbers are relatively small during most nights, reaching maximum levels on the weekends.

The survey revealed that many of these licensees already employ security staff in 1:75 ratios which is considerably less than the recommended ratio. However, responses also indicate that the majority of licensees only employ security staff in this sort of ratio on busy nights or for special events where large crowds are expected. Additional costs will therefore be incurred by licensees in being required to meet the proposed ratio throughout the week.

While these additional costs are acknowledged, it is also considered that over the long-term initial outlays in wages will be more than compensated by both tangible and intangible benefits that come with a well-managed and reputable establishment.

The reasonableness of the proposed requirements has also been challenged by respondents representing restaurant operations and smaller clubs. These respondents have indicated that the nature of their operations do not warrant crowd controllers at all.

It can be successfully argued that restaurants do not draw crowds given that the primary purpose is the provision of meals. Also, the majority of restaurants have small to medium seating capacity which again rules out crowding to the extent that untoward behaviour is likely to be the rule.

Admittedly, the majority of restaurants and smaller clubs do not pose the same level of risk as hotels, nightclubs and some larger sporting clubs. Most people visiting licensed restaurant premises do so with the intention to dine and usually consume alcohol to complement their meal. More importantly, restaurant clientele have not been identified as major contributors to disturbance or unruly behaviour. This is not to say however that there is no potential for untoward behaviour on the premises or when patrons leave. For example, restaurants that operate as bars.

Services clubs are particularly concerned with the proposed condition. Given the nature of the premises and the average age of the clientele, the need for security guards, especially the 2:80 ratio is not warranted and the imposition may not be justifiable.

Due to the nature of their business, many restaurants and services clubs do not regularly face the same issues regarding the management of patrons or large crowds as some other types of businesses, such as, nightclubs. It is

thus acknowledged that the proposed ratio for crowd controllers may have a significant impact on these businesses.

Whilst the proposed model anticipates that measures will be applied equally to all licensees, consideration may be given to an alternative model that exempts certain licensees from the proposed requirements.

In order to ensure that the impact of the proposed requirements can be fully considered, submissions are invited regarding the impact of the proposed requirements on restaurants and services clubs.

10.1.2 *Impact on Consumers*

There is considerable benefit to the community associated with the proposal. Increased numbers of crowd controllers on and around licensed establishments are able to provide a greater level of protection to consumers and protect the amenity of the neighbourhood from undue disturbance. Security presence generates confidence among patrons who will be more inclined to visit venues they perceive to be operated in a responsible and safe manner. Moreover, the presence of security providers promotes confidence throughout the community that the locality will be free from undue disturbance.

It is considered that incidents of violence arising from uncontrolled crowds can only be minimised or even prevented where crowd controllers are employed in sufficient numbers. As recent events in the BCC area have demonstrated there is a need for more security presence to safeguard community welfare. Whilst licensees are continually encouraged by the Division to adopt increased security measures, responses to the adoption of voluntary measures have, as recent events demonstrate, not been adequate.

There is a perception in the community that crowd controllers can adequately manage large crowds and prevent or curtail public brawls or rowdy behaviour that could grow out of control if unattended. This community perception would be reinforced where adequate controls are in place, thus generating increased confidence about safety.

Under Option Three there would be no requirement for additional crowd controllers which means that alcohol-related violence is very likely to escalate. In the absence of adequate security staff troublesome and unruly patrons are free to roam the streets. Such persons when left to their own devices could be the victims of injury or cause harm to others including damage to public and private property. To counter the problem of stragglers, clients and the community in general look to venue operators to control their patrons and secure the surrounding areas against disturbance and unruly behaviour. In the absence of adequate crowd controllers, patron

behaviour on or off the licensed premises, as recent events demonstrate, does get out of control and the risks to patrons, staff and residents are increased.

It is inevitable that the employment of additional crowd controllers in venues where the ratio requirement is yet to be established will incur certain costs to licensees. For hotels and night clubs this may mean an introduction or increase in entry fees and for restaurants, an increase in service charges.

10.1.3 Impact on Government

Government recognises the significant role crowd controllers play in keeping venues and the locality free of untoward and harmful behaviours hence the Action Plan recommendations to increase the presence of security providers at licensed venues. The response to community expectations to introduce strategies for a more secure environment in the BCC area is considered to increase community perception of the Government as a responsive provider and protector of community interests and safety. This is a significant intangible benefit for Government which in the long term will translate to tangible advantages.

Where entertainment environments are adequately controlled, complaints from patrons and residents living in the proximity of licensed venues are anticipated to decrease making the work of compliance officers less arduous. Administrative costs associated with complaint resolution can be considerably reduced when complaints about licensed establishments and patron behaviour diminish. Basically, the benefit here is that allocation of resources for regulation and enforcement can be redistributed to more productive areas, such as the better facilitation of policy, regulatory and administrative functions.

There are no benefits for Government with the Status Quo option. In fact, costs in compliance and enforcement could escalate. Attending to and resolving complaints from the community about unruly and unsafe environments would result in increased administrative costs, as well as stretching compliance resources to the limit. Similar problems, although to a lesser extent would arise with a Voluntary Code option, since some licensees would not be compliant.

In terms of Government Priority Outcomes, the requirement for additional security staff on licensed premises will generate more jobs for Queensland. There will also be safer and more supportive communities without undue competitive strain on licensed venues.

10.1.4 *Impact on Employment*

Government initiatives can have significant direct and indirect effects on employment and the availability of qualified and skilled workers. It is important that the consequences of programs and initiatives are understood so that challenges can be managed to benefit all. No adverse impacts on employment have been identified with the preferred option. In fact, the Action Plan strategy to increase crowd controllers on licensed premises could increase employment opportunities within the security industry and also create secondary general economic activity in the broader community, further increasing labour demand. While employment would be generated even under the Status Quo as a number of licensees do employ security guards, the benefits are not perceived to be as extensive as with the preferred option.

With the preferred option additional jobs are generated from a number of sources. First, in the security suppliers sector that provides security staff. Second, the liquor and hospitality industries increasingly rely on the services of security staff, in the form of door security and crowd controllers and are considered to be a significant employer. Third, since most trade and specialised skills need to be supported by the appropriate training resources, extra jobs are created in the training sector to accommodate the training needs of the security industry.

Viewed in this context, a considerable number of jobs the security industry helps create are outside of this industry. However, there is no data to verify whether the number of jobs created in any of the other sectors would be small in comparison to the size of the investment.

10.1.5 *Impact on Competition*

Some competition issues have been identified with the proposal for additional crowd controllers. Licensees who are unable to meet the costs of additional security staff may not be able to compete equally. Where requirements for additional security are not met, the premises cannot trade beyond 1:00am. Premises finding themselves in this situation may not only experience revenue loss due to earlier closing times, but will also lose their competitive edge. Business could diminish where patrons would be required to leave the premises earlier than anticipated. There is the possibility that some patrons may not continue to patronise premises where entertainment and recreation are restricted in terms of trading hours. This is particularly significant for restaurants wishing to continue to trade till after 1:00am.

Market forces could also play a significant role in re-establishing competitive balance. In fact, this may already be the case, as many restaurant trading times appear to be dictated by market forces, rather than licence conditions which authorises a significant number to trade beyond midnight and 1:00am.

10.2 Mandatory Responsible Service of Alcohol training for all employees in licensed establishments

The proposed changes to the Liquor Act will impose an obligation on licensed premises to ensure that their staff have undertaken RSA training. The subordinate legislation will define what constitute acceptable and unacceptable practices.

In practical terms this means that mandatory RSA will contribute significantly to staff confidence in managing licensed establishments. Training will prepare staff to respond adequately, especially in circumstances where they are required to handle difficult patrons or give assistance with arranging transport for intoxicated persons.

10.2.1 *Impact on Industry Participants*

There will be no regulatory requirement for licensees to incur the cost of training or for training to be undertaken during work hours.

Findings from the recent telephone survey of licensees indicates however that, of those interviewed, 80% commented that they would prefer or already have RSA trained staff. In addition, many licensees already provide in-house training for their staff and most commented that they are prepared to subsidise or meet training costs for RSA programs.

A responsible establishment that promotes its policies and service practices to the public generates considerable benefits to industry in terms of integrity, as well as commercial gain. It is considered that patrons are more likely to visit venues where responsible serving practices are part of the business strategy. In environments that promote responsible alcohol consumption clients feel safer, are inclined to stay longer and will be more likely to continue with their patronage.

Clients are unlikely to patronise establishments where they could be the subject of harassment or aggressive behaviour by intoxicated and rowdy people. Where a licensed premises is associated with undesirable practices, the overall atmosphere of the venue suffers and clients will be disinclined to continue to patronise such premises for fear of the risks to their safety and welfare. Both the Status Quo and Voluntary Code options give rise to this type of scenario. With the adoption of either of these options there

would be a number of establishments that would disregard responsible server practices and continue to operate in an irresponsible manner to the detriment of patrons and staff.

Risks of unruly and aggressive behaviour are more likely to occur where staff are not aware of responsible service indicators. Licensees will be reassured that breaches of the legislation are less likely to occur with well-trained staff who are aware of their responsibilities and obligations. Well-trained staff will have adequate knowledge and skills to recognise and deal with intoxication, age identification, or encourage alternative beverages consumption. They will also be more aware of the laws regarding alcohol sale and service.

Undoubtedly, there are sound commercial, legal and social reasons for having staff trained in responsible service of alcohol. For example, serving intoxicated patrons could result in personal or property damage, which can become a financial problem for the licensee. RSA training increases awareness of management and staff how to handle undesirable situations and avoid fines and penalties that could also result in suspension of the license.

More importantly, RSA can be a mitigating factor in civil liability lawsuits. If a licensee were alleged to have conducted his business in a negligent manner or failed to comply with duty of care, the responsible serving practices of a licensed establishment would be entered in evidence to demonstrate that staff and management applied them in the specific instance. Where a licensee in the operation of his business is guided by responsible server practices he will be able to argue that all reasonable steps had been taken to prevent intoxication.

Under the Status Quo, as well as under a Voluntary Code Option licensees who fail to provide a comprehensive and ongoing training program for managers and employees increase the risk for violations and expose themselves to civil liability. The potential for an alcohol related lawsuit could be significant. Courts may hold licensees and their employees liable for injuries involving customers leaving establishments in an intoxicated state. It can also show a lack of due diligence when defending the violation or lawsuit.

Many licensees recognise that their establishments are more attractive, commercially viable and profitable if they avoid problems caused by intoxicated patrons. Where an establishment is conducted within an RSA framework, management and staff will be able to rely on practices and procedures to guide them in dealing with unruly patrons or difficult situations.

Current Training Fees

Enquiries conducted by the Division with respect to training fees reveal significant variation. One training organisation using divisional course material charges \$660.00 per half day at a venue with a maximum of 20 people. Workbooks and certificate (prepared by the Division) incur an additional \$20 fee for each individual (extra \$20). This works out at \$53 per individual. Current turnover is approximately 500 students per year.

Another organisation which does not use the Divisional course material also charges \$660.00 per half day at a venue. The peak industry organisation, the Queensland Hotel Association (QHA), charges members \$77 per participant. Non-members are charged \$99. Currently the QHA provides training to approximately 750 students per year.

The indications are that training costs should not change as a consequence of imminent changes to the RSA training program.

10.2.2 Impact on Employees of Licensed Establishments

Training costs have been identified as a concern for trainees, especially where the licensee is not prepared to carry or subsidise such costs. Findings from the recent telephone survey of licensees conducted by the Division tend to allay these concerns by suggesting that many licensees already provide training for their staff and most are prepared to subsidise or meet training costs for RSA programs.

Where licensees are prepared to meet all or some of the costs, the impact on employees will be either eliminated or much reduced. It is anticipated that most trainees will only be required to meet costs for work books or certificates which would not exceed \$50 thus costs to trainees would be quite sustainable.

10.2.3 Impact on Consumers

The key benefits to the community with responsible service of alcohol strategies include the prevention of underage drinking, prevention or management of intoxication and intoxicated behaviour, prevention or management of violent or disruptive behaviour.

Other benefits include better working environment for staff, safer conditions for patrons and a greater community appreciation of licensees' commitment to help reduce problems of intoxication, underage drinking, irresponsible behaviour and drink driving.

RSA trained staff:

- can ensure that alcohol is consumed in a responsible manner;
- are skilled and knowledgeable to exercise adequate control over the service of liquor;
- can restrain excessive alcohol consumption on licensed premises; and
- ensure underage and intoxicated people do not have access to liquor.

Thus, staff are in a position to encourage responsible attitudes towards the sale and consumption of alcohol and contribute to establishing safer drinking patterns. This is a considerable benefit for the community.

No adverse impacts have been identified for the community with mandatory server practices. Whereas with the Status Quo option it is considered that when responsible service practices are not part of the business, the problems of underage drinking, intoxication and public disorder are not only retained but will escalate to the detriment of the community. In particular the vulnerable sector of the community, young people, will be the most disadvantaged. Where responsible service is lacking young people can easily access alcohol and engage in excessive consumption which can lead to social, physical and psychological harm. Adopting RSA strategies can prevent or mitigate the occurrence of such behaviour and its consequences.

10.2.4 Impact on Training Providers

The only impact on training providers identified in this analysis relates to the \$500 registration fee and the annual \$100 licensing fee. This increase in fees covers administrative costs only, including training and trainer manuals. However, given the high participant turn over, costs will be readily absorbed by training providers.

10.2.5 Impact on Government

From an administrative and regulatory point of view, the recommended changes will be simpler and easier to administer. From a public health perspective, the changes are, on balance, likely to increase the ability of Government to control alcohol and will result in more responsible service and consumption of alcohol.

As Registered Training Organisations (RTO) will be responsible for training, assessment and issuing of Certificate of Attainment, costs for Government in terms of administration would be covered by registration

and licensing fees. In terms of compliance it is proposed to conduct a yearly audit of RTOs to ensure that training requirements are being met. No costs are anticipated with administration or enforcement.

Government is aware that the general public is now less tolerant of drunkenness, drink driving and underage drinking because the community is much more aware of the problems associated with such behaviour. Consequently, legislating for practices that ensure alcohol is consumed by those who can do so in a responsible manner demonstrates a committed response to growing community interests in encouraging responsible attitudes and minimising harm. These are significant benefits to Government, in terms of integrity, commitment and responsible governance.

A reduction in complaints is a further benefit to Government, as it reduces costs of administration associated with compliance and prosecution functions. These benefits are unlikely to accrue with the Status Quo option. Even with a Voluntary Code there would be a number of establishments which would continue to generate complaints and the associated costs in resolving them.

In terms of Government Priority outcomes the benefits of mandatory RSA training are significant and align with:

- protection and enhancement of community interests; and
- employment and investment growth in the training industry.

10.3 The installation of CCTV in each public entrance and exit point

It is proposed that the installation of CCTV is a vital component of security management techniques. Since crowd controllers and staff cannot always be present to intervene or prevent inappropriate behaviour, surveillance cameras will alert management of a potential problem.

The proposed changes to the Liquor Act will impose an obligation on licensed premises to have CCTV cameras at each entry and exit point of the venue. The subordinate legislation will set the standards for CCTV requirements which will include:

- (a) clearly recorded details of patron movements at entry and exit points;
- (b) cameras to be operational from 8.00pm until the close of business;
- (c) recording time and date to be displayed on the video;

- (d) information to be stored in a secure area for a minimum of 28 days;
- (e) information must be made available immediately when requested by a Liquor Licensing Investigator or a Police Officer.

10.3.1 *Impact on Industry Participants*

Some venues, including larger hotels and nightclubs have already installed CCTV for their own security and patron management purposes. Those that do not have appropriate CCTV facilities will need to incur the cost of installing an appropriate system. Findings of the Division's survey indicate however that the proposed requirements should, by and large, have little or no impact on current licensees.

Of those licensees surveyed in the BCC area, almost all have CCTV at entry and exit points to the venue. Many also have systems for internal surveillance, including the bottleshop area. In all instances cameras operate throughout the trading period with some being operational 24 hours given that many are motion sensitive. All cameras have time and date recording.

The survey also indicated that in most instances tapes are stored on computer hard drives and where this is not possible (eg analogue models) tapes are locked in the safe or some other secure area. Access to the tapes is restricted to management. Storing time varies between 14 and 30 days.

Based on these findings, it would therefore appear that most licensees will already more than adequately meet the proposed requirements and standards to be incorporated into section 42 of the Liquor Regulation

It is possible that some small restaurant type venues may incur costs if required to install the system.

CCTV is a useful tool to monitor licensed venues and prevent problems (such as over crowding which often leads to aggressive behaviour) before they occur. It can also be useful in recording incidents to assist police investigations. Given that the majority of establishments in the BCC area already have a CCTV facility indicates that licensees have recognised the value of this additional security tool. This means that there would be no problems complying with the requirements to be incorporated into the Liquor Regulation.

Although the majority of licensees surveyed indicated that they already have CCTV systems, it is recognised that installation of such a system could be an issue for small restaurants and clubs.

Whilst the proposed model anticipates that it will be applied equally to all licensees, consideration may be given to an alternative model that exempts certain licensees from the proposed requirements.

In order to ensure that the impact of the proposed requirements can be fully considered, submissions are invited regarding the impact of the proposed requirements on small restaurants and clubs.

10.3.2 *New Entrants Into the Industry*

Although the installation of CCTV may be an issue for new entrants into the industry, there is insufficient data to gauge the potential impact of the requirement. However, it is considered that potential licensees would not be reluctant to install the system given the security value such a system affords to all aspects of a business operation.

10.3.3 *Impacts on Consumers*

Benefits for consumers include added security. The knowledge that a licensed establishment is under surveillance can be a strong deterrent for some patrons to engage in unruly or violent behaviour. Clients as well as staff can feel more secure in the knowledge that management or security staff can immediately respond to problems and prevent possible harm and injury.

To avoid privacy breaches and the consequences that can potentially arise, the requirements under the Liquor Regulation states that recorded tapes are to be locked away in a secure place. Also, access to CCTV records will be restricted to management, Liquor Licensing Investigators and Police. These measures if appropriately applied should prevent any privacy breaches.

No adverse impacts on consumers have been identified.

10.3.4 *Impacts on Governments*

Benefits to Government are mainly in the area of compliance. The recommended changes will ease the pressure on compliance officers, including Police in the collection of evidence for establishing a breach, resolving a complaint, or providing facts for prosecutions.

10 SUMMARY

The cost and benefit analysis considered both quantifiable and non-quantifiable impacts (i.e. the social, cultural, economic and environmental implications) of the proposed tougher conditions to be imposed on licensed establishments operating in the BCC area.

The costs of the proposed licensing conditions will mainly impact on industry participants. Industry stands to incur most of the financial impact from the proposal which requires employment of additional crowd controllers, mandatory RSA training for licensees, nominees and all staff engaged in the sale and supply of liquor and the installation of CCTV facility.

Costs, however, should not be considered in isolation from benefits, which, in this case, are mostly derived from increased security measures and responsible server practices. Most of the benefits cannot be given a monetary value, especially in terms of increased safety. Generally, the proposal will provide greater security for the community and greater protection of the values and resources of industry and its employees. Although these benefits fall into the qualitative category of a cost benefit analysis, in the long term they can generate quantitative benefits, such as increased revenue for licensees and more jobs for Queenslanders in the security, hospitality and training industries.

The major benefit associated with the implementation of the proposed conditions is a greater level of protection to the community from alcohol misuse and its consequences. In terms of harm minimisation this is a significant benefit to the vulnerable sector of the community, especially young people. The value in changing the existing drinking patterns of young people in particular thereby reducing excessive and irresponsible consumption has far-reaching and immeasurable long-term benefits, such as better quality of life and less confrontation with the law.

The Government will benefit from the proposed legislative reform as it will be seen as a strong commitment to managing, protecting and conserving the values and resources, interests and health of the community as well as maintaining industry viability.

The proposed reform is a clear, methodical and transparent consultative approach to setting the direction for a more responsible regulation of the liquor industry compatible with the minimisation of harm arising from the misuse of liquor.

The table below summarises the scale of the costs and benefits to each stakeholder.

Stakeholders	Costs (negative)	Benefits (positive)	Net Effect
Industry Participants	Low to medium	High	High positive
Hotel Licenses	Low	High	High positive
Nightclub Licenses	Low	High	High positive
Restaurants (trading beyond 1:00am)	Medium to High	Medium to Low	Medium positive
Services Clubs	High	Low to Nil	High negative
Trainees	Low	High	High positive
Training Organisations	Low to nil	High	High positive
Community	Nil	High	High positive
Government	Low to Nil	High	High positive

The costs for the proposed introduction of tougher licensing conditions are generally low with only restaurants and services clubs falling in the medium-high and high negative category. Overall the cost for industry participants as well as for Government is low.

The benefits are generally high for the majority of industry participants with considerable benefits derived by the community, both in the short and long term. The benefits of the proposed imposition of tougher licensing conditions clearly outweigh the costs.

12 FUNDAMENTAL LEGISLATIVE PRINCIPLES

Fundamental legislative principles have been considered. The Liquor Industry is already highly regulated by statute and the proposed amendments are consistent with the existing regulatory approach which seeks to minimise the potential harm of liquor abuse and misuse on the community as a whole.

As the proposed conditions will be imposed by statute, licensees will have no right of appeal. The right to appeal a condition of a licence, under

section 30 of the Act, only applies to decisions of the chief executive. However, the measure forms part of the Government's broader Action Plan to manage alcohol abuse, misuse and associated violence in Brisbane and will be applied equally to all licensees in the Brisbane City Council area.

13 NATIONAL COMPETITION POLICY

All Australian Governments agreed to the National Competition Policy (NCP) in April 1995. The aim of the NCP reform program is to deliver tangible benefits to all sectors of the community. This is to be achieved by limiting anti-competitive conduct and removing special advantages of government business activities where it is in the public interest to do so.

While NCP is designed to result in better use of resources and substantial ongoing benefits to the community, the introduction of increased levels of competition will not always deliver the best overall result for the community.

In terms of impacts on competition, the proposed imposition of tougher license conditions aims to restrict and curtail certain practices by introducing a number of safety measures in licensed establishments that have been identified to contribute to alcohol-related violence in the BCC area. Increased regulation of the liquor industry is considered necessary to minimise harm caused by alcohol abuse and misuse and the associated violence. The proposed tougher licensing conditions have the potential to increase costs to businesses reducing the number of market participants and reducing competition. However, as most licensed venues already comply with the intended tougher licence conditions, their introduction is unlikely to have an impact on the number of market participants and therefore the impact on competition would be negligible.

From an economy-wide perspective the proposed reform is likely to have an overall positive effect. It will generate employment in the security, hospitality and training industries thus contributing to the overall economic growth of the State.

Restrictions in terms of the imposed licence conditions will be for the purpose of enhancing community health, safety and overall welfare, conserving public amenity and minimising harm arising from alcohol abuse. Accordingly, the proposed imposition on industry participants would be in the interest of the public.

In comparison with other alternatives (eg, the Status Quo and a Mandatory Code option), the imposition of tougher licensing conditions is justified.

These measures are considered to ensure that licensees manage their premises and the surrounding environment in a responsible manner, thus significantly contributing to the prevention of alcohol-related harm. The alternative options are not taken to provide the same level of benefit to the public, industry or the Government.

The cost benefit analysis indicates that the proposed imposition of tougher licence conditions generates the best outcome to the community as a whole.

14 RISK ASSESSMENT

Without the proposed legislative reform there is insufficient statutory basis for the prevention or better management of alcohol abuse and the associated violence that has recently occurred in the BCC area. More importantly, the existing regulatory framework is not broad enough to address the potential cumulative impact of alcohol misuse and its undesirable consequences.

Failure to introduce the proposed reforms is perceived to adversely affect the locality in and around licensed premises which in turn could have potentially serious impact on the safety of the community as a whole.

Imposing tougher license conditions on late trading venues in the BCC area will provide the necessary protection for residents in the locality. The proposed reform will also reduce risks for patrons and employees of licensed establishments and protect industry integrity from “rogue” elements.

15 CONCLUSION

Any intervention by Government designed to reduce alcohol-related crime, violence and disorder in and around licensed venues clearly aims to encourage improved management and security practices of the whole range of risk factors leading to disturbances and unruly behaviour.

The Action Plan initiatives to enforce relevant liquor laws compatible with harm minimisation strategies is a fundamental objective for achieving success in the government, community and industry sectors. The preferred option (Option One) to impose tougher licensing conditions on late night trading licensed venues in the BCC area in the form of additional crowd controllers, mandatory RSA training and the installation of CCTV best meets these objectives.

Some concerns however do remain with the imposition of employing crowd controllers. Many restaurants and services clubs, in particular, commented that given the nature of their business and the clientele, employment of crowd controllers is not justifiable.

Hotel and nightclub operators indicated that whilst they are prepared to meet the requirement for additional crowd controllers, the imposition should only apply on busy nights or at major events. Most operators considered such an imposition throughout the entire trading period, especially on weeknights when patron attendance is low, as not justifiable. Almost all commented that cost is a significant factor.

Since there is insufficient data on the extent to which licensed premises will be impacted by the scope of the proposed ratio, submissions are being sought on this issue.

Option Two was not considered viable because a self-regulating industry does not appear to have the capacity to adopt measures to adequately address the impact of alcohol-related violence in the BCC area. Similarly, a Voluntary Code is not considered to provide for a sufficient response to resolve the problems identified in the Action Plan. In the absence of mandatory requirements, a number of licensed establishments could continue to generate problems and defeat the purpose of self-regulation. The trend toward more proactive precinct management and the increased imposition of tougher licence conditions are considered to be more effective mechanism in this instance.

The Action Plan was developed in response to problems that occurred under the current legislative environment. This indicates that Option Three - the Status Quo - cannot achieve adequate levels of safety in and around licensed venues and consequently could contribute rather than detract from the escalation of violence and unruly behaviour.

It became apparent that to enforce sound harm minimisation strategies to counter harmful levels of per-capita consumption and associated anti-social behaviours in and around licensed establishments in the BCC area, tougher legislative provisions need to be applied on licensed establishments. For this reason the proposals for legislative measures in the Action Plan are found necessary to regulate situations or activities where the public interest is involved.

APPENDIX 1

1 NCP Review Terms of Reference

Specifically this review will examine the extent to which it is in the public's interest for competition to be restricted under the current legislation and will seek to:

- clarify the objectives of the proposed legislation;
- analyse the likely effects of the restrictions on competition and on the economy generally;
- assess and balance the costs and benefits of the restrictions identified; and
- consider other means for achieving the same results including alternative legislative or non-legislative approaches.

The review should give consideration to Clause 1(3) of the Competition Principles Agreement, which is reproduced below.

Without limiting the matters which may be taken into account, where this Agreement calls:

- (a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or*
- (b) For the merits or appropriateness of a particular policy or course of action to be determined; or*
- (c) For an assessment of the most effective means of achieving a policy objective;*

The following matters shall, where relevant, be taken into account:

- (a) Government legislation and policies relating to ecologically sustainable development;*
- (b) Social welfare and equity considerations, including community service obligations;*
- (c) Government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;*
- (g) Economic and regional development, including employment and investment growth;*
- (h) The interests of consumers generally or of a class of consumers;*

(i) *The competitiveness of Australian businesses; and*

(j) *The efficient allocation of resources.*

2 *Government Priority Outcomes*

In the course of the review, the Department of Tourism, Fair Trading and Wine Industry Development (WID) shall:

- consider the outcomes of any relevant reviews; and
- consider whether the proposed legislative amendments are necessary and justifiable on public benefit grounds.

DTFTWID has consulted with and received submissions from all relevant stakeholders, community members and other interested parties.

DTFTWID achieved objectivity and transparency throughout the review process by the public dissemination of the following materials:

- Draft PBT to rigorously examine the costs and benefits of reform options (taking into account potential employment, social and consumer impacts).
- RIS (to be released in conjunction with the PBT) to obtain specific stakeholder advice regarding the proposed amendments and their impacts; and
- National Competition Policy Report circulated on completion of the review to summarise the whole process, including a discussion of the background, key issues and options considered.

The review is being conducted according to the following broad draft timetable:

- Public release of RIS and draft PBT 22 July 2005
- Receive final submissions to RIS and draft PBT 22 August 2005
- Finalise PBT and submit final proposals September 2005
- New legislation implemented October 2005

APPENDIX 2

IMPACT MATRIX

Anticipated Level Of Impact On The Relevant Stakeholders Generated By The Proposed Amendments To The Liquor Act And The Subordinate Legislation.

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
Option 1 (preferred option) Tougher Licence Conditions (a) Additional Crowd Controllers	<ul style="list-style-type: none"> Increased efficiency in reducing disturbance. Reduced risk to patrons and residents. Reduced damage to private and public property. Commercial gain through increased patronage as the result of safer environment. Reduction in adverse third party effects, reduced risk of litigation and associated costs. Reduction in complaints from residents living in the proximity of licensed venues. Reduction in administrative and enforcement costs for Government. 	<ul style="list-style-type: none"> Effective supervision of patrons. Enhanced industry integrity and accountability. Greater level of protection for consumers, residents and their property. Safer environments, as localities will be free from undue disturbance and violence. Enhanced image of Government as the result of responding to community expectations for safer environments. Increased employment opportunities in the security, hospitality and training sector. 	<ul style="list-style-type: none"> Costs to all licensees who will have to meet ratio. Revenue loss where licensees are not able to meet costs of additional security staff and will have to cease trading at 1:00am. Possible costs to patrons (eg: increased entry fees) as the result of employing additional security staff. Minor costs to government as the result of drafting and implementing the legislation. 	<ul style="list-style-type: none"> Competitive strains on licensees not able to employ additional staff. Premises which will have to cease trade at 1:00am for lack of adequate security staff may not be able to compete on an equal basis. Some businesses may suffer in the long term on account of having to close early, thus losing patronage.

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
Net Effects	<ul style="list-style-type: none"> • Safer Venues • Increased Patronage • Commercial Gain • Less Complaints • Savings on Enforcement Costs for Government 	<ul style="list-style-type: none"> • Better management of crowds • Industry accountability • Reduced violence • Community safety • Increased employment • Economic growth • Improved regulation of industry 	<ul style="list-style-type: none"> • Increased costs for majority of licensees • Potential revenue loss for smaller operators • Potential costs to patrons 	<ul style="list-style-type: none"> • Restrictive competition impacts on smaller operators • Reduction in trading hours
(b) <u>Mandatory RSA training for staff</u>	<ul style="list-style-type: none"> • Increased commercial gain through increased patronage. • Safer environments induce patrons to stay longer, thus increasing profits. • Responsible management creates more attractive, commercially viable and profitable establishments. • Reduction in complaints. • Reduction in administration, compliance and prosecution costs. 	<ul style="list-style-type: none"> • Better server practices foster industry integrity and responsibility. • Increased staff, patron and community safety. • Well trained staff will have adequate knowledge to handle difficult situations, eg. intoxication and age identification. • RSA framework can be a mitigating factor for licensees in civil liability law suits. • Prevention of underage drinking, better control of intoxication and violent or disruptive behaviour. • Staff will be in a better position to control consumption on licensed 	<ul style="list-style-type: none"> • Potential training costs for employees who will need to undertake the RSA course. However costs would be minimum as most licensees are prepared to meet trainee costs or subsidise training. • Approximate costs for trainees would be around \$50 • Possible impact on trainers due to registration and licensing fees. This is considered to be easily absorbed given the high trainee turn over. • No negative impact identified for Government. 	<ul style="list-style-type: none"> • No negative impacts have been identified with mandatory RSA training for industry, community or Government.

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
		<ul style="list-style-type: none"> premises and deny access to minors and intoxicated persons. Increased protection and enhancement of consumer interests. Employment/investment growth in the training industry. 		
Net Effects	<ul style="list-style-type: none"> Commercially viable and profitable businesses Increased commercial gain Better management practices Less potential for litigation Reduced enforcement costs 	<ul style="list-style-type: none"> Responsible server practice Increased staff awareness Safer venues Prevention of underage drinking and intoxication Reduced violence Safer localities Reduced litigation 	<ul style="list-style-type: none"> Potential training costs Minor costs to trainers 	<ul style="list-style-type: none"> No negative impacts
c) <u>Installation of CCTV at entry and exit points to venue</u>	<ul style="list-style-type: none"> The overwhelming majority of licensed establishment already have CCTV not only at entry and exit points but also inside the venue. Standards set by the Regulation are already in place in most establishments. 	<ul style="list-style-type: none"> Almost all licensees hotels and nightclubs comply with the proposed condition. Added security tool to enhance existing systems. CCTV serves as a deterrent for patrons to engage in unruly activity. 	<ul style="list-style-type: none"> It is possible that smaller type venues may incur some costs, however since these venues generally cease to trade at midnight there will be no requirement to install CCTV. Since licensees already meet requirements no appreciable costs are perceived to stakeholders. 	<ul style="list-style-type: none"> No negative impacts have been identified in this regard since licensed establishments are already complying.
Net Effects	<ul style="list-style-type: none"> Requirements already in place. 	<ul style="list-style-type: none"> Deterrent Client and staff safety Safer venues 	<ul style="list-style-type: none"> Potential costs for small venues 	<ul style="list-style-type: none"> No negative impacts

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
<p>Option 2 Voluntary Code – Industry to self regulate.</p> <p>(a) <u>Additional Crowd controllers</u></p>	<ul style="list-style-type: none"> Benefits in terms of increased revenue would only apply to venues that adopted measures. There would be some benefits to operators in terms of revenue who are unable to or do not wish to meet cost. Benefits to clients and staff would accrue only where venues adopt additional security. No potential for passing on costs to patrons to counter cost of employing extra security. 	<ul style="list-style-type: none"> Increased benefits for industry participants who adopt the proposal. Community safety would be enhanced only in areas where venues adopt additional security. Underage drinking and intoxication would only be controlled where venues adopt proposed measures. 	<ul style="list-style-type: none"> Intoxication and underage drinking would continue. Unruly crowds would continue to generate problems. Penalties for licensees who operate irresponsibly. 	<ul style="list-style-type: none"> Inconsistent application of measures generates lack of confidence in industry. Some neighbourhoods would continue to be exposed to unruly crowds and rowdy behaviour. Competitive strains due to unequal distribution of responsibility. Unruly and violent behaviour would continue irrespective of some licensees meeting requirements. "Rogue" elements would continue with irresponsible practices.
Net Effects	<ul style="list-style-type: none"> Benefits apply to venues that adopt measures No cost for patrons No cost for operators who do not adopt measure 	<ul style="list-style-type: none"> Benefits apply to operators who adopt measure. Limited control of intoxication Limited control of underage drinking 	<ul style="list-style-type: none"> Breaches of Act would continue Damage to public and private property 	<ul style="list-style-type: none"> Inconsistent application of measures Limited control of intoxication Limited control of crowds Competitive strains

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
(b) <u>Voluntary RSA training</u>	<ul style="list-style-type: none"> Benefits would accrue to operators who adopted RSA training. 	<ul style="list-style-type: none"> Benefits to the community are proportional to the number of venues that adopt practices. Patron safety would be guaranteed only where venues meet RSA requirements. Community safety sporadic 	<ul style="list-style-type: none"> Financial losses for venues that would refuse to adopt RSA training. Costs to industry participants who do not participate on a voluntary basis. Potential for litigation for licensees who do not have an RSA framework. Costs to government in terms of complaint resolution. 	<ul style="list-style-type: none"> Premises without RSA may generate an erroneous perception on alcohol consumption. Underage drinking and intoxication could occur on premises where RSA practices are not in force. Potential cumulative effect on excessive alcohol consumption, underage drinking and unruly behaviour.
Net Effects	<ul style="list-style-type: none"> Short-term benefits for some operators 	<ul style="list-style-type: none"> Short term benefits for some operators 	<ul style="list-style-type: none"> Financial losses for irresponsible operators Potential for litigation Compliance and enforcement costs for Government 	<ul style="list-style-type: none"> Continued irresponsible hospitality practices Potential for excessive alcohol consumption Underage drinking Risks to staff, patrons and the community
(c) <u>CCTV facility</u>	<ul style="list-style-type: none"> Since almost all licensed establishments have the facility, benefits are already derived. No costs as standards already met 	<ul style="list-style-type: none"> Benefits already apply as almost all licensees have the facility. 	<ul style="list-style-type: none"> There are no negative impacts as facility is already in place in almost all venues. 	<ul style="list-style-type: none"> No negative impacts as facility is already in place in almost all venues.
Net Effects	<ul style="list-style-type: none"> Same as for Option 1 	<ul style="list-style-type: none"> Same as for Option 1 	<ul style="list-style-type: none"> Same as for Option 1 	<ul style="list-style-type: none"> Same as for Option 1

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
<p>Option 3 -Status Quo- No imposition of tougher license conditions</p> <p>(a) <u>No requirement for additional crowd controllers</u></p>	<ul style="list-style-type: none"> Minimal short term benefits for some licensees. Benefits for services clubs in terms of savings. Additional security staff would increase overhead costs. No benefits for Government have been identified. 	<ul style="list-style-type: none"> Services clubs and restaurants would benefit from status quo. Services clubs and restaurants are not considered to generate problems of unruly or violent behaviour. Additional security may not be required; this would benefit restaurants and RSL clubs. No benefits for the community and Government have been identified. 	<ul style="list-style-type: none"> Revenue loss as unsafe environments will keep clients away. Damage to private and public property; costs to licensees and the community. Penalties for licensees for breaching the Act (eg: minors found on premises). Possible closure of premises where continual non-compliance is detected. Costs for Government would be through increased complaints and the resources needed for their resolution 	<ul style="list-style-type: none"> Increased risk to patrons, staff and the community, including their property. Increased access for underage and intoxicated unruly patrons. Security arrangements under the status quo are not sufficient to guarantee community safety. Increased incidence of violence in the locality and damage to private and public property. Increased conflict at transport stations, taxi ranks and public places. Unruly crowds roaming the streets add to the perception that Brisbane is unsafe at night.

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				<ul style="list-style-type: none"> Government's image could suffer for not responding appropriately to community needs and expectations.
Net Effects	<ul style="list-style-type: none"> Minimal short term benefits for small operations 	<ul style="list-style-type: none"> No benefits to community or Government 	<ul style="list-style-type: none"> Revenue loss to licensees Damage to public and private property Penalties for breaches Increased complaints Compliance cost for Government 	<ul style="list-style-type: none"> Risks to patrons and staff Increased intoxication Increased underage drinking Increased violence Unruly crowds
(b) <u>No requirement for mandatory RSA training</u>	<ul style="list-style-type: none"> No benefits have been identified with this Option 	<ul style="list-style-type: none"> No benefits identified with this option 	<ul style="list-style-type: none"> Increased social and commercial risks. Unsafe environments will turn clients away result in loss of revenue. Commercial viability would be jeopardised where irresponsible management practices continue. Heavy penalties apply where licensees do not comply with the Act, including the possible closure of premises. Potential for litigation can generate substantial costs. 	<ul style="list-style-type: none"> The vulnerable sector of the community eg: young people will continue to be disadvantaged due to irresponsible service and supply of alcohol. Disorder, intoxication are likely to escalate and lead to further physical social, and psychological harm. Drinking patterns that lead to excessive consumption and unruly behaviour lead to confrontation with the law. Reduced community safety.

PROPOSED OPTIONS	SUBORDINATE LEGISLATION POSITIVE IMPACTS	LIQUOR ACT POSITIVE IMPACTS	SUBORDINATE LEGISLATION NEGATIVE IMPACTS	LIQUOR ACT NEGATIVE IMPACTS
				<ul style="list-style-type: none"> Government would find it difficult to apply harm minimisation strategies if the status quo is to remain.
Net Effects	<ul style="list-style-type: none"> No benefits 	<ul style="list-style-type: none"> No benefits 	<ul style="list-style-type: none"> Increased commercial risks Reduced commercial viability Heavy penalties for breaches Potential for litigation 	<ul style="list-style-type: none"> Increased underage drinking Increased intoxication Reduced community safety Increased violence Risks to patrons and staff
© <u>No requirement for CCTV facility</u>	<ul style="list-style-type: none"> Since almost all licensed venues in the BCC area have the facility, benefits already apply. 	<ul style="list-style-type: none"> Since almost all licensed venues in the BCC area have the facility, benefits already apply. 	<ul style="list-style-type: none"> Those premises that do not have the facility may incur some costs. 	<ul style="list-style-type: none"> There may be reduced security, especially where no other measures are in place. Unruly patrons could engage in unruly behaviour without being detected or detected only once harm or injury occurred.
Net Effects	<ul style="list-style-type: none"> Benefits already apply since almost all venues have CCTV 	<ul style="list-style-type: none"> Benefits already apply 	<ul style="list-style-type: none"> Small operations may incur costs 	<ul style="list-style-type: none"> Reduced security Unruly patrons

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Tourism, Fair Trading and Wine Industry Development.