



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
13TH ASSEMBLY
ECONOMIC POLICY SCRUTINY COMMITTEE

Public Briefing Transcript

1.00 pm, Monday, 20 May 2019

Litchfield Room, Level 3, Parliament House, Darwin

Members:

Mr Tony Sievers MLA (Chair), Member for Brennan

Ms Kate Worden MLA, Member for Sanderson

Mrs Lia Finocchiaro MLA, Member for Spillett

Mr Yingiya Guyula MLA, Member for Nhulunbuy

Mr Lawrence Costa MLA, Member for Arafura

Witnesses:

Department of Attorney-General and Justice

Bronwyn Haack: Senior Policy Lawyer

Hannah Clee: Senior Policy Lawyer

Caroline Heske: Senior Policy Lawyer

**Alcohol Review Implementation Team, Department of the Chief
Minister**

Giovina D'Alessandro: Executive Director

Ryan Neve: Director of Communications

LIQUOR BILL 2019

Department of Attorney-General and Justice Alcohol Review Implementation Team, Department of the Chief Minister

Mr CHAIR: Welcome everyone. I am Tony Sievers, the Member for Brennan and Chair of the Economic Policy Scrutiny Committee. On behalf of the committee, I welcome everyone to this public briefing into the Liquor Bill 2019.

I welcome to the table to give evidence to the committee from the Department of Attorney-General and Justice, Ms Bronwyn Haack, Senior Policy Lawyer, Ms Hannah Clee, Senior Policy Lawyer, Ms Caroline Heske, Senior Policy Lawyer, Ms Giovina D'Alessandro, Executive Director and Mr Ryan Neve, Director of Communications.

I acknowledge my fellow committee members in attendance today: the Member for Spillett, Mrs Lia Finocchiaro, the Member for Sanderson, Mrs Kate Worden and the Member for Nhulunbuy, Mr Yingiya Guyula. The Member for Arafura, Mr Lawrence Costa, has dropped out of the teleconference, he may reconnect.

We appreciate you taking the time to speak to the committee and look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public briefing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If at any time during the hearing, you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

Could you please state your name for the record and the capacity in which you are appearing? I will then welcome you to make an opening statement.

Mr NEVE: Director of Communications, Alcohol Review Implementation Team, Department of the Chief Minister.

Ms HAACK: Senior Policy Lawyer, Department of Attorney-General and Justice.

Ms D'ALESSANDRO: Executive Director, Alcohol Review Implementation Team, Department of the Chief Minister.

Ms CLEE: Senior Policy Lawyer, Department of Attorney-General and Justice.

Ms HESKE: Senior Policy Lawyer, Department of Attorney-General and Justice.

Mr CHAIR: Would anyone like to make an opening statement?

Ms HAACK: The Liquor Bill 2019 delivers on the government's commitment to alcohol reform following the release of the Riley review, which itself had significant consultation. The exposure draft Bill process has provided valuable opportunity for feedback and enabled adjustments to be made to the drafting where valid issues have been raised by stakeholders.

The Bill aims to provide a contemporary, fit-for-purpose, strong regulatory and enforcement framework, appropriate to the Northern Territory, one that is workable and accessible to users, removing confusing and inconsistent parts.

It is hoped the Bill will form a key component of minimising alcohol-related harm in the Northern Territory so that Territorians can enjoy living in a safe and vibrant community.

Mrs FINOCCHIARO: Would you be able to go through some of the key features of the Bill?

Ms HAACK: We can. We delivered significant content to a whole variety of stakeholders during April and I have prepared a slightly more concise version of that. It might be that there is too much detail so I am happy if there is too much detail for you to move me on. I will not take any offence.

There is a PowerPoint presentation, I will just hand it out.

Mrs FINOCCHIARO: You said that information was delivered in April to industry. Was that in open sessions or was that one-on-one with interested stakeholders?

Ms HAACK: Industry and members of the public and then specific stakeholders were targeted. We conducted sessions in Darwin, Palmerston, Alice Springs, Tennant Creek, Katherine and Gove. The general model of the consultation was an industry session and then there was an NGO-public section. They were both available to members of the public and we had various people turn up regardless of whether the session suited them. So the timing suited particular people so they might have come to the industry session.

The content that was delivered to both was quite similar. I would say three quarters of the content was the same. Some licensees have particular concern and particular focus on certain things and then non-government organisations had a particular focus on other matters.

Mr CHAIR: Do you have a list of all the stakeholders that you consulted?

Ms HAACK: We do. There is a summary document that I might need to seek approval to release but there is a summary of—we effectively wrote up a table of all the comments in conjunction with ARIT who led some of that work. We defined—because we had the advantage of having a proposed Bill, people commented on sections and then we sorted it so we had, by section number, who commented on the section—the police, for example, make a comment about this, licensees make a different comment, then as a group, the legal policy and the Alcohol Review Implementation Team worked through some of those issues.

A lot of the comment and feedback was of a lot of assistance. There has been quite a number of alterations or tweaks in relation to what people had pointed out or what was not clear to them. We received some notification that people were going to think about some issues and provide more at a later time. A few people directly told us they were going to use the scrutiny committee process to make comment. Some of our groups had fully developed policy positions. Others notified us that they did not have a developed policy position about it so we have not changed the Bill, because there was not enough to change it, but I would anticipate that you are likely to receive those comments.

Mr NEVE: There are 17 written submissions on the alcohol review website, specifically on the exposure draft, which we can give you the link to so you can have access to that.

Ms HAACK: I think the total we received was 22. Some of them have asked for them to be private, and some of them are as informal as an email because people were pressed for time.

The alcohol implementation people, to assist business, said ‘give us what your thoughts are’. Some of the requests were not in line with the purposes of the Act, or alcohol harm reduction. Not everything has been adopted.

Mr CHAIR: Were there some common threads in the feedback?

Ms HAACK: There were. Licensees wanted certainty about the applications and complaint process. The Police wanted everything to be very clear to make their task of enforcement really easy. We have tried to do that where we can. Some people at the morning and afternoon sessions had concerns and they could also ask for appointments.

We received quite good responses from people. People were quite engaged in the sessions and I thought they were beneficial.

Mr CHAIR: You had them in Darwin, Katherine, Alice Springs?

Ms HAACK: Palmerston.

Mr NEVE: Tennant Creek and Nhulunbuy.

Ms HAACK: In terms of an overview, I understand the members will probably be quite familiar with parts of the *Liquor Act*. There has obviously been a lot of discussion about part of these provisions. It is quite difficult for everyone in that we have new section numbers and new parts, to try and get something more consistent. When you look for the old sections you might get a fright that something is no longer there, they have removed it. It might be helpful for me to highlight where stuff has moved to.

The key changes are on the second page, I think this will be quite familiar to a lot of you following the direction we were given and the government has given us in response to the Riley, to remove the confusing and consistent provisions of the Act. To modernise the language so it is now consistent with modern practise. Generally, if something was being done or there was a more modern version interstate, we tried to pick up those kind of provisions, even if perhaps it was not a problem in the Northern Territory, with a view that we do not want to be amending legislation down the track and that it was useful to learn from some other jurisdictions about problems with alcohol-related substances.

The key changes are: recognising the independent Liquor Commissioner is the primary decision-maker, establishing the Director of Licensing, updating penalty offences and granting limited periods of licences and redefining controlled areas.

The key parts of the Liquor Bill:

- part 1 preliminary
- part 2 administration
- part 3 registration licences and authorities
- part 4 condition of licences and authorities
- part 5 minimum pricing
- part 6 harm minimisation
- part 7 licence and authority compliance

Some things are new and some have been existing and modernised.

- part 7 licence and authority compliance
- parts 8 and 9 controlled areas and enforcement powers for controlled areas
- part 10 addressing anti-social behaviour, which has some older things that exist now and along with some new things
- part 11 other enforcement powers
- part 12 forfeiture and disposition of assets
- part 13 further offences and related matters
- part 14 miscellaneous repeal and transitional matters.

In relation to one of the primary parts of the Act, we have reworked the purpose on page 3 and we have moved from objects to a more modern version with purpose. We have moved to a primary and secondary purpose. You will see clause 3.1 has got the primary purpose and then secondary purposes. We know that what all legislation does effectively is how is a Bill going to achieve it? How will it do these things?

I hope that some parts of the Bill are quite obvious and make sense to people and I hope that people can find—with the Office of Parliamentary Counsel we hope it is a much more useful sort of thing to what we had before.

The other part in preliminary that I think it is probably worth drawing to your attention, is the new definition of 'intoxicated' to replace drunk. This is in clause 5:

A person is to be taken to be intoxicated if:

- (a) the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and*
- (b) it is reasonable in the circumstances to believe the impairment results from the person's consumption or use of liquor or a drug.*

The last words there 'or a drug' are an extension of the current definition and it is thought, from a policy perspective, that whether someone is intoxicated because of drugs or alcohol, the provision of further alcohol to them is contrary to harm minimisation. We were trying to assist licensees—we had received some early feedback about it being difficult to know why someone is intoxicated. If your behaviour is bad but you appear to be affected by drugs, not alcohol, you are probably not covered by the current legislation.

Some licensees seem to be comforted by what we are proposing and some have not been supportive of that and say it might be difficult for them as it gives them more responsibility. Application of the Act, clause 6, a new modernised definition of liquor. There was question in the current legislation about whether things like a frozen alcoholic icy pole are covered because it is not a beverage. We have moved to make sure that those sorts of things are covered. We have also added in powdered alcohol which is an issue in other jurisdictions, not often an issue in the Northern Territory...

Mrs FINOCCHIARO: Is that powdered?

Mrs WORDEN: Or powered?

Ms HAACK: Powdered.

Mrs FINOCCHIARO: I thought it must have been Red Bull or something.

Ms HAACK: You have found our first typo. It is powdered alcohol and it is made like the old-fashioned Tang and is stirred. It has been in the Northern Territory but Licensing have advised, not now but historically, it is not particularly popular. This would not prohibit it but if it is going to be sold, it should be sold the way an alcoholic beverage would be.

Administration covers the appointment of powers, delegations and persons to administer the Act that contain the following provisions:

- Director of Licensing, clauses 9-11
- Inspectors, clause 16-18
- Liquor Commission, as a primary decision-maker, moved to clauses 19-23.

We have made changes to Commission hearings. When the Commission was instated there was a lot of comment that all hearings should be public. It was expected that a lot of people would come and watch them. The feedback that we have received is that effectively they are very rarely being watched other than by the objectors.

There are exceptions to that—a couple in Alice Springs—and then there are obviously some that are of interest to media. Public hearings are being held on matters that no one is objecting to and it seems like an inefficient use of resources. That is in Clause 21. We have left the decision-making about whether a public hearing is required to the Commission as the primary decision-maker. We thought that was consistent. We are happy for feedback about that.

Mrs WORDEN: Obviously the Liquor Commission is something new. Previously we had the Director-General. The changes abolish the Director General of Licensing position. Can you explain the way—there has been a lot of confusion over that old role, particularly with the Commission coming in and that role still being there, how the Act now redefines the relationship between the two? It is a very cloudy area and I think there is some confusion around what sits with the two and what sort of powers the two bodies might have.

Ms HAACK: We hope it is made clearer. I note your comments. We have done a fair bit of work with licensing and the Acting Director General of Licensing. There are a fair bit more procedural requirements now in the Act in timelines and decisions with the Liquor Commission being able to delegate down to the Director of Licensing, working in a public administrator-type function with decisions being deferred down. I have met with Richard Coates, the Chairman of the Liquor Commission. He indicated that there is quite a volume of minor matters that are not so significant that they really warrant three commissioners—one with the health background and one with a legal background.

With the delegation function that has been built into the Bill, again the Liquor Commission having the ability to delegate certain class of matters and particular matters effectively maintains them as the decision maker, but allows for their time to be focused on the meaningful matters that require that sort of information.

Mrs WORDEN: It is the area we need to get the communication right. I guess that is the area of interest for the everyday punter about what the division of that workload is and what it looks like to them. The Act makes it an easy path. It is in the Act and covered by the Act. Whereas, otherwise if it is not covered by the Act, there will be that confusion still.

To explain it a little more. When matters were previously heard, there was a perception that one person considered. Now they are going to the Liquor Commission there is, obviously, more qualification and it is much better and more robust. There needs to be a lot of clarity about the communication about what matters sit where.

Ms HAACK: Yes.

Mrs WORDEN: There was a little expectation that maybe, once the commission was fully established and this was all done and it all came through, possibly there would not be a need to have a Director of Licensing anymore—that whole function would have been moved over. Clearly, there are things that exist that can continue with the Director of Licensing. That needs to be very clear.

Mrs FINOCCHIARO: And also who people are waiting for to make a decision. A lot of public feedback came through to me, 'Is it on the DG's desk or is it with the Liquor Commission?'

Mr NEVE: There is a lot of commentary on that in our feedback from stakeholder engagement. We actually have some proposed flow charts with time lines on them that will answer a lot of those queries and questions that have come up from a lot of people. There will be a lot of clarity. You can pretty much work out at certain threshold points where a decision has to be by a certain time frame. Again, I can provide the link to those spreadsheets. I have them here.

Mrs WORDEN: You have paper copies?

Mr NEVE: Yes.

Mr CHAIR: Okay. We will get to that. Thank you.

Mrs WORDEN: That has probably been the biggest area of public confusion—where things sit.

Ms HAACK: Hearing in clause 22, while it is at the front of my mind, we had feedback during the consultation about—and it is not in this area—objections and members of parliament. Previously it went into the draft Bill after consultation, so that the local member for an area could be an objector. It seems like a logical thing that was suggested ...

Mr CHAIR: Yes, good.

Ms HAACK: ... for the first time during consultation.

Mrs FINOCCHIARO: Has that been clarified in that criteria, because it was ambiguous whether we were?

Ms HAACK: Yes.

Mrs FINOCCHIARO: Okay, I see.

Mrs WORDEN: The Member for Nelson made it very clear.

Mr CHAIR: Good on you, Gerry.

Mrs FINOCCHIARO: Construed myself into the definition.

Ms HAACK: I am glad I told you.

Mrs FINOCCHIARO: I know, yes, that is me.

Ms HAACK: We have moved to a concept where you make an application for a liquor licence and then you have different authorities that are attached to that. You are applying for a licence and you want to open a restaurant, then I decide that business is really successful and I now want to be trading and serving late night. I have to come back and apply for the late night authority. The purpose of that is to try and assist—earlier on we had a fair bit of feedback and the Riley review had a fair bit of feedback about licence creep such as nightclubs operating but no late night security footage and the like. It is thought that this process will assist.

Clause 39 lists the exemptions from licence requirements. Some of them have been there for some time. Some of them are new.

Clause 43 lists the authorities that are attached to licences. I do not know if you have a copy of the Bill in front of you but effectively every sort of business arrangement that you would expect a licensee to have, we have hoped to cover, so from small bar to late night. The other distinction on the concept of licence and authority is that if I apply to be a licensee, there are probity and criminal history checks and the like but you do not have to go through that same entire process to change and upgrade.

Mrs FINOCCHIARO: Say you are the restaurant owner and your licence goes to 9pm. If you wanted to extend that legitimately because people just love your food and you are still serving meals until 10pm or 10:30pm, is the applicant then able to say 'look, people just love our pizza' and they can get that extension or is there a timeframe where you are now moving into serving drinks at night and that is a different licence altogether?

Ms HAACK: My understanding, and correct me if I am wrong, is that for existing licensees, the Attorney-General had indicated that no one would be worse off. If you are running like that now, there would be a conversion or a transition for your licence. If you are running quite late, you would have to get your restaurant licence and your late thing but you would not be entitled to the late night part of it.

Mrs FINOCCHIARO: Is that a new licence application from the start or is there some form—you are already a licensee so there is a different threshold?

Ms HAACK: What is anticipated—and this is further work not in this Bill to be done this year—in terms of regulation, is the transitioning of existing licences over onto new licences. We have been working with restaurant groups and Hospitality NT to discuss some of those conditions. There are some quite distinct groups of licensees, for example, brewers, which is quite a new industry and very small in number. Some of those very specific and technical conditions we anticipate having in the regulations. That work is ongoing and not contained in the Bill.

Mrs FINOCCHIARO: If you were the restaurateur and your normal restaurant licence expires at 9pm or 8pm—whatever it might be—and you want to turn into a wine bar and cheese platter after that, is that a brand new fee? Is it a brand new licence for all intents and purposes or are you saying that is what you are going to work through in the regs?

Ms HAACK: If you are existing now and you have your wine bar running, there would be a transition worked on to make it a shortened process because we are expecting existing licensees to modernise. If you came at that stage and you had your restaurant licence and at the same time you are going to be running late night as a new thing, then I think that part is going to have to have—you know what I mean because—yes.

Mr NEVE: If you change business practice, you would apply for a new authority and if that authority classed as a higher risk than the original authority you are on, your fee could go up, or probably would go up if it was a higher risk. That is late night—that is one of the riskiest authorities. If you were just broadening out your business model and the risk was considered the same, there would be no additional fee because we have basically taken the approach that you pay the fee for the highest risk of the authority—if you have multiple authorities, you pay the fee for the highest risk of those authorities. You do not pay multiple fees.

Ms HAACK: They are in clause 43. Alterations were made to the restaurant-bar authority. We originally had it as a draft authority where a restaurant could serve alcohol to patrons without the purchase of food in a small specified area and we received feedback during consultation that 'that is not how we do business, people do not drink at bars all the time, we want to be able to seat people in the restaurant'. That is an alteration that was made. I have discussed how the Bill proposes to improve the standardisation of liquor licences, I think that is covered.

Applications process—the Bill proposes to improve the applications process by prescribing time frames in legislation. There is a flow chart that has been prepared by ARIT.

Ms D’ALESSANDRO: These flow charts are publicly available on the website.

Ms HAACK: Would you like me to speak to that document?

Mr CHAIR: Yes

Ms HAACK: There are timelines. Some feedback we received, which does not sound dissimilar to what some members have said, is that people wanted to know where their applications were. The time lines we put on in general—this is true for both the issuing licencing authority and the complaints process—are not arranged so that something has to happen within a period of time, not necessarily the whole decision has to be made. That is the approach we took. We had discussions in relation to licensing and timelines.

There are different timelines in relation to issuing licencing authority, over the page, issuing community event or a special authority and variations of the condition of licence and substitution of premises.

Mrs WORDEN: Have you defined community event and special community event in the Bill?

Ms HAACK: Yes.

Ms D’ALESSANDRO: In clause 43 there is a little definition of each of the authorities. As Bronwyn has said previously, further work will be done on the regulations to set out the conditions specific to each of those authorities. There is more work to be done. Some of the licence conditions that are common to all authorities are actually in the Bill but the stuff that is specific to each of those individual authorities will be in the regulations.

Mr NEVE: Probably the biggest change from the special event licence is the new community authority. For example, if a football club has regular home games, instead of going through a special licence every home game, they can apply for a community authority. The authority will say you can have up to four home games a year. All you have to do a week before the game is advise who is the RSA, what you are selling, what your hours are, or things of that nature?

That should take a lot of applications off the process and a lot of paperwork off volunteers, who are trying to put this stuff through and understand government processes. It can be done once and then it is there and if they are playing by the rules and obeying, it will continue on. That is the idea behind it.

Ms HAACK: We understand there is a large volume of work with those applications.

Public interest and community impact – I think the members will be aware that tests were put in place when the Liquor Commission was reinstated last year. We have had discussions with the chairman of the Liquor Commission and stakeholders and we have revised and refined them slightly, hopefully without substantial change to the meaning, to make them clear and more accessible.

Clause 45(1) over the page, the Commission may issue a licence or authority if satisfied that the applicant is fit and proper, the licence or authority is in the public interest and the licence or authority might have a significant adverse impact on the community.

Mr CHAIR: How often do we check the licensee is fit and proper? Is it once you have it got it, or for 10 years?

Ms HAACK: I would have to speak to Licensing to get you an accurate answer in relation to that. I am not sure.

Mr NEVE: One of the recommendations is yearly audits or compliance checks. That will start to manifest as implementation happens.

Ms D’ALESSANDRO: There are licence conditions requiring a licensee to notify Licensing NT or the Commission if they are convicted, if something has happened. Those conditions have been around for a long time and they continue.

Mr CHAIR: Yes, okay.

Mrs WORDEN: That self-notification will rarely happen.

Ms D’ALESSANDRO: We have Licensing NT and the inspectors. We have a very good alcohol policing unit as well.

Mrs WORDEN: We have some very good inspectors doing some good work.

Mr CHAIR: Great.

Ms HAACK: Clause 45(2) determines whether issuing a licence is in the public interest. It gives some guidance. You will find in a lot of areas in the Bill often the first clause will talk about the primary objective. Then you will have more detail as you work through—hopefully, in a logical way:

To determine whether issuing a licence or an authority is in the public interest, the commission must consider how it would advance the following objectives.

There they are set out. We asked during consultation about whether we had missed anything or if there was anything where people did not feel covered. We did not receive much feedback about that at this stage.

Clause 45(3):

Matters which the commission must consider to determine whether issuing a licence or authority would have significant adverse impact on the community, the commission must consider the following:

Then they are listed. We have maintained very much a list form because of information provided by the Commission and confirmed by licensees. People have been preparing these public interest and committee impact statements by effectively using the legislation and putting a paragraph of information—or pages of information—under each of those things. It seemed to be reasonably user friendly, so we have retained that kind of structure.

Clause 45(4) is mitigating adverse impact. This is obvious:

The commission may mitigate a possible adverse impact on the community by issuing a licence or an authority with conditions that limit any of the following:

The kinds of liquor that can be sold, the nature of the entertainment they are providing and the like. It says what you would expect. We are trying to provide a Bill which says what you would expect it to say and what people’s expectations of it would be.

Mrs FINOCCHIARO: Can I ask about clause 45(c)—the number or types of containers in which liquor may be sold? Could there be an imposed limit as part of the licence? For example, if it is a bottle of X-labelled red wine, you can only sell 300 bottles.

Ms HAACK: Yes. For example, a person was worried and had complained about a licence being granted and was worried about the consumption of liquor or something like that, before it has even happened, this would make it clear that the commission can say, ‘No, we will only allow people to at certain times’—stagger it.

The other thing you might have is complaints by councils, where they are worried about glass bottles in sports fields and that kind of thing, so they could say ‘no, only plastic containers after that time’. That is ...

Mrs FINOCCHIARO: I can appreciate the containers. Is regulating the number of a product that a licensee can sell new? That does not appear in the existing ...

Ms CLEE: Some provisions are anywhere—particularly where there are permits and so forth—where we can restrict the amount of alcohol that is sold—X number of bottles of wine or one carton of beer, or particularly with casks as well. There were limits on the amount that a cask can ...

Mrs FINOCCHIARO: They are for more specific types of licences? That would not be your drive-through Bottlo-O having a restriction on only 400 cartons of Great Northern or something?

Ms HAACK: It is a decision for the Commission. To use clause 45(4), they would have to identify that there is a possible adverse impact on the community, then they are seeking to mitigate it. I suppose this is useful in some ways if it would mean that there are competing interests about ...

Mr CHAIR: Oh, yes. Some of the festival have a number of how much they can sell.

Ms D'ALESSANDRO: It actually says the type of container, not the liquor product. I do not think the Commission would say Great Northern or name a brand, but it would say the type of container. It might be a six-pack of full-strength beer rather than a specific brand or type.

Mrs FINOCCHIARO: Yes, I thought the number or type of containers. They could say 400 glass bottles or cartons of glass bottles. Yes.

Ms D'ALESSANDRO: Exactly.

Ms HAACK: Conditions of licence authorities, Part 4—we have covered this about the general conditions related to licensed premise that will be contained in the Bill and the conditions of authority. The takeaway moratorium continues in the Liquor Bill. It has moved to clause 80(3) if you are looking for it.

Minimum pricing has moved to Part 5. The minimum floor price continues under the draft Bill referred to as the sale price in the Bill. It is at Clauses 113-124. Complimentary drinks are... Clause 119 is a proposed exemption following feedback and consultation.

After the minimum floor price was brought in last year, the Department received a fair bit of feedback from principally licensees concerned about not being able to give someone a complimentary drink. They said 'I have a good customer and I just want to give them a glass of wine on arrival.' That is how we thought to cover that.

We were originally proposing one complimentary drink. We have moved, after consultation, to two standard drinks. Things that were said to us were things like 'it is embarrassing if I give someone the smallest possible glass of beer—that is one standard drink.' The other reason we have gone to two standard drinks is that this clause, we hope, will cover wine tastings and the like.

Mr NEVE: We had 'on arrival' at first and we have changed that because it might be that 'meals are late so here is a free drink'. That is not on arrival so that has cleared that up.

Mrs WORDEN: Did you say that has been moved?

Mrs FINOCCHIARO: 119.

Ms HAACK: So 119 does not exist currently, it is a new provision. It is in the Bill but not in the current Act.

Harm minimisation is Part 6. This again contains a mix of new and old but modernised.

- Patron identification system, obviously the BDR Division 1, Clause 125-128.
- Liquor accords Division 2, Clause 129-132.
- Responsible drinking, Clause 133.
- Enhanced ability to refuse service, Clause 136-137. Where I have a star, I have a specific slide about it because it needs some more explanation.
- Harm minimisation audits, this is new, recommended by Riley, Clause 146-148.
- Control of an edible alcohol product, Clause 150 and I will speak about that specifically. Refusing service, Clause 137.

There had been requests from licensees for a mechanism which enabled them to decline service more often. They expressed that they were limited. They might have had concerns about someone's use of alcohol or what might occur but they felt they could not decline service. What we have proposed and worked with Office of Parliamentary Counsel on, is a 'may' refuse service provision.

A licensee and the licensee's employees may refuse to serve liquor to a person if the licensee or employee believes on reasonable grounds that the person is registered on the Banned Drinker Register or a person will commit an offence against this Act, or the person will become intoxicated, or the person will engage in violent, quarrelsome or disorderly behaviour on or in the vicinity of licensed premises, or the person has engaged in either conduct specified in paragraph (d) within the last 12 months.

To avoid doubt, a licensee must not use an attribute specified under section 19(1) of the *Anti-Discrimination Act* as the reason to form the belief under subsection (1). What that would mean is that, say for example, I was in a licensed premises yesterday and I started behaving badly and I was disorderly and then I attended the next day, the licensee could just decline to serve me.

We wanted some safeguards around the use of this which is why subsection (2)...

Mrs FINOCCHIARO: So this is not to do with complying with your RSA requirements. This is an additional power?

Ms HAACK: This is an additional power. Say I behaved badly last night and they had to get security to remove me. I re-attend and try and be served, they could decline me service. Or I start to have quite a severe alcohol problem and they become concerned about it, before I actually become intoxicated—they have responsibilities and clear powers at the intoxication phase but not necessarily for it—they could say no we are not going to serve you alcohol. They could not say we are not serving you because you are of Irish heritage.

Mr SIEVERS: If you go through the bottle-o and you are on the BDR, you get refused service there and you have been in trouble the night before in the pub...

Mr NEVE: A practical example might be that the licensee that has both a takeaway and an on-premises element, did not feel that they could justifiably say no to serve someone who scans on the BDR at the takeaway, but there is no mechanism—but if a police auxiliary was to say that this person has just scanned, then there is a reasonable belief that this person is on the BDR, they must refuse service because now they know that person is on the BDR.

There are some licensees that feel they are very comfortable in understanding refusal. There were some that really wanted some clarity so this is the path we took to try and address some elements of the industry felt that they could have it strengthened.

Ms HAACK: Some of this is consistent with harm minimisation in that it is before something occurs. Another example would be if there is a domestic violence incident. People are behaving fine but then there is a domestic violence incident outside the premises—it is often staff that are calling the police for example—and then those people re-attend the next day. That is how it is anticipated and aimed to be used. That is new. The same modernised refusal of service provisions are maintained.

Harm minimisation audits are new. The Bill introduces a new harm minimisation audit in Clause 146 and 148. It will measure the extent to which a licensee promotes the purpose of the Act; complies with codes of practice; complies with guidelines to protect the safety, health and welfare of patrons; prevents access to liquor by children and others prohibited from consuming; reduces or increases in anti-social behaviour and alcohol-related violence.

Mrs FINOCCHIARO: These are additional criteria—I suppose you could say—on top of the licence conditions. Licensees can be penalised if found in breach of this even though it does not form part of their licence.

Ms HAACK: No. The provisions are in Clause 146-147. So effectively you have 147 where the Director may designate a person who is authorised to conduct a harm minimisation audit. This is not being done now. Some parts of this are, but effectively Riley recommended this so you have someone like an inspector being sent out to have a conversation with someone. Licensing may have received things that are not full complaints that went to the Commission but say it is a concern about some kids staying here in your beer garden, what are you doing?

From reading Riley's comments and looking at the provision as we have drafted it, it is aiming for a positive conversation to be had with licensees but broader than their straight obligations are under their Act. It is more of a harm minimisation, working together sort of...

Mr SIEVERS: Working together with a licensee to prevent any...

Mrs FINOCCHIARO: Can there be a punishment as a result of?

Ms D’ALESSANDRO: If you are found, during that audit conducted by the inspector, to have actually breached one of your licence conditions, then they can take action like that. That is what the breach would be for. This is almost like a best practice discussion with an inspector.

Mrs FINOCCHIARO: Is it mandatory then? If an inspector comes along and says I think it would be really nice if you increased the lighting around the front door, the licensee does not have to do it.

Ms D’ALESSANDRO: Yes.

Mrs FINOCCHIARO: ‘Okay, I will take that on board, thank you.’

Ms D’ALESSANDRO: Yes.

Ms HAACK: They would have stricter powers like Giovina has said. If there are breaches of the Act, you have no egress going on and your licence says you have to have that...

Mrs FINOCCHIARO: Sure, if it is a licence condition everyone understands what that is.

Ms HAACK: It is a softer sort of...

Mrs FINOCCHIARO: It is more aspirational but people cannot be pinged for non-compliance with an aspiration.

Mrs WORDEN: But if there is lots of antisocial behaviour going on around there (*inaudible*), how you can assist in that space and make things better.

Mr CHAIR: We have Mr Costa back on the phone.

Ms HAACK: Are you happy for me to continue?

Mrs FINOCCHIARO: Yes thank you.

Ms HAACK: Inedible substances containing alcohol. Part 6 Division 5 of the Bill sets out how inedible substances are regulated. We are particularly talking about mouth wash. The Bill proposes to control the use of inedible substances containing alcohol by prohibiting the consumption of inedible substances which is, at the moment, the issues that are being experienced in relation to mouth wash.

Providing powers to inspectors and police to seize and destroy the products, as if it was liquor. In clause 150, there is a deliberate omission of a criminal offence for the conduct. It was considered, it is deliberate. Someone who is likely to be consuming the product is likely to be at disadvantage and it would recriminalize that.

We have provided the police and inspectors with the powers. Police have reported that they were taking people into protective custody, with pockets full of mouth wash. But it is the person’s property. There was other information I received—not first hand—from some sobering-up shelters.

Mr CHAIR: Vanilla essence as well?

Ms D’ALESSANDRO: It is dealt with slightly differently. There are conditions already, which have been in existence for a long time, about how you can sell vanilla essence. Mouth wash is basically unregulated.

Mrs FINOCCHIARO: This regulates consumption, not sale? People can still go to Coles and buy mouthwash in the mouthwash section.

Mr NEVE: But if they consume in public, police will have the power to seize and confiscate.

Ms HAACK: There were some other steps that were taken. There was a joint letter sent about six to eight weeks ago from the Chief Executive Officer of the Department of Health and the Commissioner of Police to people who were selling these products. Fact sheets regarding substitution have been organised by health and we understand that there is education from front line health providers.

Complaints – the complaints process and disciplinary action is addressed in clauses 157 to 166. The Bill proposes to improve the complaints process by prescribing timelines, timeframes and legislation. There is a

flow chart for this as well, which is not dissimilar to the timelines in the flow charts in relation to applications. This is another document that is publically available on the Alcohol Review Implementation Team website.

Mr CHAIR: Do the time frames take into account if someone has lodged a complaint—the time frame for the department to process, so it does not get ...

Ms HAACK: If we go to the top box, the complaints received by Licensing NT, and move down to the second light grey box – the Director of Licensing assesses the complaint, they either accept the complaint for further investigation or refuse to accept the complaint. They have 14 days to make the assessment under clause 158(2), not that they need to make the final decision, but one way or the other is there going to be further investigation in relation to this or is it refused?

Similar to the feedback we received about the applications process—one of the members' comments there was some feedback about people not knowing what is going on where it is up to. I think that is self-explanatory and if not I am happy to answer further questions.

Mr NEVE: We talked about grouping similar complaints together. If someone is complaining every Friday night about noise, rather than constituting a new complaint process every time, they can be grouped together. If a series of people complained about the same thing, grouping that together rather than each one having their own—trying to streamline it. A more common sense approach to the complaints process.

Ms HAACK: The other thing that related to that that has also come out of feedback about some enforcement matters are about, say I am standing in line and I see the person in front of me does not scan someone's ID and uses a fake ID. I ring the police or licensing and make a complaint about that. We tried to make it really clear in the Bill that what can go before the Commission is not just me seeing that transaction, but all the footage that is contained in the investigation. It may be that the person has been behaving in that way the entire day—to make sure it is all clear, all that stuff can go before the Commission and its hands are not tied.

Mr CHAIR: You have the power to get that footage from the licensee?

Ms HAACK: Yes. The final dot point that is important. In the current legislation, if a person has been prosecuted or received an infringement notice they cannot be referred to the Liquor Commission for disciplinary action. That seemed inconsistent with harm minimisation. If I was serving drunk people, if I was a licensee, and the police prosecuted me and there was more going on—I am a person about whom there is a question about whether I should have a licence or there should be additional conditions—the court currently has no ability—as we are maintaining—would have no ability to change my licence.

What we are effectively proposing is that I might have been fined by the court or issued an infringement notice, but I can still be referred to the Commission in relation to conditions of licence and suitability. We might otherwise have people who are actively—I am not saying we do—serving drunk people. We think the Liquor Commission is the best decision maker about those licence conditions, as opposed to the court that has other important work to do.

Mrs FINOCCHIARO: How would that referral happen? Who would know? Would that be something Courts do?

Ms HAACK: We have a licensee obligation. I note the comment that was made before about the ...

Mrs FINOCCHIARO: So they have to?

Ms HAACK: Yes. We also have a very active policing unit ...

Ms D'ALESSANDRO: Which has a MOU. There is a MOU between police and Licensing NT. That was a recommendation of the Riley review. That is in place. They are talking about licensing matters and enforcement matters ...

Mrs FINOCCHIARO: So they would say, 'We are prosecuting someone'?

Ms D'ALESSANDRO: That is it.

Ms HAACK: So there is not a double jeopardy, if I have been fined \$500 by the court, I should not be fined \$500 again. So, if someone has had an infringement penalty or received a court-imposed fine, you cannot have a financial penalty. The Commission is limited to non-financial penalties.

Mrs FINOCCHIARO: A bit more goes to that. Are they still a fit and proper person?

Ms HAACK: Still a fit and proper person. They are really not supervising their staff properly that we need to ...

Mrs FINOCCHIARO: We had other complaints similar to this. Yes.

Ms HAACK: That is quite a major change. Licensing authority compliance, Part 7. Entry inspection and other powers, clauses 141 to 144.

Investigations and enforceable undertakings. Enforceable undertakings are not currently used all that often, but we thought they were worth maintaining as a tool to enable licensees to work with the regulators.

A new record of enforcement and compliance to be published on the Commission's website, clause 156. We are anticipating it would be similar to what is published about legal practitioners who are suspended or subject to compliance decisions.

Controlled areas and enforcement powers for controlled areas. This was probably one of the more complicated and challenging areas of the Act. Do you want to speak to it?

Ms CLEE: Yes, sure. Obviously, under our current Act, we have a number of dry areas that are controlled areas where alcohol is restricted. We also have the Commonwealth legislation, which sits over and modifies our legislation. A number of the comments were about the difficulty of working within the two frameworks. We obviously cannot change the Commonwealth legislation and the impact it has on ours, so we have built that into the Bill to try to—at least through reference—make it easier for police and others in those areas to use it, say, with the alcohol protected areas.

We also maintain the general restricted areas. They will continue. Special restricted areas... if there are special restrictions there they will continue and restricted premises... the premises around areas where you see the houses that have a sign that alcohol is prohibited. They will continue.

What we have changed is the recommendation—Riley was to try and remove a number of different restricted areas to remove the two kilometre law and the public restricted areas and to prohibit consumption of alcohol in public spaces.

We have done that. We have created a prohibition of consuming in public places and it covers off the urban areas so Darwin, Alice Springs, Tennant Creek, Palmerston, Katherine and the Waterfront. It enables councils to gazette particular areas.

Through the consultations, it arose that with removing the two kilometre law—the regulated places—that it then left some of the smaller places along the highway, like Mataranka for example, not covered. Following the consultation we have included an additional provision that then captures those additional places where you cannot consume within two kilometres of a licensed premises, so maintaining that just so it is clear where you can and cannot drink in public.

Mrs FINOCCHIARO: Sorry, so you are keeping the two kilometre law but also extending it to ...

Ms CLEE: Modifying it.

Mrs FINOCCHIARO: ... to all other public spaces. Is that the wording you used?

Ms CLEE: Currently in Darwin, we have the regulated places that exist but we also have public restricted areas that cover within Darwin. The regulated places, being the two kilometre law, so not being able to consume and if you were to try and work it out on a map it can get quite difficult. There might be pockets where you can actually drink.

For the urban areas such as Darwin, Katherine et cetera there is a blanket no public drinking everywhere. You do not have to work out ...

Mrs FINOCCHIARO: So, no picnics at East Point?

Ms HAACK: There is an ability for an exemption.

Ms CLEE: Yes, sorry.

Mr NEVE: So the council could declare an exemption. So the Nightcliff foreshore, there are signs that say you can drink during these hours. That can continue and council has the power to do that.

Mrs FINOCCHIARO: From the government's perspective, it is everywhere and then councils will drill down and say ...

Ms CLEE: As the owner of the land.

Mr NEVE: Nhulunbuy, which does not have a council ...

Ms D'ALESSANDRO: But under Clause 168, the average punter should not notice the difference. It just means that for regulators and the police, they go to this section and it makes it a little bit clearer.

Mrs WORDEN: But in other places. So that is the urban areas. Let us take Mataranka for example. The two kilometres from a licensed premises would probably take the whole township.

Ms CLEE: In effect, yes.

Mrs WORDEN: What is the proposal?

Ms CLEE: For areas like Mataranka, Elliott, it would be two kilometres from a licensed premises.

Mr NEVE: The regional council would then say 'except for this park, during this time.'

Mrs FINOCCHIARO: So, education with council or is that what is happening anyway? Is that what you are saying?

Mr NEVE: We have presented to LGANT a couple of times, to their annual general meetings, and we are addressing them next month and community managers, specifically on this issue as well as other things but they have asked about this one.

Mrs FINOCCHIARO: It might not be a natural thing to think 'oh we better gazette this park' so people can have a picnic there.

Mr SIEVERS: I am just conscious of time. I am not sure the panel can remain. We are nearly there.

Ms HAACK: Would you like me to speed up?

Mrs WORDEN: You know the stuff we should probably know better.

Ms HAACK: Addressing antisocial behaviour, Part 10, high-risk areas. These are previously designated areas with enhanced banning notices now up for a period up to 14 days. This is effectively like the Mitchell Street precincts. They were not being used at all. We had a lot of discussion with police about why not. The paperwork was apparently too involved, they currently only get 48 hours.

We have increased them up to 14 days but because that is an increase in the imposition on people, we have added that they can be given in a tailored way. If I was fighting in Mitchell Street but I worked at Coles, I could be given one that is conditional that allows me to attend Mitchell Street for the purpose of my employment or a shift or something. We thought if we were increasing the time we need to consider some of those things...

Mrs FINOCCHIARO: When you say for a period of 14 days, and increasing the time, are you saying to process the banning notice or for the period you will be banned?

Ms HAACK: Currently the period is only 48 hours so we are proposing an increase to 14 days.

Mrs FINOCCHIARO: That is to the individual not the establishment?

Mr NEVE: Individual.

Ms HAACK: Individual, yes. Exclusion orders by the Court are similar orders but are obviously for longer periods of time. We have retained that they can only be made by the Court.

- Enforcement powers and point of sale intervention are retained and moved to clauses 246 onwards.
- Emergency powers of the director, clauses 254.
- Emergency powers of police—48(b) is now 255.
- Undercover police operations, clause 259, with reporting obligations in clause 260.

Probably the other area we really should cover is the forfeiture and disposition of assets. I will leave that to Caroline Heske from Legal Policy.

Ms HESKE: We reviewed these after recommendation that the Economic Policy Scrutiny Committee made earlier this year. You were looking at a previous Liquor Amendment Bill that introduced undercover operation powers ...

Mr COSTA: Hello.

Mrs WORDEN: There he is.

Mr CHAIR: We have Mr Costa.

Ms HESKE: This is Caroline Heske from the Department of Attorney-General and Justice.

Mr COSTA: Been trying to say something for the last 10 minutes, but I have been ...

Mrs WORDEN: Does he have a question? He obviously want to say something.

Mr CHAIR: Do you have a question, Lawrence? Sorry Caroline.

Mr COSTA: Yes. I want you to answer about the two kilometre radius. In our community here at Garden Point we have two licensed premises. How does that work? They are within the two kilometre radius between themselves?

Ms HAACK: It is Bronwyn Haack from the Attorney-General's Department. That would be if you imagined a circle being drawn with a compass for two kilometres around each of those licensed premises, there would be overlap between the two. Then there would be a boundary.

Mr NEVE: Lawrence, it is Ryan Neve here. They can consume on the premises. It is the two kilometres for specifically outside the premises. They can still continue to drink on the premises but not wandering around outside of two kilometres.

Mr CHAIR: Unless they get an exemption.

Mr NEVE: Unless the council decides to exempt an area within that two kilometre area.

Ms HAACK: That part of it should not be a change for anywhere, because that effectively exists now. The changes are more the simplification for Darwin, Alice Springs, Katherine and Tennant Creek.

Mr CHAIR: Does that answer your question, Lawrence?

Mr COSTA: Yes and no, because I know the port mob have put in for a separate licence. The questions being asked here in the community is you have the lodge, the club within the boundary of the community, and you will have another licence. If licensing on liquor gave them permission for down at the port, you will have three licensed premises within a 12 kilometre radius. There will be issues, especially for this community.

Ms D'ALESSANDRO: We cannot distinguish ...

Mr CHAIR: Lawrence, it is ...

Mr COSTA: It is a very complex one, hey?

Mr NEVE: Lawrence, it is Ryan Neve again. Essentially, what will happen with that scenario is the Liquor Commission would decide whether to grant an additional licence. That would be their decision to make. If that was accepted, then, yes, there would be three licences within that zone. They could sell and consume alcohol within their licensed premises, but outside of those licensed premises in the public areas, people could not consume alcohol. It really goes to the Liquor Commission's decision making whether they think about how many licences a community has in its area. That is up to the Licensing Commission to make that decision as part of the community impact test.

Mr COSTA: Yes. Ryan, you probably made the issue here in regard to them having access to sell alcohol in take-away sales.

Mr NEVE: Yes. The moratorium will mean that there can be no new takeaway authorities for a period of time, but if there is an existing takeaway authority, then that gets transitioned over. So, it really comes down to the transition period.

Mr CHAIR: All right. Thanks, Ryan,

Mr COSTA: Okay. No, I will talk to you further tomorrow, mate, sometime about all this. All good.

Mr CHAIR: Thanks, Lawrence. Sorry, Caroline.

Ms HESKE: No worries. I have a little fact sheet here I might hand up. This will be a public fact sheet, but the graphic designer is still formatting, so you have the unformatted version I am handing up.

Essentially, this committee asked to look at the extent to which seizure and forfeiture powers in the *Liquor Act* were reasonable and proportionate, particularly about the issue of private property. What had happened is there were a collection of replicated parts which had different seizure and forfeiture provisions, essentially, for different offences in the Act. Every time someone added a new bit in the Act it might get added to its own seizure and forfeited procedures. That had happened most recently with the Undercover Operations Bill—questions were raised around 'can you review the operation of these generally'?

Doing the review was slightly confused in the sense that we were no longer going to have that Act, we are now going to have this Bill and in this Bill all those seizure and forfeiture provisions had been amalgamated into this new version. However, we went particularly to police and the North Australian Aboriginal Justice Agency, NAAJA. We also spoke to Legal Aid about how these were operating in practise. We sought information from the local court registry and I spoke to a lawyer with a Solicitor for the Northern Territory, who had advised on the operation of some of these provisions, to get a sense for how they were being used in practise.

The main thing we found was that primarily this is about vehicles, and vehicles going in and out of Aboriginal communities. Why this is happening is because primarily what these powers are used for, particularly seizure and forfeiture, is when people are grog-running or are doing secondary supply into these alcohol protected areas under the Stronger Futures legislation or what are general restricted areas under our legislation. That is what this is about and that is where it occurs.

We looked specifically, primarily at that issue of vehicles and vessels and I am told there has, in the history of this legislation, been an aircraft seized. Mostly it is vehicles, and one or two vessels a year was the estimate.

We decided we would put in specific safeguards on proportionality for those offences, and with respect to search and seizure and forfeiture the regime is generally aimed at secondary supply. With the Undercover Operations legislation that went through, it applied in respect of undercover operations but it applied to all offences in the *Liquor Act*. We decided that was not really what those special powers were about. Under the *Police Administration Act*, police have powers generally for offences, but these special powers we hung under this Bill were meant to be aimed at secondary supply and particularly at the issue of grog-running into these dry communities.

It is an issue that the communities, even before Stronger Futures, had been agitating for many years to be able to have stronger controls on grog-running. Our concern was to enable that and enable police to help keep out the grog, but to do it in a way that was fair and proportionate.

In the existing scheme the police did not really have the power, there was a default process under the Act where if your vehicle was seized, it was forfeited within 60 days if you did nothing. Even if you did not know about it, there was no power to extend that timeframe. It also had a weird quirk in that defendants could not apply to have their vehicle back.

As it stood, you could apply to the Commissioner of Police, who had complete discretion to say no. If however you were the defendant in the matter, you could not apply. What then happened if the prosecution dropped the charges was that, at that point you were not the defendant, you could apply, but if you were out of your 60 days, you could not apply—it was already forfeited. Because it did not always flow through into a court proceeding, and quite often it does not because an infringement notice is issued, there was never the court safeguard either.

What we tried to do is tidy up that process and modernise it. This is consistent with other criminal property forfeiture legislations that you see in more recent times. You have to—police can seize, and the power of seizure does not necessarily lead to forfeiture. You do not have to seize to get to forfeiture, but if you want to go the extra step of forfeiting the vehicle, it has to go through a court process.

I can answer more detailed questions, but that is the gist of it.

Ms HAACK: Part 13, further offences summarises where offences are. The risk-based licensing framework—there is a bit of a summary there. In terms of the comments and feedback made by members, the last slide: transitional periods, is quite important for business. This is a set of proposed transitions about late 2019, anticipated commencement of the *Liquor Act* and the RBL framework. 1 April 2020 the deadlines for licensees to submit their proposal about what they should swap over into. Notice of anticipated fee and payment of the annual licence fee, due.

The other matter I do not think I expressly mentioned and we have given them a particular provision, is the regulation of BYO authorities, which will be a new thing. They are not currently regulated at all. They have been given a longer transitional period.

Mrs FINOCCHIARO: What is the change to BYO?

Ms HAACK: You will have to apply after transition for a BYO licence. It is intended that it be a low-cost, low-risk sort of thing. It was one of the categories recommended by Riley. It just seemed really incongruous that we would effectively have the provision of liquor without any RSA or the like. It is the hope to expand through application process and RSA requirements to those kinds of businesses with minimal impost.

Mrs FINOCCHIARO: Will the fee then be the minimum amount for risk-based licensing?

Mr NEVE: Yes, it will be approximately half of the minimum because they are not selling any alcohol—it is BYO—so they instantly go to the lowest level. That will be the lowest fee you can possibly get is if you are just a BYO authority. Because it is completely unregulated, until we write to every restaurant and say ‘if you do BYO, this is coming in a couple of years’ time, get ready’—it is just to anticipate a sudden influx of a lot of things to do.

The conditions will be quite minimal. It will be about RSA primarily. It is your responsibility to make sure the people in your restaurant are not intoxicated.

Mrs FINOCCHIARO: Just going back to Clause 148 about the harm minimisation audit. If licensees have conditions of their licence and then they are breached for those, there is a range of penalties. Can a licence holder be breached for these aspirational attributes that come out of the harm minimisation audit?

The section itself—and it may just be that it is unclear—subsection (1) says:

After considering a harm minimisation audit report, the Director may do any of the following in relation to any non-compliance with a licensee's obligations under the Act.

That might be the key phrase there.

Ms D’ALESSANDRO: It is.

Mrs FINOCCHIARO: So can I just confirm non-compliance with a licensee’s obligations of the Act directly relates to the obligations set out in their licence.

Ms HAACK: Precisely. There are effectively guidelines of the Commission and they are in clear breach of them—a lot of these things are softer things that may cause something. For example, avoids practices that encourages irresponsible drinking. They would be subject to Clause 148, effectively issued an infringement notice or the like if they are serving drunk people because of irresponsible drinking. If they were just behaving in a way that is likely or that something may occur, they would not be subject to that.

Mrs FINOCCHIARO: The harm minimisation audit is all preventative characteristics. If we go back to the example of, the inspector comes through, does the harm minimisation audit and makes a range of suggestions that might improve—or how this inspector perceives improvement I should say— if that improvement does not take place, the licensee cannot be issued an infringement notice.

Ms D’ALESSANDRO: I do not know what they would be issued an infringement notice for, no. You are right.

Mrs FINOCCHIARO: I also wanted to ask about the advertising. Corner stores are not allowed to advertise but bottle shops are. What was the rationale behind that?

Ms D’ALESSANDRO: It was a Riley review recommendation which was endorsed and approved by government. That is just the implementation of that decision.

Mrs FINOCCHIARO: Are there any constitutional issues with the floor price for businesses who are based outside of the Territory?

Ms D’ALESSANDRO: The floor price legislation was done under advisement from the Solicitor-General so I am going to go with her advice and say no.

Ms HAACK: The feedback that I have had from Licensing is that lots of interstate suppliers have signed up to effectively come up with a reasonably easy mirror licence where they present their licences from interstate to Licensing, they are deemed to be licensed until, basically, they hear otherwise. I understand that there has been quite significant uptake in relation to that process.

Mrs FINOCCHIARO: Okay. They do not need to apply for new licensing here?

Ms HAACK: If I had a Victorian licence and I apply, then they give a version of that back to me and it has additional conditions on it, which are about minimum price, more like.

Mr CHAIR: Kate, do you have any more?

Mrs WORDEN: No.

Mr CHAIR: All good? Mark, anything? Lawrence, do you have any?

Mr COSTA: No, mate, all good.

Mr CHAIR: All right. Thank you everyone. Sorry we went over time. My apologies for that, but it is very important we go through that. We will have a look at this lot and get back to you with any further questions. Thank you very much.

Ms HAACK: We will be happy to receive them.

The committee concluded.
