LIQUOR CONTROL AMENDMENT BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

MR P. PAPALIA (Warnbro — Minister for Racing and Gaming) [2.45 pm] — in reply: I will continue from where I left off on the Liquor Control Amendment Bill 2018. I was acknowledging some of the contributors to the development of this legislation and the amendments we have introduced. As I said, there was deep involvement from three individuals in particular and their organisations—Peter Peck from the Liquor Stores Association of WA, Evan Hall from the Tourism Council of Western Australia and Bradley Woods from the Australian Hotels Association—and their many assistants and advisers. Beyond those three individuals and the associations they represent, we took time to seek advice and consult with many other people in the community who will be affected by this legislation. I will say, because the member for Churchlands was absent when I made this observation earlier, that, in my view, that is the first thing we should do. The member for Churchlands advocated studying microeconomic issues. The best way to do that is by talking to the people who will be directly involved. I do not think the member for Churchlands has done that, based on the contribution that he made earlier, which was very confused and difficult to decipher. The pendulum swung. One moment he was marching in the street in support of Coles and Woolies and defending their rights, on behalf of the advocate for Coles and Woolies located in Sydney. The member for Churchlands was also absent when I expressed my disappointment in the Liberal Party of Western Australia for abandoning small business. The Liberal Party's desire to ingratiate itself with Coles and Woolies is admirable, I suppose, at some level. However, it is very disappointing to witness the Liberal Party of Western Australia throwing the small business constituency to the wolves. Fortunately, I can assure the member for Churchlands and the small businesses of Western Australia that we have their interests at heart. The Labor Party of Western Australia is standing up for small business. The Labor Party of Western Australia has met with all the peak bodies that represent small businesses in the particular field that we are dealing with in this legislation. I am sure the member for Churchlands has not done that. I am certain he has not talked to some of the small liquor outlets in his own electorate. He could not possibly have done that and then come into this place and expressed the opinion that he did—and nor could the Leader of the Opposition, the member for Vasse or the member for Scarborough. Not one of them would have spoken to a small liquor store outlet, a small hospitality outlet, or even a single pub owner, I would speculate. Not one of them would have bothered to get on the telephone or walk down the street and ask them for their view about this legislation. Have they done so? I have been in the member for Maylands' electorate. She is very much in touch with the small businesses in her electorate, as are the members for Bunbury, Jandakot, Kingsley and Pilbara —

Mr S.K. L'Estrange interjected

The SPEAKER: Minister!

Mr P. PAPALIA: — and everyone on this side.

The SPEAKER: Minister, it is me! Member for Churchlands, I was here when you did your speech and there was no interjecting. I think others should have the same right.

Mr P. PAPALIA: At the risk of questioning the Chair, I did interject a couple of times, but nowhere near as many times as the member for Churchlands has done in the last two minutes!

I wanted to make a relevant point. The member said that I needed to go and do research. I can guarantee the member that my staff and I have engaged extensively on this matter via peak body stakeholders. The day that the representative of Coles and Woolies claimed in the media that there had been no consultation, the Leader of the Opposition unfortunately cemented himself into the corner of those players. That was done on the very day that the advocate, who was from Sydney, made that comment. The Leader of the Opposition leapt into the media and confirmed that the Liberal Party would oppose anything that impinged on the ability of liquor barns to proliferate wherever they wanted despite the objections of local communities and small businesses in their electorates. The Liberal Party did not care about that; their leader cemented himself. I can see why. I understand that the Leader of the Opposition wants to try to stand for something. Is it difficult at the moment because he does not seem to stand for anything. Clearly, the intent of the Liberal Party is to hoist the flag up the flagpole and say it stands for the rights of big business over small business, and that is fine. I like big business. I welcome any business engaging in a fair way in Western Australia and growing opportunity and growing jobs. That is what we stand for. We are primarily about jobs. Everyone understands that small business contributes extraordinarily well to creating jobs in Western Australia. We have small business on this side of the house. The member for Churchlands does not care about them.

Mr S.K. L'Estrange: That is not true. You are verballing me.

Mr P. PAPALIA: I am sorry, but in my opinion, based on the contribution the member made, I did not hear him once standing up for small businesses. At the end of his speech, having demanded that we stand up for the rights

of big businesses over small businesses, he sought to speculate about what the amendment bill does in relation to pop-up bars. I find this interesting, because the claim was made that somehow I am advocating for the proliferation of pop-up bars, which would undermine and diminish the capacity of established venues to conduct their business. Nothing could be further from the truth. Regarding small pop-up bars, the bill is entirely focused on enhancing the opportunities for established premises. It is about giving them a bit of a fair deal. I have to be honest about this: I do not think we have fixed the problem. We have just tried to tilt the scales a little bit in their favour. I can tell members that there was not a problem with pop-up bars in relation to established venues six or seven years ago in Western Australia. What was the cause of the problem? Half a billion dollars spent on some grass around Elizabeth Quay. It looked very embarrassing when it first opened and the former government had to make it look like something was going on, so what did it do? It gave guidance to the Metropolitan Redevelopment Authority to enable any pop-up bar that wanted to establish itself on that grass to make it look like something was going on. The former government did not ask established —

Several members interjected.

The SPEAKER: Members!

Mr P. PAPALIA: The former government did not ask established venues in Northbridge for instance whether there might be something it could do to give them a hand so they could participate in the establishment and delivery of pop-up bars in a fair manner.

Several members interjected.

The SPEAKER: Members! Member for Vasse!

Mr P. PAPALIA: The former government completely ignored small business and now I know why. It is a policy decision. It is a strategy and policy decision by the Liberal Party of Western Australia to abandon small business. Rest assured small businesses, I am here to say that we are here to help! We have got strong small business people, we have got people with experience and we have people like the member for Perth who has been fighting for small businesses for decades, and they know what works. They care about small businesses and they have come into my office and advocated on behalf of small businesses. My staff have engaged with peak bodies that represent those small businesses and individuals, and I can assure members that wherever this bill impacts on small business it seeks to assist them. It seeks to give the publicans who have spent often millions of dollars, decades and generational family commitment to growing a business—training people, employing people for long periods of time and contributing to their communities through payment of rates, as well as sponsorship and the support of community activities—the opportunity to engage in establishing pop-up bars without incurring additional costs for the use of their extended trading permits.

Mr S.K. L'Estrange interjected.

Mr P. PAPALIA: Can I do what the member did to me and say I will talk about that in consideration in detail. I only have 19 minutes left and I have to use every single minute to respond to the contribution from the Liberal Party that has abandoned small business. I have to convey a degree of optimism. I have to urge a degree of optimism and convey a degree of hope to the small business community of Western Australia, particularly those engaged in selling liquor through liquor stores via the Liquor Stores Association of WA. I hope Peter Peck is watching; I suspect he may be. I hope that Bradley Woods conveys to his membership who own smaller pubs or any pub with a drive-through or take-away liquor store that we are on his side. We are out there ensuring there is a fair playing field and that they have an opportunity to engage in pop-up bars and that they can collaborate in areas remote from their pubs. There are a couple of components to the pop-up bar thing. On land that pubs control through either a leasehold or a freehold they will be able to establish a pop-up bar. I know Bradley likes this because he was standing next to me in the middle of Perth when we launched part of the policy to the media. I know Mr Woods likes it.

Dr M.D. Nahan: He was sitting next to you.

Mr P. PAPALIA: He was sitting next to me at the WA Labor celebration of the year in office. In fact, I was at his table, and there is no secret in that. Do members know who else was at that table? a lot of people from peak bodies in the sectors affected by this legislation. They always talk to me.

Several members interjected.

Mr P. PAPALIA: I have to tell members that the Australian Hotels Association can come to see me whenever it wants, as can the LSA.

Dr M.D. Nahan: Cash for comment!

Mr P. PAPALIA: They do not have to pay. They can just ring up and come to see me or my staff. The LSA can come to see me, the Tourism Council comes to see me regularly. All of these organisations represent peak bodies. They represent businesses in sectors affected by this legislation, so they should be able to see me.

Dr M.D. Nahan: Clubs WA?

Mr P. PAPALIA: Clubs WA loves this legislation—it loves it, yes it does indeed. I was going to list all of the groups. Karen Giles of Clubs WA loves it. Karen Giles wanted to go to the media with us and announce —

Dr M.D. Nahan: Then she changed her mind!

Mr P. PAPALIA: Maybe, maybe not! Maybe the Leader of the Opposition is wrong. Karen Giles meets with my staff regularly. I have met with her and she is a supporter of the legislation. If she is not, she can get in touch with us. If she has a problem with it, she can get in touch with me. I advise Karen Giles that if she has any issues not to go to see the opposition about them, because it does not care about the small guy. If people want to get something done, they should come and see me or my office and we will sort it out—that is if they want to get something done.

We have met with Debra Langridge from the Western Australian Local Government Association. My staff have met with Alasdair Malloch from the Australian Distillers Association.

Several members interjected.

The ACTING SPEAKER: Members!

Mr P. PAPALIA: We have met with Tim Brown from the Small Bar Association of WA. Tim Brown also represents the Western Australia Nightclubs Association and we have met with that organisation a couple of times. Whenever it needs to it can talk to my staff. We have met James Coward from the Restaurant and Catering Industry Association. I have spoken to Larry Jorgensen from Wines of Western Australia. I have been speaking to him for years now because I was a shadow minister for four years. The member for Vasse knows Larry. He is not a shy man; he is not backwards in coming forward with his opinions on behalf of his constituents. He represents Wines of WA well. He has had input, and one of the things that the member for Vasse will be very happy with in this legislation is that it will enable the use of excess wine production by people such as Roaring 40s—I think they are in the Vasse electorate—for production of fortified wines and other spirits. This was wasted wine in the past. Significant volumes of wasted wine were not allowed to be used by secondary players to create a new product. We have avoided waste, given an opportunity to the primary producer and enabled a secondary industry to profit. It is a great move, and I would think that the opposition would be applauding it; I am sure the member for Vasse will. That is a great initiative, and it was not dealt with during the entire period of the previous government. It is a great thing to be able to deliver. We met with the Business Improvement Group, Northbridge—BIG N—and the Marlin Group, about those businesses and the people they represent. On the other side of the coin, we met several times with Julia Stafford of the McCusker Centre for Action on Alcohol and Youth.

It is good that people are back in the chamber. I understand that lunch was on before, so people had to go. In the initial part of my contribution, I was saying that this is a balanced bill. I understand that the member for Hillarys was concerned that there seem to be contradictory elements in the bill. It is true, to the extent that it covers the full spectrum. At the far liberalisation end of the spectrum, there is a focus on all the things that the member referred to about liberalising, enabling and all those sorts of things. Because this bill is about alcohol, it is always going to be contradictory. The previous government's own bills in 2010 in 2015 both had this contradictory nature to them. That is a natural outcome of dealing with the regulation of liquor.

The other end of the spectrum is obviously harm reduction. The vast majority of the harm reduction elements of this bill are focused on problem drinking and the harm that it causes in remote Aboriginal communities. I know the shadow minister knows this, but some of these measures are sourced back to the findings of a parliamentary inquiry in 2013 that was never acted upon by the previous government. Even though that government subsequently brought in an amendment to the Liquor Act, it did not implement findings that it supported. A bipartisan committee, with no dissenting voices, recommended some of the actions that we have implemented with this bill. We have just picked them up. Some of them relate to issues that the AHA is very supportive of, such as the extension to the queue outside a premises of the ability to respond to bad behaviour and put people on the banned register, rather than just being confined to inside the premises. As I understand, that was recommended by a finding of that parliamentary inquiry but was never acted on. We have done it.

I am very proud of the components of this bill that give additional support to police and remote communities, where they have sought a section 175 ban on alcohol, but are still vulnerable to sly grogging. At the moment, often sadly, people from within those communities seek to profit by doing harm to their fellow citizens. It is not necessarily always people within the communities, but it often is. People will go to a remote locality where they can buy alcohol. They load up the car and drive, often hundreds of kilometres, into a banned liquor area and sell that alcohol at a great profit. We seek to assist the police. Section 175 already empowers the police to intercept that sort of thing within a set radius dictated by legislation and proclaimed by law, but generally it is the geographical area around the community involved. With the sly grogging component of this legislation, we are enabling the police to go further afield and intercept sly groggers closer to the source of their alcohol, before they

get close to the community, and still have the power to take that alcohol from the sly groggers and destroy it in front of them. That is a great move. It will not stop the problem; it will be one of the strings to the bow in targeting the problem. It will be a significant deterrent to any individual who seeks to spend, potentially, thousands of dollars on alcohol with a view to making even more, to have it tipped out in front of them. That is a good thing, and I anticipate that the Liberal Party will support that. I am sure that the member for South Perth will.

Beyond that, many other initiatives will be needed to address problem drinking in some remote communities and right across the state. My view on this may be at odds with that of some of my colleagues at times, but earlier on, I heard someone trying to muddy the waters—I think it might have been the member for Hillarys—speculating that we might be contemplating some sort of floor price for alcohol.

Mr P.A. Katsambanis: It wasn't me; I didn't mention that.

Mr P. PAPALIA: It might have been the member for Churchlands. However, the floor price has nothing to do with this legislation, and I would not implement such a measure. I am not the one who has researched that particular response. It is not something that I view as my priority in responding to harm from alcohol. I think there is an opportunity to identify those who are most vulnerable, or who have a drinking problem, and somehow target them with resources and interventions, and potentially with exclusion from alcohol. That is a view I have. My personal view is that that is probably a hopeful avenue—to address the problem in a more targeted fashion rather than through a blanket response. Many people in the health advocacy community would say that alcohol pricing is a better way, but I do not necessarily hold that view. However, it has nothing to do with this legislation. There is nothing in this bill to concern anyone who is concerned about that. It is not part of this bill.

We sought advice from all the appropriate agencies, via their ministerial offices. We sought advice from Minister Templeman and the local government community. Apart from the Western Australian Local Government Association, we sought advice from the Department of Local Government, Sport and Cultural Industries. We sought advice from health specialists throughout the health community via Minister Cook's office. Minister Roberts and the police were also approached for advice and assistance, as well as Minister McGurk's office. We heard a very comprehensive contribution to the second reading debate from Minister McGurk, the Minister for Community Services. The communities portfolio offers incredible hope for this whole field of endeavour, tackling and reducing the harm from alcohol. It provides an across-government response. It compels a lot of agencies that in the past, often from time immemorial, have not really worked well together. It is a obliterating stovepiping and compelling people to commit to working together across government to tackle problems and harm. Part of my role as minister responsible for racing and gaming as well as liquor is to play a part in that, and I want my agencies to play a part as well, so that they will work with the minister's department, particularly her communities ministry, to establish and develop a better, stronger and more effective response to reducing alcohol-induced harm.

We consulted with all those people and, as the member for South Perth knows, I brought him on board very early in this process, not for a full comprehensive briefing, but for an initial briefing, because we sought to be collaborative as far as was possible in this matter. We have talked to Hon Rick Mazza, MLC, member for Agricultural Region, and Hon Aaron Stonehouse, MLC, member for South Metropolitan Region. When I say "talked to", I mean that I have personally met with them, along with my staff, to discuss these matters. We also had discussions with Hon Charles Smith, MLC, member for East Metropolitan Region, who is leading the One Nation discussion on these matters, and with Hon Robin Chapple, MLC, member for Mining and Pastoral Region, who is leading the Greens. All those members are in the upper house. I understand we have offered briefings to the Nationals WA. My staff may or may not have completed those briefings yet. As I said at the outset, I apologise to the member for Dawesville because I did not appropriately respond to him; I was a little pithy and lighthearted in my response to his contributions about takeaway liquor in particular, and that was not appropriate.

The intent of this legislation is to establish, if at all possible, a collaborative response. I do not think anyone would argue that we need to make every possible effort to assist our tourism industry right now. I do not think anyone would question the benefits to be had from creating diversity and enabling innovation in the hospitality sector, which will empower people to create jobs for Western Australians at a time when we desperately need them. I do not think anyone would object to that. As I said, I was a little disappointed that the Liberal Party seemed to be completely abandoning small business and shackling itself to the interests of larger players. That is a little disappointing. Beyond that, I sense that most of the bill will be supported by the Liberal Party. I hope that all of the bill will be supported by the vast majority of the other players, particularly in the other place.

There has to be an acknowledgment that not everyone will get everything they want. If Karen Giles is upset about one part of the bill, my staff and I will happily talk to her further about what we can and cannot do. I can tell members that all those people to whom we have spoken do not like something in the bill, but particularly the bigger players—the ones that represent hundreds of individual businesses. Every one of them has bits of this bill that they do not like, but all of them have something that they do like. It is a compromise, which is generally the way it is

with good law. It will be an opportunity for a good outcome. No-one will get everything they want; no-one was ever going to get everything they wanted. That is the nature of this legislation. We endeavoured to ensure liberalisation and enhancement of the tourism and hospitality industries on one side, and at the other end of the spectrum we have an effort to pursue harm reduction where we can. I think we have a good balance. That is not to say that we do not welcome debate. We do not necessarily even refuse to accept potential amendments. I am quite happy to discuss things. Wherever we can, we will give ground to ensure that we get a collaborative and supportive response to the legislation. That is the objective of the bill. That way there will be a unified message to the community that this has been worked on by the entire Parliament. I guarantee that there will be some changes. The bill is not set in stone. In the end, not everyone is going to be able to get what they want. It is disappointing to hear that the Liberal Party intends to oppose one particular clause. That aside, it is good to hear that it looks favourably on most of the rest of the bill. I look forward to consideration in detail.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Dr M.D. NAHAN: I am not questioning the short title; I want to get some background. Usually with major regulation like this, a whole series of reports or otherwise precedes it. Could the minister perhaps outline what studies and reports precede this bill as the basis for the work done? Also, there is a requirement that bills like this that go to cabinet have a regulation impact statement. Could the minister indicate whether that has been done? Could the minister perhaps indicate some of the findings of the studies that went into putting these recommendations together?

Mr P. PAPALIA: As I indicated, some components of the bill were sourced from the 2013 findings of the parliamentary inquiry—in fact, quite a number.

Dr M.D. Nahan: Who was the chair of that inquiry?

Mr P. PAPALIA: Sorry, I have been saying the wrong thing; it was an independent review. It is the one with which the member for South Perth is familiar. There was an independent review of the legislation in 2013 by John Atkins.

Mr J.E. McGrath: Yes, John Atkins.

Mr P. PAPALIA: The legislation was sourced from there. Beyond that, there were no specific studies, but there was extensive consultation. I indicated the agencies we consulted, as well as the peak bodies and individual businesses. The initiatives responding to sly grogging mostly came from police. There were suggestions from the Australian Hotels Association on a considerable number of the initiatives, as there were from the Liquor Stores Association of WA and the Tourism Council Western Australia. Those three peak bodies were consulted well in advance of doing our consultation on the draft bill. They were the source of much of the input.

Dr M.D. Nahan: Regulation?

Mr P. PAPALIA: This has gone to cabinet. We have gone through the normal cabinet processes. This has all been presented in accordance with normal cabinet processes.

Dr M.D. Nahan: Was there a regulation impact statement?

Mr P. PAPALIA: No, there was a preliminary impact statement. It was cleared based on that.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 4 amended —

Mr J.E. McGRATH: Under section 5(2), the objects of the act will include an additional secondary object to encourage cultural change and responsible attitudes and practices towards the sale and consumption of liquor. What has been the government's advice on the impact of including this new object into the secondary part, and why is it required?

THE ACTING SPEAKER (Ms J.M. Freeman): Member for South Perth, we are on clause 5, which is headed "Section 4 amended". It states —

> In section 4(6) delete "licensee," and insert:

Mr J.E. McGRATH: I am referring to paragraph (f).

The ACTING SPEAKER: Are you talking about the whole of section 4?

Mr J.E. McGRATH: No, I am talking about proposed section 5(2)(f).

The ACTING SPEAKER: Are you talking about the act? We are talking about the amendments. Have you got the blue bill there?

Mr J.E. McGRATH: Yes.

The ACTING SPEAKER: We are not on section 5 of the act; this clause concerns section 4 of the act. This is clause 5 of the bill. You have to be really careful when you look at the blue that it does not confuse you. We are discussing clause 5 of the bill, not section 5 of the act. In clause 5 of the bill we are amending section 4(6) of the act.

Mr J.E. McGRATH: I am working off the act and I have to work off the bill. Have we found it?

Mr P. Papalia: Do not jump there straightaway. There might be other stuff the member wants to talk about before that.

Mr J.E. McGRATH: No, we are all right. It is clause 6 of the bill that is amending section 5.

The ACTING SPEAKER: We are not on that clause at the moment. That is the next one on. In clause 6 of the bill, section 5 will be amended and you want to ask a question about section 5.

Clause put and passed.

Clause 6: Section 5 amended —

Mr J.E. McGRATH: Okay, I will have another go. As I said before, in this amendment the amended subsection will include an additional secondary object of the act to encourage cultural change and responsible attitudes and practices towards the sale and consumption of liquor. What has been the government's advice on the impact of including this new object into the secondary part? Why is it required, given that we believe it is probably covered elsewhere?

Mr P. PAPALIA: I am advised that it is not. We are inserting the obligations for responsible service of alcohol into the act because it has not been. It is an opportunity, because we have a component of harm minimisation in this amendment. It is an opportunity to insert it there, but it is not imposing any additional obligations on anybody. It is just inserting harm minimisation and encouraging responsible service of alcohol into the act.

Mr J.E. McGRATH: Is the government confident that the inclusion of this new responsibility for changing patron behaviour does not unfairly unbalance the act in favour of public health and overt police intervention, as we read about? We have heard members speak about police intervention when liquor applications are made during this debate. Is the minister confident that this will not create an unfair balance in that regard?

Mr P. PAPALIA: As I said, it does not impose any additional or new obligations on any players. It is still the director who makes the determination with any public interest assessment. They will do that in the public interest anyway and harm minimisation or the threat of harm are already part of the consideration by the director. This does not change anything.

Dr M.D. NAHAN: As part of the licence, employees of pubs and clubs have to take a training program in the responsible serving of alcohol. It is wide-ranging and to my knowledge, quite well enforced. There are no alterations to that by inserting this definition?

Mr P. PAPALIA: No; I am advised that all this will do is insert the intent represented by the standard responsible service of alcohol obligations already operating in the community into this part of the bill.

Dr M.D. NAHAN: Did the minister think about or implement any alterations of that training program, particularly as the government will be changing an act? Has the minister considered or undertaken any alterations? It is very important for the staff, even if they work on a part-time basis, to have those courses. They are quite good. Also, as the small bars expand in areas where there are a higher number of them and whatnot, these courses will be very important. People have been complaining about the onerous nature sometimes of those training programs, particularly for part-time and itinerant workers who go into pubs and whatnot. Has the minister looked at streamlining those training courses to make them much more accessible? When we look at the proliferation of small bars that the minister plans to see, he will need to streamline the training courses to get more people to do it but also so they are less onerous on staff.

Mr P. PAPALIA: No; the obligations for people serving alcohol to undertake responsible service of alcohol training remain unchanged. I do not anticipate there will be any greater demand than is currently the case for provision of that training. The thing I say about this legislation with regard to small bars is that the small bars reform was done in 2006. We cannot redo it; we are further liberalising where we can. There are components to this bill that seek to remove small bars from consideration or the obligation for a public interest assessment. That

is something we can do, but I do not anticipate that will massively increase the number of small bars. I hope it does. In the event that there is a need, we will be able to monitor it and assess whether we need to assign additional resources. At the moment I do not anticipate there will be an excessive demand for that particular course. This does not change the content of that course. All this does is reflect the obligations that liquor outlets already have.

Mr J.E. McGRATH: Minister, further to the point that was raised about police intervention, because it has had so much public airing at the moment, could the minister —

Mr P. Papalia: Is this the right place to do that?

Mr J.E. McGRATH: We have mentioned it in this clause and that is how it was raised. We asked whether the minister was confident that the inclusion of this new responsibility for changing patron behaviour does not unfairly unbalance the act again in favour of public health and overt police intervention. It is just a general question. The question could probably be explained to the public in general. Why do the police intervene and is it a normal course of action for the police to intervene in any liquor application? How does it decide when it will intervene?

The ACTING SPEAKER: While the minister is waiting and pausing, I just caution you not to grab the microphone.

Mr P. Papalia: Okay, sorry.

The ACTING SPEAKER: You have a mute button that you can push. If you grab it too many times we will get a stinging ringing in the chamber.

Mr P. PAPALIA: We are trying to find the member some statistics about how frequently the police intervene. The police will tell us, and we can only accept what they say, that they do not intervene unnecessarily and do not intervene at every opportunity. I have a table that I am happy to provide, which indicates from 2014 to 2017 the number of applications lodged, interventions submitted and then the objections submitted and the percentages of those. This is just so the member knows what the police are saying—it is not my department. These are the objections submitted.

Dr M.D. Nahan: So they are police objections to applications?

Mr P. PAPALIA: Sorry, they are interventions submitted, so they are a bit high. I was looking at the wrong one. The interventions submitted by police were 5.8 per cent in 2014, 4.2 per cent in 2015, 7.4 per cent in 2016 and 15.1 per cent in 2017. We have pursued this. From my viewpoint, my question would be: where exactly are they intervening? Necessarily, it might look small, but in fact that number has grown. It would be more important to know exactly where they are intervening. If the 84 interventions in 2014 or the 258 last year were all in Northbridge, it would appear that Northbridge proponents are unfairly the target of interventions. I am of the view that we need more information about that. It is also our hope to convey a message to those in the Western Australia Police Force who are responsible for intervening or making interventions on behalf of the public. They do it in accordance with the law and on behalf of the community. They have an obligation to intervene if they feel there is a threat of harm. We would try to convey a message that we are seeking to focus on the higher risk categories and to leave the lower risk ones alone. In fact, part of the legislation is intended to achieve that. We hope that will convey a message to the police force. We are also seeking the opportunity to discuss the matter with the Minister for Police and, through her, with the police to enact our policy. It is clearly not just our policy, but is welcomed by the opposition. The intent of this amendment is in many respects to facilitate less hindrance of developing the hospitality sector and tourism opportunities and to grow jobs. We will be focusing on areas where harm is more likely to be done. We do not intend to prevent the director from initiating action in what might be viewed as a low risk category if the director deems it necessary. The intent would be to try to remove the normal course of action to intervene. We have a new Commissioner of Police, our policy and this debate. Hopefully, the message will be conveyed and we will be able to monitor and see if that message is enacted.

Dr M.D. NAHAN: This is anecdotal advice from me. Perhaps the minister can respond or provide it, because this is a legitimate debate. The police need to be involved in these things. No-one will argue anything other than that. It impacts on resources and public safety. As local members and otherwise we get advised that the police do not interfere in certain areas, but they interfere almost always in certain areas—bars and restaurants that have a bar/restaurant mixture to them. Clearly, in certain areas that I have experience they have no need to do that. I can give the minister the example of when the High Road Hotel shut down. It had been there forever. It used to be a skimpy bar, which was a problem so they changed it. I know a person has been trying for two years to get a licence. It is basically a suburban community family bar that he wants to open, but he has faced all sorts of impediments that are completely unnecessary. All the other pubs around there—within five to seven kilometres—have closed. It is a pretty big one; it is an old Sizzler's restaurant. These are problems. I think the debate on the police is that in certain small areas they do not intervene but in some areas such as clubs, restaurants with larger

bars and, in certain areas, even wine bars, they do intervene. We need to interrogate the data so we can have a more articulate debate with the police.

Mr P. PAPALIA: I agree. We have commenced that sort of approach. We have been doing it for a year. A lot of the effort has been on preparing the bill and getting it ready. We are engaging with the police. The intent will be to not only shift the culture of drinking. I was criticised by the Australian Medical Association, I think, for suggesting that adopting a more continental European style of drinking might be a good thing. Its counter--argument was that there is lots of harm in continental Europe. That is true, but I think most people—anecdotally, anyway—would assume that the style of piazza-style drinking with families moving from one place to another without ever encountering significant aggression or anything of that nature is something we should aspire to. That aside, there is shifting the culture and part of that is providing opportunities for that type of venue. We have to have that type of venue, which will appeal to people and enable them to adopt that drinking culture. The other cultural shift that has to occur is bringing the police with us. I will take advice from them because, as the member would agree, there is a threat and there is a risk and we do not ever want to impose some sort of restriction on them that would result in further harm. If we can have them adopt a more refined approach that targets harm as the first priority and perhaps frees outlets that are low risk and less likely to incur harm from the same impediments of intervention, that would be a good thing.

Dr M.D. NAHAN: When we were in government we had a hell of a problem in the early years with Northbridge. It was a serious issue that was undermining vibrancy in the city. Many people from the suburbs did not want to go there. The police were absolutely essential for that reform. We need them and I can understand why they concentrate on certain areas, but it would be good to have the police put together the basis for their interventions. What are the criteria they use to intervene? Is it the impact on resources? In Northbridge the resource impact was huge. It would be very good to have some sort of general prescription about the basis for police interventions into licences. That would give licensees some sort of guidelines about how to apply, where to apply and how to adjust.

Mr P. PAPALIA: I agree. My office is pursuing an engagement with the police with a view to interrogating a lot more of their actions and trying to encourage behaviour that we both seem to view as being a positive outcome.

Mr J.E. McGRATH: Following on from what the Leader of the Opposition said, obviously the police would not oppose many liquor stores. Their opposition would be more to bars —

Mr P. Papalia: No. They oppose a lot.

Mr J.E. McGRATH: Why would police oppose a liquor store licence?

Mr P. PAPALIA: It is my understanding that they quite regularly oppose liquor stores and even have their opposition upheld at times. I have had former police officers indicate to me that they view liquor barns as having a significant impact through the harm induced through additional liquor sales. I am not sure whether that is based on statistics, data or analysis, but anecdotally, I have heard objections based on those grounds. They oppose liquor stores quite regularly.

Mr J.E. McGRATH: Would the minister be able to take on notice and maybe supply for the opposition some more detail on what areas police intervention has taken place? If it has been liquor stores, would a small corner liquor store take action against that? I would find it difficult to believe that police would see any danger in a small liquor store, a nightclub or a bar—even a small bar—being an area of concern for police late at night, at closing time, with bad behaviour. I would not think the same would be associated with a liquor outlet that sells packaged takeaway liquor.

Mr P. PAPALIA: I am not sure I will take it on notice. I know of one very public example that has been in the media quite extensively, which was championed by the member for Perth and ultimately resolved. The police objected to an establishment that was seeking to sell organic and biodynamic wines. It was an establishment that could hold, I think, 22 people.

Mr J.N. Carey: Only 50 seats.

Mr P. PAPALIA: Fewer than 50 seats. They were compelling all sorts of obligations on them, in the order of security guards after a certain time of night and all sorts of strange —

Mr J.E. McGrath: It wasn't in Northbridge, though, was it?

Mr P. PAPALIA: That does not necessarily excuse it. The member said earlier that he is not sure whether they would—they do. There is at least one very clear example of them doing it. It is our intent to signal that where there is a low risk, we would view that as not being a productive use of resources.

Mrs L.M. HARVEY: With respect to changing the objects of the act, I am trying to understand why this is being added. My concern is there has been a significant push by the health lobby over the past several years to try to ban

alcohol promotion at sporting events and alcohol promotion on billboards. Indeed, the RAC has been involved in those sorts of programs, and all sorts of other forms of alcohol promotion. One of the objects of the bill is —

> to encourage responsible attitudes and practices towards the promotion … of liquor that are consistent with the interests of the community.

I am wondering whether this particular object of the bill has been at the request of the Department of Health or the health lobby. Can we expect this object of the bill to be used as another mechanism to try to stop alcohol sponsorship in sporting clubs, including alcohol sponsorship in junior clubs, in our communities?

Mr P. PAPALIA: I am informed that it is actually sourced to the 2013 review under the previous government. The findings recommended changing the objects of the act.

Can I have my mic fixed, please?

Mrs L.M. HARVEY: Further to that, can the minister explain what sat behind that recommendation from the review? I do not have a copy of the review with me. I am wondering whether there was any background to why the object of the act should change. The object is obviously the lens through which every decision of the director of Liquor Licensing, the Commissioner of Police or, indeed, the State Administrative Tribunal will view decisions and will view appeals, interventions, objections and complaints. I think it is really important that we understand what sits behind this change to the object of the act. What we say in here will be viewed by different jurisdictions as the context within which they should view this object.

The ACTING SPEAKER: Minister, to clarify, when you are speaking to the advisers, the audio staff downstairs mute it automatically. When you stand up, they turn it back on again.

Mr P. Papalia: I know that is not true because I have sat over there and I can hear them. It doesn't matter. Perhaps there is a lag between them doing it and the minister who is at the table speaking.

Mrs L.M. Harvey: We cannot hear what you are saying to the adviser.

Mr P. Papalia: Turn the speaker up—that is what we used to do.

Member, it is a secondary object. It states —

> to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor that are consistent with the interests of the community.

I do not think that is a big stretch. I do not think it is a significant change. I am informed that it was sourced to the 2013 inquiry that the previous government oversaw and supported at the time. I am informed it provides additional clarity for applicants so they know what they have to address. Beyond that, there is no secret intent. The health lobby has not requested this proposal. It is coming from the department in response to the 2013 inquiry.

Mrs L.M. HARVEY: I want some assurance from the minister. When I was police minister, I received many complaints from people in the hospitality sector about the nature of police interventions. Sometimes I agreed with people, and sometimes I did not; sometimes I agreed with police. One of the conditions that police would often put on the granting of a licence would be no Red Bull and vodka shooters, and no jelly shooters—specific drinks that are not allowed to be provided as part of a condition of a licence. They often would disallow the promotion of drinks. Back in the 1980s when I used to go to pubs, when a new drink came on the market, somebody would wander around with a collection of shooter glasses, for example, to taste Midori. I remember when that first came on the market. I am showing my age! The police will often put a condition on a licence that that kind of sales promotion is not allowed. My concern is that we are actually opening a window to more interventions and objections based on the sale, supply and promotion of particular alcoholic beverages. We all know the vast majority of people drink responsibly, and marketing and promotion is just part of what businesses do. This is not really going to have any impact on the three or four per cent of the population who do the wrong thing. I want some reassurance from the minister that the intention of the insertion of this object into the act is not to encourage or facilitate a proliferation of extraneous and ridiculous conditions being put on to licences as a result of interventions by health or police, or anyone else.

Mr P. PAPALIA: I can give the member that assurance. Anything associated with the bill that is not specifically focused on harm minimisation is intended to liberalise the process and enable more diversity and innovation in our hospitality sector. I can assure the member that this is not some sort of Trojan Horse inserted by the health lobby or anything of that nature. This comes out of the 2013 inquiry. My reading of it is that it just inserts the normal accepted responsible service of alcohol process into a secondary object of the act. That is it. We will be monitoring the outcome of this amendment anyway more intently than perhaps in the past to focus on whether we have achieved our outcomes. If there were inadvertently some uptick in interventions as a consequence of this, we will respond. I do not intend to step away from this and not subject it to any further scrutiny. We look towards

watching what happens and seeing whether it works—if it does not work, stop doing things and trying to change things; and if it does work, perhaps enhance it.

Mrs L.M. HARVEY: Further to that response, can the minister outline to the house how he will monitor the operation of this bill against the outcomes that are achieved? What process is the government putting in place? Is there a reporting framework? How will the government achieve that monitoring to ensure that the act is achieving the desired outcomes? Has the government done an assessment of the starting point at this point in time with respect to the outcomes that it hopes to achieve with the bill?

Mr P. PAPALIA: Specifically, with response to police interventions, there is a benchmark. Clearly, I want to see it a lot lower than that because our intent is to remove the public interest assessment and therefore the opportunity for the police to intervene in that fashion—not completely remove it, but diminish the likelihood of the police intervening in that action in that manner in anything that is deemed low risk. We will look to see whether there is a diminution in the numbers and we will also seek advice from all the bodies that we are engaged with. This is why we meet with them regularly and why it is easy to get into my office. Peak bodies can represent their membership—they do so regularly—and they say that they are encountering excessive interference or an inhibition in their ability to develop proposals. We will hear about it. We are actively engaging with all the peak bodies for that purpose but we also encourage individuals to raise matters with the agency and, if necessary, with us as well. With respect to policing, obviously it is the police minister's primary responsibility so anything that we do with respect to that is obviously with the support of the police minister's office. We are not contravening any protocols. We have a clear measure, particularly for the initial issue that the member raised with regard to interventions. We know what they have been in recent times and we will try to achieve a reduction. I hope for a big reduction, but we will see.

Mrs L.M. HARVEY: Further to this, there is no definition of "low-risk application" as part of this amending legislation. Who will determine the criteria for a low-risk application with respect to whether interventions will be required around the public needs test?

Mr P. PAPALIA: That will be developed and detailed in the regulations in consultation with the stakeholders at the time. We will obviously seek much more advice from the police about what is high and low risk. Having said that, the government has an intent and our policy is to liberalise the opportunities for people to develop hospitality diversity so that they can create new ideas and new business opportunities. We will have an interest in it as well, but we will do it in consultation, as we have so far with the bill.

Mrs L.M. HARVEY: Just to be clear at this point: the government has not determined the criteria for what might be a low or high-risk application. The consultation and regulations are still to come. I want to be clear about whether it is going to be in the regulations. Will it be the director of Liquor Licensing's decision? I want to make sure that it will be by regulation so that it receives the scrutiny of Parliament.

Mr P. PAPALIA: I have publicly stated that I view small bars and sporting clubs, for example, to be low risk. I would expect that in most cases they will be. There may be other opportunities for additional types of premises or outlets to be deemed low risk. That will all be in the regulations.

Mr J.E. McGrath: Restaurants?

Mr P. PAPALIA: The member is right. I would expect restaurants in the vast majority of cases, but certainly the ones that have fewer than 120 are already deemed as a fairly low-risk environment. That is my personal view, but that will be determined and outlined in the regulations and will not be determined by someone in the department.

Mrs L.M. HARVEY: I seek an assurance from the minister in determining that low-risk environment. No doubt similar to me, the minister has had feedback from licensees that generally no consideration is given to long periods of incredibly well managed premises when it comes to extended trading permits and those sorts of things. Will the good record, if you like, and the good conduct of licensees be taken into consideration when the government is looking at the low-risk matrix when making decisions under this legislation?

Mr P. PAPALIA: Member, we are considering other things with regard to the length of tenure of trading licences, and that is later in the bill. One thing I want to raise at this point is that the member for North West Central raised the possibility of race clubs being considered low risk. I am inclined to look at that in a favourable way. We have asked the agency to consider that and we will look at, for instance, whether they can be included because mostly those organisations have been operating for very long periods and have a complete history of their capacity to put on safe —

Mr J.E. McGrath interjected.

Mr P. PAPALIA: And they are the ones that the member for North West Central is particularly concerned about. I am very sympathetic to that, so we will be looking to include them, for example.

Mrs L.M. HARVEY: I guess to articulate my point, there is a pub in my electorate called the Squires Fortune, which is in the same location as the previous establishment, the Stamford Arms. One of them had a pretty bad reputation for sticky carpet and all sorts of antisocial behaviour. It probably was not terribly well managed. New owners have taken it over and refurbished it, but they are being treated as though they own the entire history of the premises rather than being treated as having taken over at a point in time and creating a new history. What I would like to hear is that in establishing low-risk premises, the government will look at the history of the company, the managers and owners of pubs and if they have behaved well, are offering a good product and are not causing problems for police—there are no arrests and they are doing the right thing and trying to communicate with the director's changes that are required well in advance—I would like them to be given an easier ride than licensees who have a terrible background with the management of their premises. Can I get a reassurance from the minister that the history of good management will be taken into account when establishing a low-risk applicant? That would be very much welcomed.

Mr P. PAPALIA: Without being familiar with the actual venue, I am familiar with similar circumstances that we have already encountered in discussions with the agency. I think clause 32 is a better clause to deal with it. I am of the view that what the member said has some value; those issues are real and people do encounter them in those circumstances.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Section 18AA inserted —

Mr J.E. McGRATH: Proposed section 18AA requires the director of Liquor Licensing to provide to each party to the proceedings written notice of the decision and their right of review. The notice need not include the reasons for the decision. However, it provides also that a party to the proceedings may seek written reasons for the decision within seven days. What is the reason for this change? Why has seven days been selected? We are led to believe that seven days does not allow sufficient time to respond, particularly for licensees in the regions, who are often away or experience delays with Australia Post. Would the minister consider extending that period to 28 days? Our friends in the National Party would then support this clause wholeheartedly.

Mr P. PAPALIA: The period of seven days is not linked to any specific objective. I note that it is seven days after the party has received the notice, not seven days after the notice has been issued, so it is not quite as onerous as the member believes. Does the member have an amendment that he would like to pursue?

Mr J.E. McGRATH: Yes. We would like to amend proposed section 18AA to state that a party to proceedings may seek written reasons for the decision within 28 days of receiving the decision. Seven days in a business goes by very quickly, as the minister would know from paying bills at home. I move —

Page 6, line 29 — To delete "7" and substitute —

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Amendment put and passed.

Clause, as amended, put and passed.

Clauses 10 and 11 put and passed.

Clause 12: Section 25A inserted —

Mr J.E. McGRATH: Proposed section 25A will enable an application for a review of a decision of the director of Liquor Licensing to be heard by the State Administrative Tribunal. Proposed section 25A(7) provides that SAT may affirm, vary or quash the decision subject to the review; make a decision in relation to any application or matter that should have been made in the first instance; give directions as to any question of law reviewed, or to the director; and make any incidental or ancillary order. This was not a recommendation of the 2014 review of the Liquor Licensing Act, nor was it an election commitment. Can the minister explain why the government has decided to introduce SAT as a new review body for licensing matters?

Mr P. PAPALIA: The intent is to try to move things along and enable matters before the WA Liquor Commission to be dealt with more expeditiously. Essentially, SAT will become an additional resource. The new provisions will apply only to applications lodged with the Liquor Commission for a review of a decision of the director of Liquor Licensing. The President of the State Administrative Tribunal must agree to an application being referred. The hearing of the application by SAT will be under the same terms as those in the commission; that is, no new evidence can be introduced; and SAT may affirm, vary or quash a decision. The Department of Justice has been consulted on this proposal and is supportive. The intent is to try to help. There are often delays at the

Liquor Commission because of limited resources, the complexity of the issues before the commission, and the necessity to ensure that everyone is given a fair hearing. This is intended to assist with that.

Mr J.E. McGRATH: Minister, does this have the support of the stakeholders in the industry?

Mr P. PAPALIA: In the absence of any negative feedback, we assume they are comfortable with it. Some of the stakeholders had the draft bill before it became the current document, and we do not know of anyone who has indicated any concerns.

Mrs L.M. HARVEY: Back in 2006, the reason the deliberate decision was made to establish the WA Liquor Commission and appoint the director of Liquor Licensing was to ensure that the people who made decisions about liquor licensing were experienced in the Liquor Control Act and liquor licensing law. The complaint from the liquor industry and from lawyers associated with the industry was that members of the judicial panel—a magistrate or a judge—would not be familiar with the intricacies of this complex area of legislation. My concern is that the inclusion of SAT could hold up rather than streamline the process. A report was tabled in the Legislative Council a couple of years ago about the under-resourcing of the State Administrative Tribunal. I am concerned about where the minister will find experts in this subject matter. Will people be seconded to SAT to determine these matters, bearing in mind that the commission was established because of the problems that arose when inexperienced people were making determinations on the liquor licensing law?

Mr P. PAPALIA: The matters that come before the commission are challenges to decisions made by the director. What is required at that point is not specialist knowledge about liquor, but specialist knowledge about the law. The capacity to deal with such matters resides within SAT as well as within the commission. We are finding increasingly—the member would be familiar with this—that proponents challenge the decisions made by the director, and that results in delays to appear before the commission. This will provide an opportunity for a faster response and a faster determination of such cases. It is not necessarily the case that the persons on SAT must have specialised liquor licensing knowledge. The requirement for that knowledge resides with the director and the initial hearings and determinations by the director.

Mrs L.M. HARVEY: Further to the minister's response, if the problem is a backlog of opportunities for people to present before the commission, surely that is an issue of resourcing the commission more appropriately—not providing a diversionary route to another administrative decision-making body that is also under pressure.

Mr P. PAPALIA: Member, in the last 12 months, we have increased the resources available to the commission. We have also taken action to increase the number of lawyers available to the commission. This is an additional response. We view this as a positive move to provide an additional avenue for addressing delays.

Mrs L.M. HARVEY: With respect, minister, this amendment does not state that. It states that the commission can refer an application for review to the State Administrative Tribunal. It does not give the reason for that referral that the commission has a backlog of claims. It is an open-ended ability for the commission to refer a review decision to SAT. Could the minister please articulate this? There is a range of other circumstances that might arise that would have the commission refer a decision to SAT. This does not restrict the commission in any way to referring a decision because of backlogs in or to expedite a decision or hearing. It basically gives an open-ended opportunity for the commission to refer any decision to SAT. Unless I have missed something, this clause does not actually state that it refers an application for review to the State Administrative Tribunal to expedite the opportunity for an individual's appeal to be heard. I am curious about why this is here. It is an open-ended referral power for review decisions to be referred to SAT.

Mr P. PAPALIA: No, it is not. It is only in the event of a review of the director's decision. That is the only type of referral that there will be. Quite frankly, why would the commissioner refer them other than to try to assist with the speed of dealing with the issue? The commission exists to make determinations of this nature and normally it would do it itself. We have given the commission additional resources and this will just enable it to have another avenue to have matters dealt with rather than them being delayed.

Mrs L.M. HARVEY: How many reviews of decisions does the commission hear annually at the moment?

Mr P. PAPALIA: I have not got the number with me. Would it matter? What does the member want to know? If there are more than 20 a year is she worried about it; if there are less is she not worried about it? What is the intent of her questioning? I am confused by it.

Mr J.E. McGRATH: What the Deputy Leader of the Opposition is saying, and I am inclined to agree, is that the clause does not indicate clearly that if there is a backlog or there is a lot of pressure on the commission at the moment, so if there is a backlog of cases, the commission can refer applications to SAT. It does not state that. The clause also does not state that if there is a difficult case that the commission believes it would be better handled by SAT, we are giving it power. The clause does not give a reason for why this has been brought in. It would appear to me that maybe the commission is under a lot of pressure. I know in my electorate there are a lot of applications

being made that have been referred to the commission and there are a lot of people appealing. Maybe there is a backlog. We are asking what has brought this on.

Mr P. PAPALIA: We have been approached by the commissioner for additional resources. Additional lawyers have been appointed to the commission because it needed them. With respect of the member's concerns, I am saying here in *Hansard* right now, recorded forevermore, that the intent of this amendment is that in the event that there is overloading of the commission and it results in a delay in the commissioner's view, he or she might deal with it by referring to SAT. That is the intent. It is so that there will be an additional avenue for the commission to pursue things. Anyone who has a concern about such matters in the future will be able to refer to *Hansard* and seek out the intent of the legislation through me placing it in *Hansard*.

Ms L. METTAM: Has the minister received any advice that the decision to give SAT the power to review decisions will adversely affect licensees, given that SAT has less experience in liquor matters?

Mr P. PAPALIA: No, as I indicated before, the matters we are referring to that will be assessed or determined by the commission are those challenging a decision of the director and it is a matter of law, not a matter of liquor, so ultimately the determinations will be made as a matter of law. Specialist lawyers will be needed, but not necessarily specialist liquor knowledge.

Mr J.N. CAREY: Is it plausible that applicants would prefer SAT dealt with matters, given it is viewed as a more independent body and deals with a large number of planning matters and so forth? I understand there are applicants who question the appeal process through the commission and would prefer to go to an independent body. Would there be any possibility that the case may be referred because an applicant would prefer it to go to SAT?

Mr P. PAPALIA: Yes, I am informed there is a possibility that applications may have been made by a proponent on multiple of occasions and the findings have been against them consecutive times, in which case they may feel it would be better for them to be heard in front of fresh set of eyes. I imagine this would enable them to ask for that avenue to be pursued. It would still be up to the commissioner to refer and obviously he would be up to the chair of SAT to accept the case. But yes, there is every likelihood that there may be a proponent out there, possibly like the one that the Deputy Leader of the Opposition who may benefit from this new opportunity.

Dr M.D. NAHAN: SAT deals with the whole range of things, not just planning. Given that the commissioner deals with this on a day-to-day basis and has a lot of specialists, precedents and whatnot, SAT would have to build up a lot of expertise over time to look at these things using the same criteria that the commissioner does. We can see arbitrage coming up very readily between the inspector and SAT. SAT will be much more expensive because lawyers generally have to be paid. I am not criticising the avenue, but it is going to lead to people looking at SAT as a preferred alternative and probably double dipping. They will go to the commissioner sometimes and then go to SAT. This is going to lead to a lot of avenues to get a result. Has a minister thought about those processes? I am not criticising this. I think it is probably a good idea, but I think there are going to be some administrative problems with it.

Mr P. PAPALIA: It will not be the decision of the proponent to go to SAT; it will be the determination of the commissioner. I think the Leader of the Opposition is referring to the commissioner. The commissioner hears referrals of the director's decision. The director makes the decision and if the proponent does not like it, they can appeal to the commissioner and I am told that the propensity for that to occur has increased over time and that has led to these demands for additional resources. If the commissioner, for instance, views people seeking a hearing for SAT as just a measure to gain the system, in effect, they will be able to prevent that from occurring, because they will have to refer, so it will not be an automatic process. Additionally, the chair of SAT will have to accept cases. It can say no, too. I think that would prevent that sort of occurrence; nevertheless, we will keep an eye on it. The member for Perth said that there may be a benefit for some proponents—it will not be large numbers—who potentially feel aggrieved through having multiple encounters that are consistently negative and who seek a referral. The commissioner may well think it is a fair thing and he will let someone else look at the case, but it will still be controlled by the commission.

Mr J.E. McGRATH: I move —

> Page 8, after line 20 — To insert —
>
> (8) The Commission must not refer an appeal to a decision to SAT unless it is satisfied that the applicant will have their appeal hearing expedited.

I understand what the minister is trying to do, despite what the member for Perth said, and I agree with him that some people prefer to go to the State Administrative Tribunal. It is a bit similar to people having a choice of whether they submit a development application to a local council or straight to a joint development assessment panel. If it is to do with expediency, backlog and the commission being under pressure, maybe when the matter is referred to SAT, the applicant should reasonably expect that it would not be held up for month after month.

Mr P. PAPALIA: I am not inclined to support that amendment. I cannot see that that guarantee could be given in any case, because we would be assuming that, without SAT actually having heard the case, it is somehow able to make travel through its system faster than the hearing before the commission. The whole intent of this measure is just to provide an additional avenue for attempting to avoid delays, but I do not think we have to be very prescriptive about it. I am not of the view that the commissioner is an irresponsible individual. I do not think any government would ever appoint an irresponsible individual to the position, and I think that they would only ever seek to employ this opportunity in the event that they feel it is going to help. They are not going to do it because they intend to delay the process. I do not think there is a view amongst proponents that the commission intentionally delays activities. I do not think that I have ever heard that. As we always do, I hear different sides of the fence on the director's decisions, but that is a different matter. Once they get to the commission, I think people generally may not like what they get—but they may—but ultimately I have not heard anyone say that the commission is intentionally delaying things. I do not think he or she is going to flick it off to SAT as a tactic to extend the duration of any appeal. I would expect that a responsible person is always going to be in that position. They will determine whether it goes to SAT. The chair of SAT determines whether it will be accepted, so there are already a couple of measures in place, and there are a couple of individuals in place who are very responsible and would only ever take on such tasks in the event that it was deemed a benefit rather than a delay.

Mrs L.M. HARVEY: This goes to the minister's explanation of one of the reasons that this proposed section is in here; that is, if the commission has some kind of backlog, and it might be faster to divert an appeal decision to SAT, this addition to the act would actually allow for that. The president of the tribunal would agree to send a decision to SAT. The problem that I have with this is that, in talking to people who deal in these applications—lawyers who represent applicants—I find they often need to get planning approvals and a range of other approvals prior to the liquor licence being granted. They complain that the hold-up is often at SAT, because there is often quite a long delay before they get to have planning matters and other such things heard before SAT. The concern comes in if the commission has a backlog and refers something to SAT. If SAT has a backlog, it might just add more time to these approvals, rather than take less time. I am a little bit curious about why this measure is here anyway, because if the government is freeing up the legislation, one would expect that there would be fewer such appeals.

Mr P. PAPALIA: The member is right; we are freeing up the legislation, and I hope there will be fewer such appeals. That aside, it does not stop me from endeavouring to make the system as broad and flexible as I possibly can. There is no intent behind this to delay; that would be ridiculous. Having come into this place championing the intent of liberalising legislation wherever we can, as opposed to imposing additional impediments, why would we include something that is going to delay things? It is not going to happen. The chair of the tribunal will not let it happen, and the chair of SAT will not let it happen. I think the member is just pursuing something for the sake of adding a few words. I do not think it is necessary. I have made clear what the intent of the legislation is, and there is no objective of delaying things—quite the contrary. Everything about what we have done here is about making things more flexible and, hopefully, identifying in advance where there might be any delays, and allocating additional resources to deal with them.

Mrs L.M. HARVEY: I do not mean to imply in any way, shape or form that the minister's intention is to try to delay applications. I have sat in the place where the minister sits now, handling legislation, and the devil is often in the detail. I can see that there is an unforeseen circumstance that could arise out of this, whereby applications could be delayed as a result of a decision of the president of the tribunal to refer an appeal decision to SAT. The minister said that his intention was that, if there is a backlog at the commission, this would allow for a referral from the commission to SAT, and the intention was to try to ensure that applicants who are appealing decisions have an opportunity for another authority to look at it, if it is going to be in their interests to have a decision come early.

Mr P. Papalia: Why would you think it would be delayed in SAT if it got there?

Mrs L.M. HARVEY: One of the complaints we received, and indeed has been documented in a report in the Legislative Council, is that SAT has significant under-resourcing issues.

Mr P. Papalia: So, member, why would the chair of SAT accept another case—because they have the opportunity to accept the case or reject it—if they are under-resourced and they have got a delay?

Mrs L.M. HARVEY: The minister is saying, in this clause, that the chair of SAT has absolute discretion to refuse to take on a referral from the president of the tribunal.

Mr P. Papalia: Yes, they get to refuse.

Mrs L.M. HARVEY: If that is the minister's reassurance, I am glad I have it in *Hansard*.

Amendment put and negatived.

Clause put and passed.

Clauses 13 to 15 put and passed.

Clause 16: Section 36 amended —

Mrs L.M. HARVEY: Could the minister explain what the inclusion of proposed subsection (3) will achieve?

Mr P. PAPALIA: We inherited this provision from the member's government. The previous government introduced a bill in 2016, which did not pass the Parliament. We inherited a few of these things and included them because we viewed them as being worthwhile. The objective is to clarify the provisions relating to dual licensing of licensed premises. The current provisions of section 36(3) provide that an occasional licence granted over an existing licensed premises is not considered as dual licensing. The amended provisions expand this to include a conditionally granted licence. A conditional licence does not authorise a licensee to trade; it is a provisional approval. This will allow an application for a new licence to be conditionally granted for an existing licensed premises. This would typically occur in situations in which a licensee might wish to upgrade a licence from a restaurant licence to a small bar licence and might need to make some structural changes to the premises. This will allow them the comfort of knowing that their application has been approved before they undertake the required work. It was in the previous government's bill.

Mrs L.M. HARVEY: That was one of the reasons I was interested in knowing where it came from, because I remember that legislation. I wanted to satisfy myself that that was where it came from, because that was not outlined in the explanatory memorandum. I thank the minister for his explanation.

Clause put and passed.

Clause 17 put and passed.

Clause 18: Section 36B inserted —

Mr J.E. McGRATH: This is the clause that a lot of our members have spoken about. It inserts proposed section 36B, "Restrictions on grant or removal of certain licences authorising sale of packaged liquor". This gives the licensing authority the ability to do several things. The first is the ability to manage the number of packaged liquor outlets when sufficient outlets already exist within a locality. This is achieved by refusing to grant a liquor licence if the authority deems a locality does not need an additional liquor store. It also gives the authority the ability to refuse to grant a liquor licence for large packaged liquor outlets to open and operate in close proximity to an existing large packaged liquor outlet. As our members have said, this is deemed to be anti-competitive and not in the long-term interests of consumers. It also does not encourage innovation, entrepreneurship and the entry of new players. Prescribed proximity and prescribed size are not specified in the legislation; they will be specified under regulation by the director of Liquor Licensing. Therefore, in our view, this bill is not clear, it is not predictable and it is not reliable.

Measures are being introduced to make the reforms retrospective, which is a worry for us as it will apply to existing licensees and applicants. Sections providing for alteration and redefinition of licensed areas will prevent existing licensees from pursuing future development and redevelopments that would increase the size of their retail space. Transitional measures would see all the reforms apply to all current applications and remove all recourse to appeal or legally challenge. Our members have a number of questions for the minister. I will go through them one by one.

Mr P. Papalia: Do you want me to stand up and respond to what you have just said? Some of the stuff you have just said is not correct.

Mr J.E. McGRATH: The minister can, and then we will ask some questions.

Mr P. PAPALIA: I thank the member. I understand that his party is not supportive of this particular part of the bill. That disappoints me. As I have said, I have frequently heard the Liberal Party talk about supporting small business, but its intent here is clearly not in the interests of small business. There is no retrospectivity with this legislation. The member just said that there is an intent for it to be retrospective. There is no retrospectivity about this bill. That would not be right. Clearly, we would not introduce legislation that would be retrospective.

Mr J.E. McGrath: What I said was that if there is an application now and it has not been decided by the time this legislation goes through—if it goes through—that application will be treated under the new legislation.

Mr P. PAPALIA: The member couched it in terms of saying at the outset that there was a degree of retrospectivity about the bill. That is not retrospectivity. I will explain the reason for that. Proponents affected by this legislation might deem their chances of making a successful application for a licence to be greater under the current legislation as opposed to this future legislation, which will pass through the Parliament soon, I hope, so they may drive their process or apply for licences and appeal against decisions at a greater rate than they might otherwise have done. What we do not want is an unnecessary and inappropriate rush to try to stymie the efforts of the commission and the director's office. That is not the intent. People know that if their applications have not concluded before this bill is passed, they will be subject to the new law. It is not retrospective.

Mr J.E. McGrath: You have moved the goal posts.

Mr P. PAPALIA: We have to draw a line somewhere. With respect to this process, there are always ongoing applications and appeals. At some point we would have to mark a line and say that from here on they apply and before that they do not. That is the decision we have made. That is the intent.

Dr M.D. NAHAN: I am confused about the purpose of this bill. Is the purpose, as the minister indicated in his comments about us, to help small business? I assume it is to help small business compete against big business, because this bill will restrict big operations. Or is it about harm minimisation? If it is both, could the minister explain how it will do both? Clearly—without any doubt—the legislation will require the inspector to make a decision about what is a sufficient number of packaged liquor outlets. That is what it does. It will not allow the marketplace to determine that but will allow the inspector to decide what is a sufficient number of outlets. Importantly, "big" is yet to be defined, but we have been informed that it is 400 square metres in size, although we do not know whether it will cover, for instance, the whole of a business if it concerns a restaurant plus a packaged liquor outlet. Clearly, having a bureaucrat decide what is the adequate number of outlets starting from now is limiting. The bill also goes on to state that big outlets, which is yet to be defined, can be only a certain distance from one another. The member for Churchlands argued that the government should understand micro-economics. This bill will give a monopoly power to the owners of the land upon which the large outlets are operated. That might be Coles, Woolies or one of the large shopping centre owners, such as Stockland. If it is said that in this area there can be one large outlet, as defined, it will give a monopoly right to the existing player or the player that gets the land in the new development, and that is hugely valuable. Therefore, the largest gainers of this, in effect, will be the large side of town, whether it be Woolworths, Coles, Stockland or the shopping centre owners. I received advice that if this amendment was put on some existing businesses, it would add 25 per cent to 30 per cent to the value of the piece of land. It would not accrue to the retailer; it would accrue to the landlord. The government has to understand the secondary consequences and that once it starts distorting markets like this, it will be giving a monopoly right to very large firms, supposedly in the name of helping small business. It will give the large side of business a huge leg-up in the form of a monopoly right that will accrue to the landowners.

Mr P. PAPALIA: Thanks, member; that was an interesting line of attack. The reason I refer to small business is that I would expect the Leader of the Opposition to be ashamed of his stance. This is not about small business but it is undeniable that small businesses will accrue some benefit out of it. That is not the objective; it is a consequence. The objective is to empower communities to determine whether there is a reasonable supply of alcohol to their communities. The intent is to empower the consumer to have a reasonable supply of alcohol.

Dr M.D. Nahan: No.

Mr P. PAPALIA: That is absolutely the intent and that is the grounds upon which any determination will be made—whether the consumer has reasonable access to a supply of alcohol. That is the criterion by which the determinations will be made. With regard to sites, there are a number of criteria—size, geography and whether the consumer is able to access a reasonable supply of alcohol. All those criteria can be applied by the director. Someone could come into an area with a business model and the resources to build an enormous premise that would eclipse any other package liquor outlets within a geographical area. They may assume that they could cannibalise their market, drive out other businesses and have the monopoly, which is exactly the outcome of the current model. This amendment will enable the community to determine whether it feels consumers in its area have adequate, reasonable access to a liquor supply and the consequence is that it will be determined by the director. It will not stop anyone who is currently operating any of those type of outlets and it will not prevent them from opening in a new area where there is not already reasonable access to a liquor supply. That will not happen; there will be no impact in that manner. It will empower communities that are crying out throughout the Liberal Party's electorates. Every one of the Liberal Party's electorates have exactly the same problem as every other electorate in the state. They are just being ignored at the moment by the Liberal Party in the interest of some big players, who obviously have some influence over it. I understand that and I am disappointed by it because there are a lot of other players that are not quite as big, but who care. I would say there are a hell of a lot more small liquor stores in the Liberal Party's electorates than there are people over in Sydney voting in its electorates. If the Liberal Party sought to respond to its constituents, opposition members might talk to some of their small liquor outlets and pubs and some of the people who are being impacted in their communities by a significantly more than reasonable supply of alcohol.

I find it extraordinary that the member for Scarborough would stand in this place and support this attack on this bill, noting that she fought to stop a Liquorland outlet in her own electorate when she was the Minister for Police. She frequently took the opportunity as Minister for Police to grandstand on the threat of alcohol and the harm induced by the oversupply of alcohol having to be dealt with by police officers when she was the Minister for Police, and now she does not care about the police or her communities because she is all right; she managed to stop her one. A lot of other members of Parliament confront this issue on a daily basis and they would like the opportunity for their communities to be heard, not just the former police minister's.

Mrs L.M. HARVEY: I respond to the minister's verballing with regard to a liquor store that I opposed in my electorate. I would like to point out to the minister that the reason it was opposed was that its location was in a 40-kilometre-an-hour zone where there is a lot of activity between a couple of primary schools and near a church. There was a massive amount of opposition because this was going to be a relocation of an existing liquor store that is frequented by a collection of people displaying antisocial behaviour. The community did not want the behaviour from the beachfront around the existing liquor store transferred up the road to parks around the school. That was not about the size of the liquor store. It had nothing to do with the proponent or the floor space; it was to do with the circumstances around that application. The opposition to the location of this liquor outlet was to do with the amenity of the area and the particular circumstances around the area that are covered off in the act. The minister is not comparing apples with apples.

My issue with this amendment is that we have seen the impact of restricted covenants in, for example, Ellenbrook. When Ellenbrook was started and the shopping centre was put in place, Woolworths, as I understand it, would open there only if a restricted covenant was put in place prohibiting another competitor coming into Ellenbrook or that shopping centre for a time. As a result, that supermarket was gouging all those residents of Ellenbrook who were quite isolated. It was not practical for them to go from Ellenbrook to somewhere else to do their grocery shopping. When we were in government, we lifted that restricted covenant because it was anti-competition and it disadvantaged people living in Ellenbrook. I understand the intention of this is to try to give some power to local communities that are under siege by certain groups of people who display antisocial behaviour. I am well aware where those pockets are because, during my tenure as Minister for Police, we worked very hard to try to work with those individuals who were causing a problem. Yes, they often buy their alcohol from places where it is cheapest. This particular restriction could effect, for example, the government's new high-density projects. If I were Dan Murphy's or Coles or any of those big suppliers, I would immediately buy a block of land where the government's proposed new Metronet stations will be. I would be getting a licence for a big liquor barn and I would know, confidently, if this legislation goes through, that no other competitor could get within five kilometres of me. I would have high-density development around me and be the only liquor store within cooee. Quite frankly, this will allow Coles and Woolworths a greater monopoly than they now have. The government's intention will be subverted by what this legislation will actually achieve. We have seen it happen in Ellenbrook. Ask the member for West Swan. Our former member for Swan Hills, Frank Alban, campaigned relentlessly when Ellenbrook was in his electorate to have that restricted covenant lifted because of the impact it was having on the cost of living for people in Ellenbrook. That is what this amendment will achieve and that is what the Liberal Party is going in to fight for. It is not against small business. It is about not allowing those large corporations that have the financial capacity right now to go out and purchase land and apply for a liquor licence and start building, knowing that they will have a monopoly because of this legislation. That is what the government will allow.

Mr P. PAPALIA: I am glad the member raised Metronet. It is a magnificent Labor project. As I indicated earlier today in my second reading contribution, the Minister for Planning is working with local governments already on dealing with planning matters in parallel to the intent of this part of the bill to ensure its intent is achieved through other measures as well. The member is suggesting that somehow if there is a greenfield site—say, Metronet station or whatever—it is not isolated. That will be determined in regulations through consultation with key stakeholders. Nevertheless, we are thinking something like 400 to 600 square metres as a size that we would determine to be that type of liquor barn, and within a radius of something like five kilometres in the metro area. There might be a different distance elsewhere outside the metro area. The suggestion that there would be one and it would not be within a five-kilometre radius of another one at a Metronet station already is a big stretch. The rail lines are legacy lines around the sort of density sites that the member is talking about. It does not preclude other operators unless what we are talking about is that there is a reasonable supply of alcohol already achieved. Just because there is one outlet does not preclude another operator from coming in. It might preclude another liquor barn but that does not prevent small businesses from potentially applying. In the event that the director of Liquor Licensing determines that there is not already reasonable access to the supply of alcohol, they would be approved. I say to the shadow minister, the member for South Perth, that his response is different when it is in his electorate as opposed to others. His intention is to defend his community against the oversupply of alcohol. The member for South Perth said earlier that he is okay with it as long as they are not in his suburbs but they are off in the industrial area. That is an interesting approach.

Point of Order

Mr J.E. McGRATH: This minister is misleading the house in a grossly unfair way.

The ACTING SPEAKER (Stephen Price): There is no point of order.

Debate Resumed

Mr J.E. McGrath: Will the minister let me explain?

Mr P. PAPALIA: I heard the member say that. He said, "They're in the light industrial area; I don't have to confront them in the suburbs."

Mr J.E. McGrath: No, no, no—let me explain to the minister what happened.

Mr P. PAPALIA: Do it while I am standing.

Mr J.E. McGrath: All right. There is an application for a Dan Murphy's at the Como Hotel. The City of South Perth is opposed to it, so it has changed its town planning scheme. The only place a big barn can go is in Karawara—still in my electorate.

Mr P. PAPALIA: What I was referring to earlier with respect to the Minister for Planning is that she is working with local governments and they are increasingly coming to her to address this matter through Planning. This will augment that response. They have shared objectives. As the member knows, local governments, in the same fashion as local members all across the state, are regularly lobbied by significant numbers of residents to oppose a proliferation of unnecessary liquor outlets when there is already reasonable access to the supply of liquor. That is the concern of the community that is being addressed by this. It will not prevent them. In the event that it is a reasonable proposal, in the event that there is not already reasonable access to alcohol, they will be able to do it. If there is a greenfield site in a suburb like Ellenbrook, that obviously will not be subject to the same oversupply as some of the other suburbs, like the member for Maylands' suburbs, where, within a three-kilometre radius, there are 13 liquor outlets, and Dan Murphy's or someone wants to establish a new one. They do not want to establish a little one; they want to establish an enormous one.

Mr J.E. McGRATH: I want to bring the minister back to the point that was made in the speeches on the second reading. One of the points that we made in opposition was that there are so many hoops now for these companies to jump through to get an application approved. Dan Murphy's has to jump through the big hoop the member for Maylands is holding up. It cannot get through it. My opposition to Dan Murphy's in South Perth was based on traffic in South Terrace, because it is a real concern. I personally do not believe that a big barn would lead to more harm. There is evidence in the Northern Territory that the bigger the floor size of the outlet, the more it leads to alcohol-related harm. That has been proven. The Northern Territory brought in a limit of 400 square metres. The leader of the Northern Territory admitted later, after a review, that he had got it wrong and that act was repealed. I have heard all these members talk about the dangers of alcohol and street drinking in Maylands and all that rubbish, but people are saying to us, "Give us a choice. We're responsible people; we're adults. Give us a choice of where we want to shop."

Getting back to the big barns, the issue at stake is we have a growing population. High-rise towers are being built all around our main thoroughfares. The population of Perth is predicted to grow exponentially in the next 20 to 30 years. If we bring in legislation like this, what if someone sees in Applecross, in the member for Bateman's seat, two 30-storey towers are being planned? How many people do members think will live in them? If an operator wanted to bring a bigger outlet into that area because there is a huge population, but they happen to be 4.8 kays from another big outlet, they will be blocked; yet there would be a perceived demand.

Ms L.L. Baker interjected.

Mr J.E. McGRATH: There is an echo over there!

Another problem that has been raised relates to existing operators. Some of them are small business people. They are family-owned businesses. This is not Coles and Woolies. They run a small business or a pub and they have a packaged liquor outlet—a drive-through or whatever. They say, "Perth is growing. We want to get involved in this because there's going to be a good market. We want to get bigger. We've got the room; we've got the space here; we want to make it bigger than 400 square metres." They will not be able to do it under this legislation. This is not Dan Murphy's. It might be an operator who started small but decided to increase the size of their business. We support small business, but we do not want inhibitors to those small businesses being able to compete against the big guys, as we see with IGA stores. IGA stores can still compete against Coles and Woolies in food. We do not like the prescriptive way that we are told that nothing can happen within five kays of a packaged liquor outlet that is bigger than 400 square metres. We think it is an inhibitor. We already have the public needs test and they will also need to go through these tests. They already have the local government town planning —

Mr P. Papalia: There is no public needs test.

Mr J.E. McGRATH: The public interest assessment. They have to go through the local government town planning schemes. They have to get the land.

Mr P. Papalia: Can I respond to your points?

Mr J.E. McGRATH: That is the point we are making. I do not want the minister to paint us as being anti–small business—that is not the case. A lot of people say to us, "We want to have choice where we go and where we buy our liquor."

Mr P. Papalia: I do want to respond. Apparently we are going to adjourn.

Mr J.E. McGRATH: Okay.

Mr P. PAPALIA: We are considering density. The member made a point about changing demographics and a shift in density and therefore populations being deprived of a reasonably adequate supply of alcohol. We are going to address that as a consideration as we develop the regulations. I make the observation that 21 Dan Murphy's stores and 11 First Choice Liquor stores across the state are currently bigger than 600 square metres. That is not 500 square metres; it is 600 square metres. I have a list in front of me of where they all are. Some are not Dan Murphy's or First Choice. This is about scale and reasonable access to alcohol for the consumer. It is not about the name of the companies, but, undeniably, those two companies are key players. As the member has indicated, others also want to build liquor barns. They will be subject to the same restrictions but it is all about the consumer and whether there is adequate access to reasonable supply. Just so the member understands, 16 of these places are over 1 000 square metres. You could play bloody football inside them! The impact of the likelihood of harm is not just about square metreage. That is what the Northern Territory did and it was compelled to back down. We have talked about multiple assessments and criteria. We have talked about square metreage and will arrive at a scale. I must put this on the record. It is of great interest to the Australian Hotels Association. I understand it has some legal advice concerning the average drive-through and the fear that perhaps the driveway might be incorporated in the floor space assessment. I place on *Hansard* that that is not the case and it is not the intent of the legislation. It will not be the case. This applies to the floor space where liquor is displayed for sale, not the drive-through. The CEO of the AHA can rest easy that that is not the intent. I put that on *Hansard* now and we will make sure that is clear in the regulations.

Mr J.E. McGrath: Has the minister settled on the five kilometres and the 400 square metres?

Mr P. PAPALIA: No. That is part of the regulation development process whereby we consult with stakeholders and develop regulations accordingly. I am unashamed to be saying that in many locations across the state consumers already have reasonable access to alcohol. What is being achieved through some of the practices of some people in packaged liquor store businesses is oversupply and it is creating a degree of harm. It is to do with a number of different factors related to floor space, geographical regions and proximity to other outlets, but, ultimately, it is also to do with whether there is access to a reasonable supply of alcohol. In many cases there is an excess. We are not just going to allow alcohol to be unregulated. That is not going to happen. I do not think that is what the member for South Perth advocates. Certainly, some people will not agree with this. They will not like it. But do not pretend or assume for a moment that small businesses in this field of endeavour think that the opposition is on to a good thing by defending what it is defending and attacking the intent of this legislation. Small businesses in this field of endeavour and its peak bodies support this legislation. The member for South Perth should talk to his small businesses and not come in here to pontificate about the free market. The opposition is not on a winner. It is against small business. The Liberal Party of WA has abandoned small business and that is a shame.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.