

# **EDUCATION AND HEALTH STANDING COMMITTEE**

**HEARING WITH THE  
DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 29 NOVEMBER 2017**

## **Members**

**Ms J.M. Freeman (Chair)  
Mr W.R. Marmion (Deputy Chair)  
Ms J. Farrer  
Mr R.S. Love  
Ms S.E. Winton**

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**Hearing commenced at 10.23 am**

**Mr DUNCAN ST JOHN ORD**

**Director General, Department of Local Government, Sport and Cultural Industries, examined:**

**Mr PETER MINCHIN**

**Director, Liquor Control and Arbitration, Department of Local Government, Sport and Cultural Industries, examined:**

**The CHAIR:** Welcome. Thank you for coming in to see us. We are at the end of one of our inquiries and wanted to make sure that we used our time and got an opportunity to have a chat to you about some of the restrictions, particularly in the Kimberley, but more generally around liquor licensing. I will start by introducing you to our members: Bill Marmion is the Deputy Chair; Josie Farrer is the member for Kimberley; Shane Love is the member for —

**Mr R.S. LOVE:** Come on, come on!

**The CHAIR:** Around Geraldton.

**Mr W.R. MARMION:** It is outside the metropolitan area.

**The CHAIR:** Yes, I am usually not bad, Shane; sorry.

**Mr R.S. LOVE:** Just think of Amber-Jade Sanderson's electorate without the "ley". It is Morley without the ley"—member for Moore.

**The CHAIR:** Sorry, I do know that. The member for Moore was once the chair—not you, the previous one—and the Speaker.

On behalf of the committee, I would like to thank you for agreeing to appear today to provide evidence in relation to liquor licensing in Western Australia. My name is Janine Freeman and I am the Chair of the Education and Health Standing Committee. I have introduced you to my colleagues. Sabine Winton gives her apologies; she had to go to an urgent meeting. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside of today's proceedings.

Would you like to introduce yourself for the record?

**Mr ORD:** Thank you, Madam Chair. My name is Duncan Ord. I am the director general of the Department of Local Government, Sport and Cultural Industries. That department now also incorporates what was previously the Department of Racing, Gaming and Liquor. So, effectively, my responsibilities also include Director of Liquor Licensing. Mr Peter Minchin here is the director of liquor control and arbitration for racing, gaming and liquor within a division of my department.

**The CHAIR:** Thank you very much. Also with us today are our two advisers, Sarah and Jovita. Before we begin with our questions, do you have any questions about your attendance here today?

**Mr ORD:** No. Thank you for inviting us. It is a very important subject and it is a matter that is constantly under review. The department is very active in administering legislation related to liquor control, so we appreciate the opportunity to talk to you today.

**The CHAIR:** In this particular area, the Education and Health Standing Committee has a pretty strong history in terms of looking at liquor licensing and the use of alcohol in our community. The

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committee did their eighth report in the thirty-eighth Parliament about alcohol restrictions in the Kimberley. They then did another report in 2011 called "Alcohol: Reducing the Harm". There was probably a report between those dates, because that goes from the eighth report to the tenth report, so I am a bit remiss in not knowing what that report was. Do you want to give us any snapshot in particular—maybe just keeping to the first report about the alcohol restrictions in the Kimberley—about the outcomes from liquor licensing and the department from that report? We have the responses, so can you give us a brief overview of how you took that Education and Health Standing Committee report and the responses to that in terms of the current environment that is occurring in the Kimberley?

**Mr ORD:** Yes, thank you, Madam Chair. I might ask Peter to address that as he has been working on that from the first report through to now. I think it might be appropriate for Peter to give you an update and then I am happy to add further comments.

**Mr MINCHIN:** Thank you. There are liquor restrictions throughout the whole of the Kimberley area in one form or another, in particular in Kununurra and Wyndham. I have more recently just completed an inquiry in respect of Kununurra and Wyndham where I reduced the amount of packaged liquor that is available. That is still in the period of review, so licensees can seek a review of that decision. But, effectively, people could purchase two cartons of beer and six bottles of wine or one litre of spirits. That has been reduced to one carton of beer and three bottles of wine.

**Mr W.R. MARMION:** Over what period?

**Mr MINCHIN:** In a transaction per day.

**Mr W.R. MARMION:** One transaction a day?

**Mr MINCHIN:** Yes. That was at the request of the Wunan Foundation that wrote to the Director of Liquor Licensing about the ongoing concerns and the extent of alcohol-related harm in the area. As a consequence of that inquiry, that decision has now been handed down.

**Mr W.R. MARMION:** So is one person limited to three bottles of wine and one carton a day?

**Mr MINCHIN:** Yes.

**Mr ORD:** That does seem like a reasonable amount to get through. Of course, a lot of these restrictions are aimed at reducing the ability for a single person to acquire a significant amount of alcohol which is then, if you like, moved into people's houses and so on. It is more about restricting the total flow-through of alcohol than the potential of the broader citizen to be able to access a legal product.

[10.30 am]

**The CHAIR:** In recommendation 8, it says here —

The Departments represented on the Aboriginal Affairs Coordinating Committee adopt a common protocol for communicating with remote Kimberley communities to ensure that they are willing and prepared for all agency visits. These departments should coordinate the timing of their visits to maximise community participation.

The government's response at that point in time talked about the appointment of male and female Indigenous engagement officers at each location, and it outlined some of those locations, and a local implementation plan agreed on between communities and governments to ensure that the planning and delivery of services reflected the priorities of local residents. Is that still the case? Do you still have those Indigenous engagement officers in communities, and what is the status of the local implementation plan?

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**Mr ORD:** That is a work under the AACC—the Aboriginal Affairs Consultative Committee. That is more of an across-government strategy around the engagement of multiple government agencies, which would include health and police and others. We do not have a regional presence per se, but, of course, the 175 restrictions, which are for Aboriginal communities where they seek to, essentially, have a declaration around being a dry community, the department gets very active in the consultation process of that. Normally, as over recent times, that included active engagement of ministers visiting communities, meeting with communities, including departmental officials, and essentially ensuring that direct consultation with a whole community does take place. These restrictions are reviewed over a period of time and have been renewed so that a number of 175 restricted communities have been renewed since this government has taken power. I might ask Peter to give you a bit more information on those and the process which we went through to arrive at the decision.

**Mr MINCHIN:** In terms of the process when conducting the inquiry,<sup>1</sup> I will write to a whole range of government agencies and seek their input or information. Once I receive that, I then send that to the affected licensees and give them an opportunity to respond or comment. Once I have received all of that evidence, I will then decide whether the evidence indicates that restrictions or further restrictions are appropriate. If I arrive at that conclusion, I will then require the licensees to show cause why conditions of their licence should not be imposed. They have an opportunity to respond to that. Once they have responded, I will review all of that evidence and then I will hand down a formal decision. That decision is subject to review by the Liquor Commission, and a decision of the Liquor Commission is subject to appeal to the Supreme Court on a question of law. So, there is quite a process that we need to go through to ensure procedural fairness of all the parties involved.

**Ms J. FARRER:** The question I wanted to ask was about liquor restrictions, because they have been applied, as you know Duncan, to Halls Creek and Fitzroy. How long is that going to stay in place? People are asking why is it that these two small towns have liquor restrictions that have been there for this long, yet all the way around in the Kimberley in the bigger towns there is a whole lot more happening with regard to crime and everything else? Plus, you just talked about Wunan. Wunan does not cover all the areas of the Kimberley, so Wunan should not really be speaking for everyone. That is the question that people have asked me.

**Mr ORD:** The Wunan Foundation did not write on behalf of the Kimberley-wide liquor restriction. They focused on Kununurra specifically and the effect of the restrictions that have been put in place for Kununurra. They were asking for, essentially, a tightening up of those restrictions. I think it broadly understood that you need to have multiple responses to the underlying issues around which, in the sense, alcohol abuse is a symptom of a whole range of matters affecting people in the community. Those matters are not restricted simply to Aboriginal people by any means; they are right across the state with alcohol abuse leading to domestic violence in non-Indigenous communities and so on. We are very careful not to use any racial determinant on any of the decisions we make.

With Kununurra in particular, there was strong support from the police, health and others—local government and the like—that the first phase of liquor restrictions had in fact made significant improvement to community wellbeing. They recognised that there were some other matters, as you have referred to. There have been some increases in other areas of crime, I suppose. Whether they are consequential to liquor restrictions or not, it is a bit too early to determine, but I know that the police are doing further work on that. It was felt that there had been plenty of evidence. Along with welfare and other reforms, the evidence coming out of, for instance, the supermarkets and so on

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<sup>1</sup> A letter of clarification about this part of the transcript can be accessed on the committee webpage.

was that more food was being sold. There was more evidence of families coming and buying what you would call a normal basket of goods for a week and so on, and there was less demand on emergency food services, particularly for children. Obviously, there was also the welfare card trial going on at the same time.

As Peter indicated, we fundamentally go through a different process of assessing, according to our legislation, around applying these restrictions with all parties being able to put in submissions. We do encourage the community and the Aboriginal community to engage in those decisions. They often do use representative groups like Wunan to have a voice, but we also know that there are contrary voices. There are restrictions in place in Fitzroy Crossing and also in Halls Creek, as you have indicated, and they are under section 64 of the act. I might ask Peter to tell you about the review process we undertake.

**Mr MINCHIN:** With respect to Fitzroy and Halls Creek, the restrictions that were in place, and have been in place for many years, are essentially that you cannot sell packaged liquor above 2.7 per cent. Earlier this year, the licensees applied to have that changed to 3.5 per cent.

**Mr W.R. MARMION:** Are we just talking about beer or any alcohol?

**Mr MINCHIN:** Any alcohol.

**Mr W.R. MARMION:** So that rules out wine.

**Ms J. FARRER:** That also rules out spirits.

**Mr MINCHIN:** Yes.

**Ms J. FARRER:** I will talk a little bit more in regard to Halls Creek, where I come from.

**Mr MINCHIN:** They applied earlier on this year to change the conditions from 2.7 per cent to 3.5 per cent. I refused that application. That application was advertised. We had community input into that. I refused that application. They sought a review of that before the Liquor Commission. The commission has conducted that hearing and it has reserved its decision. We do not know when that decision will be handed down at this stage. That is an update in terms of Fitzroy Crossing and Halls Creek.

**Ms J. FARRER:** Just on the sale of alcohol and spirits, with the restrictions in place in Halls Creek, I have been in the shop there a couple of times, because they also sell some other merchandise, and I noticed a person came in and bought 10 cartons of full-strength beer. That was somebody from off the pastoral station. If there are two rules, we need to know. Also, tourists that come in get spirits or wine or whatever as to the amount that they want now. I was there and somebody said, "Better not speak too loud." I wonder whether there is some sort of thing going on that we are not aware of. If it is just imposed on Aboriginal people, we need to know.

**Mr MINCHIN:** I would need to go back and check the exact wording of the conditions. In some circumstances we put in place exemptions for pastoralists and other people who might come into town once a month, bulk purchase goods and then go back to their station, or for people who might be passing through and are travelling onwards. I do not recall off the top of my head whether such provisions apply in Halls Creek and Fitzroy, but I can certainly find out and let you know if that is the case.

[10.40 am]

**Ms J. FARRER:** It is good for me to know. I do not drink alcohol of any sort, but when I hear things like that, it makes me look at things differently. Those are the questions that I wanted to ask. In regard to Wunan, is it a decision that has been made by the Wunan board or is it just the leader of Wunan? Those are some of the questions that people have asked. As we know, with the cashless

card, Wunan did take the first step in implementing that. Now we have found that some of the leaders have pulled out of that decision because the cashless card has caused quite a number of issues. People need to be very clear on who is making these decisions.

**Mr ORD:** Thank you. As I understand, the submission from Wunan would have been made on behalf of the organisation, probably through a letter from the chair, which would have been Ian Trust. How they arrived at their decision to write to the government through that process, I am not aware of. But when it goes before us and the commission, we do go to agencies that are identified under the act—health and police and so on—and we make evidence-based decisions. The community has raised these concerns. We ask for their input around the sort of data they would have to indicate that there is harm happening to an extent that would warrant the imposition of restrictions. Even though Wunan may have raised the potential of further restrictions and a case for it, we would have taken in a much broader range of considerations to warrant putting forward the further restriction.

**Mr W.R. MARMION:** I am new, so I am interested in how it is working, in your view. I lived in the Kimberley a long time ago and I know that each of the towns are isolated but you can drive a couple of hours and get to another one. If you have restrictions on Fitzroy Crossing, people can still drive to Derby and Broome. Do you know what is happening there? Also, I am interested about the increase from 2.5 to 3.7 per cent. There is not much difference there. Is this a particular brand of beer or something? Why is there the push to go up to that amount? There are a couple of questions there.

**Mr ORD:** Certainly, you are right that one of the concerns has always been that you simply push the problem by way of people relocating to where there are not as many restrictions. I think, anecdotally, there have been concerns around greater numbers of people with alcohol dependency concentrating in Broome, for instance, where Broome does not have the same restrictions that apply in the other Kimberley towns. Those are broad policy issues that are always under review. It is also the alignment of restrictions with remedial services, because we do know that there is a moment in time when someone might change behaviours and if there are not good support services to engage them in cultural activities, employment activities, homemaker services and so on, then you can very soon lose the early momentum of, "It is hard to get alcohol, I therefore am open for change, but nothing is happening in my life to change this." It does make them very vulnerable to simply looking for another way of getting hold of the alcohol and then, you know, grog running, as they call it, becomes a problem. Although the police have powers to search cars and so on, police services are stretched across the state. It is not a panacea; none of these restrictions are a panacea for all the issues. We would certainly encourage being part of a multifaceted approach to the underlying causalities, I suppose, of the addiction. I will ask Peter to comment specifically.

**Mr MINCHIN:** We are mindful of the issues you have mentioned. I think depending upon some of the outcomes perhaps in Kununurra and Wyndham, some better consistency across the whole of the Kimberley might be worth looking at.

**Mr W.R. MARMION:** And the reason for the 2.5 to 3.7 per cent?

**Mr MINCHIN:** You would have to ask the licensees, but it was from 2.7 to 3.5 per cent. I think there are more liquor products which are at the 3.5 level. You have Carlton mid-strength and a whole range of products in that mid-range.

**The CHAIR:** I was noting in the responses that there was a recommendation that when people, like Wunan, put in for liquor restrictions, or others, more so if it was not supported by the director—I would say even if it is supported—that the reasons should be included in the department's annual report. The response was that decisions are published at the outcome of any proceedings. Are they

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now included in the annual reports, decisions as such, around these sort of contentious issues, like if someone comes in and wants to change the current restrictions?

**Mr MINCHIN:** If I recall, there is a reference in the annual report that new restrictions may have been imposed, but the reasons, if you like, which are published in the decision itself, are not set out in the annual report. The decision imposing the restrictions is published on our website.

**The CHAIR:** In terms of any changes that you have had or anything in terms of the reasons that Josie has asked about, they would be published in decisions on your website?

**Mr MINCHIN:** Yes.

**The CHAIR:** There was also a confidential report prepared by the Department of Racing, Gaming and Liquor on the possible implementation in Western Australia of an alcohol-restriction system based on the Banned Drinker Register in the Northern Territory. You have said here that the report was released to the members of the committee—the members at that time. Is that now public and have we done anything on banned drinkers? I probably should know that, but I do not.

**Mr MINCHIN:** I think it would be a matter for government to decide.

**The CHAIR:** So nothing has been done in terms of banned drinkers?

**Mr MINCHIN:** No.

**The CHAIR:** Is that a public report? There is a confidential report prepared by the Department of Racing, Gaming and Liquor. Has that been made publicly available?

**Mr MINCHIN:** Not that I am aware of.

**The CHAIR:** But it was made available to the previous committee?

**Mr MINCHIN:** I do not know. I would have to confirm.

**The CHAIR:** It would be great if you can confirm that. If you can release it to us as part of these proceedings, that would be helpful because we are a different committee and I am not sure that we get access to the same information that was given to a previous committee. That might be something that we would be interested in having a look at—that aspect of things.

**Mr MINCHIN:** Do you know the date of that report?

**The CHAIR:** The Minister for Racing and Gaming announced the outcome of the review on 17 May 2011. The report has been released to members of the committee, so there would be an indication that it is still a confidential report, I should think. Of course, if you release it to the committee on a confidential basis, it maintains that status.

There is a recommendation here that the state government considers the social responsibility levy on liquor licence holders in the Kimberley and other regions to fund the police resources required to manage harm from excessive alcohol consumption. It was not supported and it said police resourcing needs are assessed on a case-by-case basis as part of the budget process. Has there been any other work on that over this period of time since the report in 2011 in terms of suggestions to government?

**Mr MINCHIN:** Not to my knowledge.

[10.50 am]

**Mr ORD:** Not to my knowledge. We do have discussions regularly with the police. You would be aware that Roebourne has been a community of strong interest of late and we have had interagency discussions around Roebourne and potential responses around liquor in that area. We have also discussed with the police the sort of resourcing needed to effectively implement policing over

restrictions that may come in in the future. The police view is that, like all things, they do have adequate resources to police the state. They prioritise different areas from time to time so they would look at particularly putting more effort in during early stages of compliance with new restrictions and may moderate that based on the evidence they would find from how people are behaving. Putting further levies on at this stage, I am not aware that that has been contemplated by government.

**The CHAIR:** Just in terms of that, the health minister did talk about putting a levy on to the sale—not so much a levy because there would be no return to the state, but putting a base price on to alcohol. I went to the recent report “Anytime, Anyplace, Anywhere? Addressing physical availability of alcohol in Australia and the UK” by the Foundation for Alcohol Research and Education and the Institute of Alcohol Studies. They quoted from a report by Wagenaar et al and they said that a 10 per cent increase in price results in a 4.4 per cent reduction in consumption across the population and that the five per cent increase in the price of drinks in the Northern Territory reduced the amount of people in hospital on the basis that young and heavy drinkers are sensitive to such price changes. Has there been any investigation from the department around the possibility of implementing such a minimum pricing regime?

**Mr ORD:** I personally have not been engaged through health on that matter as yet. I read the same coverage and assumed that this is work we would probably be engaged in early next year. I do not know if the department at an officer level has been in touch yet.

**Mr MINCHIN:** No.

**Mr W.R. MARMION:** Say I am a person living in Halls Creek or Fitzroy Crossing and I want to drink as much alcohol as I can in a particular day, can you outline what the restrictions are? Obviously, I would go to the Fitzroy Crossing pub straightaway and I would sit there and drink as many beers as I can, or prior to that, if someone thought I was intoxicated, I would do this beforehand: I would go to the liquor store and get the maximum amount in the morning and then I would go down to the pub, I presume, and drink as much beer until I got kicked out, and then I would have in the boot of my car the stuff I got from the liquor store. Can you explain how that might work?

**Mr ORD:** Yes. I will ask Peter. We have the details of the restrictions.

**Mr MINCHIN:** In terms of packaged liquor, you can only buy 2.7 per cent or less.

**Mr W.R. MARMION:** Yes, but how many?

**Mr MINCHIN:** There is no restriction on quantity.

**Mr W.R. MARMION:** So I can get as many cartons as I like.

**Mr MINCHIN:** But you can only get 2.7 per cent or less.

**Mr W.R. MARMION:** What about in the pub?

**Mr MINCHIN:** In the hotel, you can, like any other person, consume alcohol. It is an offence to sell and supply liquor to an intoxicated person. It is an offence for an intoxicated person to be on licensed premises. There are enforcement issues, of course, that the police and, hopefully, the licensee are both enforcing.

**Mr W.R. MARMION:** I have been to Fitzroy pub a few times, a long time ago. Full-strength beer is sold on tap.

**The CHAIR:** In this report from the Education and Health Standing Committee is the Chair’s foreword, taking into account that the Chair’s foreword is not necessarily always a reflection of the recommendations and the investigations in the report. It may be a policy decision that you cannot

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respond to, but I am interested in whether this has had any investigation given the machinery-of-government changes. It says —

The Director of Liquor Licensing told the Committee that under the *Liquor Control Act* the Commissioner of Police is actually responsible for administering the Act and enforcing its provisions throughout the State, including the Section 64 and 175 restrictions in the Kimberley. As the Police and the Corrective Services budgets are largely devoted to the consequences of alcohol and drug abuse, I believe that it could be in the public's best interest to move the *Liquor Control Act* under the jurisdiction of the Minister for Police. The Act could then focus on public health and the prevention of harm from alcohol.

Has there ever been any discussion with respect to where the control administration comes under?

**Mr ORD:** Certainly not with me as the new director general of now the amalgamated agency. I think the government's intent to bring the agency together was clearly to find that delicate balance of good between our role in administering liquor controls to minimise harm to the community and at the same time ensuring that we meet government's objectives more broadly around areas around the tourism industry and so on. We are constantly assessing that. There are election commitments related to amendments to the act that we are working on. That does broaden the range of stakeholder interest in decisions beyond police and health outcomes. I guess it is up to our department to take a more independent role and therefore it would seem logical that it would stay within our current remit. I have not sought to provide advice to move that part of legislation outside of my agency, but like all things, we will certainly be doing more investigation around how we gain information around the outcomes of our policy and legislation.

We have had the priority services review, and the government is considering its outcomes. I have raised the potential of more access to government data and data sharing, because I think agencies like ours would benefit from more access to real-time data and, therefore, more evidence-based decision-making because we will be able to look at hotspots or where issues, particularly around things like alcohol, where harm might be occurring and then we can be more proactive in developing policies to respond to it. I am broadly encouraged that it is not really about where you put the responsibility but ensuring that we have the method to be more attuned to the impact of policy and decisions we take. Most of our restrictions are time oriented or subject to constant review, so it is important that we review and important that we do pick up some of the issues, for instance, that Josie has raised on behalf of her community. I would be very concerned if restrictions in the Kimberley were being seen by the Aboriginal community as being racially targeted. Maybe we need a greater educative role in explaining that, in making some of those decisions, there are areas of exclusion, for instance, around tourists passing through. For instance, people can apply, if there is a wedding, for exemptions and things like that. If you happen to coalesce at that time in the store and the community are not aware of how the decision is taken, they could certainly be quite offended, and quite rightly so, the perception that there is one thing that applies for one part of our community and not for another. I would certainly commit to the committee for us to do some more education and do an engagement program before we go through the next stage of further restrictions so that the community is perhaps better informed of what the restrictions are about, how they are applied and, more importantly, what their rights are.

[11.00 am]

**The CHAIR:** That collection of data, I think, is absolutely critical. I note in the responses to report 10, "Alcohol: Reducing the Harm and Curbing the Culture of Excess", there was a recommendation about data —

The Minister for Mental Health and the Minister for Racing and Gaming provide to Parliament an annual report on the results of the collection and analysis of the previous year's Western Australian alcohol consumption data.

The comment was that data is not collected by the DRGL in relation to alcohol consumption and wholesale sales data. For that aspect of data collection, again I go back to this report that talks about a model of anonymous data sharing that happens in England and Wales. That was a data collection relating to alcohol-related violence for use within licensing decisions and enforcement activity. Clearly, there is a strong issue around data collection. I note that in a decision that was made with respect to Aldi and sales in its supermarkets, the director of Liquor Licensing took regard of applications published on the website. But since January this year, the director has approved conditional grants—sorry, I am jumping myself here. There was a comment that there was not any evidence that having it large scale or having the —

In granting the licences, Peter Minchin (delegate of the DLL) said there was no evidence to suggest there would be an unacceptable level of harm or ill-health.

If you are not collecting the data, how can we make these sort of statements?

**Mr MINCHIN:** Sorry, which particular decision, because I have done a number of Aldi decisions?

**The CHAIR:** Okay; yes. Where are we?

**Mr R.S. LOVE:** Would it make any difference?

**The CHAIR:** I do not know.

**Mr MINCHIN:** For example, if I can —

**The CHAIR:** Yes. Aldi decisions—you have made some that have said no and some that you have said yes; I get that. Aldi is grumpy and I do not mind that they are grumpy about that. Please do not have them in Mirrabooka; we are good with not having it in Mirrabooka. I have told them that personally. Sorry, this is something we have been given.

**Mr MINCHIN:** That is all right. The principle, I think —

**The CHAIR:** It states —

... gave approval for three Aldi stores to sell non-refrigerated wine, beer, spirits, ciders and liqueurs. They were concerned about alcohol being sold with everyday grocery items at low cost.

That is the McCusker Centre that made that comment. And then in granting those three licences—this is not a quote; this is just written—there was no evidence to suggest there would be an unacceptable level of harm or ill health. That was Banksia Grove, Lakelands and South Lake. My concern is if we are not tracing that data, how can we make those sort of comments?

**Mr MINCHIN:** In terms of those applications, they are advertised. Police and Health often intervene, together with the McCusker Centre. They will provide data and evidence about what might be happening within that local community. The police will give data on alcohol-related domestic violence and assaults generally and things like that. What that comment is directed to is saying that within the locality in which that store is located, the evidence presented did not suggest that that community was particularly at risk from alcohol-related harm above and beyond what might normally be accepted in the community. In terms of, for instance, Aldi Cloverdale, I refused that application on the basis of the evidence that was presented, which, in my view, showed a locality which had above normal rates of alcohol-related harm. That was refused based upon the evidence presented in that case. Aldi Cloverdale has been taken on review to the Liquor Commission and that

matter is still yet to be decided or determined by the Liquor Commission. Police and Health will provide data around a particular locality as to what is going on. The decision needs to be based upon the factual information that is presented.

**The CHAIR:** I just saw it a moment ago so I am looking for it again. I understand that many states in Australia, including Queensland and New South Wales—I am scanning things as we are talking—do not allow for the sale of liquor in supermarkets. Western Australia is silent on that in our legislation; is that the case?

**Mr MINCHIN:** In Queensland, you can only have a liquor store licence if you have a hotel licence. You have got to have a hotel licence and then, if I recall correctly, you are allowed to establish three satellite liquor stores I think within a 10-kilometre radius and they cannot exceed 150 square metres.

**The CHAIR:** So they do not have the big barn things that we do?

**Mr MINCHIN:** They do, because they might have a hotel licence; so the hotel might have large-package liquor. They can then establish three smaller satellite outlets. Aldi does not own or operate hotels, which is why they would not then establish in Queensland. As I understand the legislation in South Australia, they specifically prohibit a liquor store from being established under the same roof as a supermarket. You might have it adjacent to the supermarket, a bit like we have with a lot of the Woolworths, Liquorlands and BWSs, but their legislation does not allow you to put it under the same roof as the supermarket. In WA, we do not have that restriction in our legislation.

**The CHAIR:** So we do not have any guidance in our legislation at all; it is all just up to your decisions really, is it not? The Parliament has not given you any guidelines around this at all.

**Mr MINCHIN:** Decisions have to be made based upon the evidence and the merits. The factual inquiry is directed towards the objects of the act set out in section 5. There are three primary objects, which is to regulate the sale, supply and consumption of liquor; to minimise alcohol-related harm or harm caused by the use of liquor; and to cater to the requirements of consumers having regard to the proper development of the tourism industry and things like that. The determination of the application is directed towards the objects of the act. We are also permitted to take into consideration the matters set out in section 38(4) of the act. Where you get conflict, if you like, in promoting the objects of the act, which sometimes you do, and that primarily is the harm-minimisation object versus the catering to requirements provision, it is a matter then to weigh and balance those competing interests.

**The CHAIR:** The short answer is no; we do not have anything like South Australia that says you cannot put it under the same roof, or like Queensland that says you cannot have it without a liquor licence. The short answer is that the act does not give a clear, "This is how it will go in terms of supermarkets"?

**Mr MINCHIN:** No, it does not.

**The CHAIR:** What about New South Wales?

**Mr MINCHIN:** New South Wales and Victoria, as I understand it, do not have—or would be similar to WA. Certainly, there are many Aldi liquor stores that operate in both Victoria and New South Wales.

**Mr R.S. LOVE:** Could I just ask what is the evidence that a large liquor store is any more harmful or likely to cause any more alcohol problems than a small liquor store? I am talking about the barns and the large ones we see discussion about in the news. You would have dealt with these applications. What actual evidence is there that having a large Dan Murphy's as opposed to a small bottle shop by the side of the hotel is any more damaging to the community?

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**Mr MINCHIN:** I do not know that there is a lot of direct evidence. What I would tend to look at is: What is the profile of the community in which that licensed premises is to be established? What is the extent of alcohol-related harm in that community? If it is normal, then there is no evidence to suggest having a large-package liquor outlet might adversely impact, in harm terms, upon that community. If, however, the rates of alcohol-related harm in that community are above average, that might be a reason to refuse that application on the basis of the potential harm that might be caused.

**The CHAIR:** Is there not evidence, though, that increased access increases consumption?

[11.10 am]

**Mr ORD:** Maybe to answer your question in a different way, one of the bits of data we do look at is alcohol per capita—if you like, litres of alcohol sold in a particular area. So if you have got high rates and you have got very high consumption rates, you can see some correlation. I guess, if you have a large single store, it gets more complex in the metropolitan area obviously, because people could be buying in different areas. But you can access some of these things and then that can assist with determining whether adding further product is likely to just change competition or actually, as you say, increase the potential for consumption rates to rise further.

**Mr W.R. MARMION:** This is very complicated, because a new liquor store might be just taking away custom from a big one. In my electorate of Nedlands, some IGAs—there is a new one on Taylor Road that has a new bottle shop under its roof. The one at Shenton Park already has one, but you could actually argue it is not under the same roof; it is to the side. But there seem to be more and more smaller grocery-type organisations looking at, I guess, providing a service to the customer, who perhaps is going to get a loaf of bread and they can pick up a bottle of wine. I guess that would be their argument. You mentioned the data before, but do you have the data of the actual volumes that are being sold from these different liquor outlets to make a decision?

**Mr MINCHIN:** We do not get returns from the individual licensed premises; we get wholesale sales data. In respect of, for instance, Kununurra and Wyndham, as part of the restrictions there, I have actually required those licensees to now lodge annual returns, which I will then be able to use moving forward and particularly when we do a review of the effectiveness of the restrictions. One of the things we can factor in and look at is how much liquor is now being sold into this community—has it gone up; has it gone down?—and hopefully correlate that to whether alcohol-related harm has been trending up or down since the new restrictions have been in place.

**Mr W.R. MARMION:** In terms of this issue—I would hate to be in your job, I might point out—I think on Nicholson Road there is a big liquor outlet. I cannot remember what that one is; I do not think it is a Dan Murphy's, but it is pretty big and I know a lot of people go there. I have been there a couple of times and it is packed out and they sell massive amounts. If you found that you were getting more outlets but less volume because they have taken away from that particular outlet because people are not just going there specifically to get a massive amount of alcohol or they might visit at Christmas, but generally it has been spread out, so do you say the customer benefit is that having lots of small outlets is beneficial? Without the data, you have got no idea how that is working; that is the problem, is it not?

**Mr MINCHIN:** In part, but certainly when new applications come along, police and Health, if they intervene, will provide data around what has been happening in that community. For example, there was an application for a convenience-style packaged liquor outlet in Falcon. The evidence that was presented to me there indicated that in Falcon, alcohol-related domestic violence had been trending upwards. That trend appeared to be contrary to what was happening in the southern area and in Mandurah in general. Based upon that, I refused that application. That went on review to the

Liquor Commission and the commission upheld my decision. So you can get data and there is a large liquor outlet, a First Choice, in Falcon already. But the police and Health can provide data, and where you are getting that trending data in particular, that might be a reason to refuse an application.

**The CHAIR:** When you get that data—for example, the 2016 census showed that a greater population in the areas that I represent have a big Muslim community—do you take into account that you are not comparing apples with apples? So if you are getting data that says that this looks like there is a low incidence of alcohol-related domestic violence, but you would have to take out a certain part of the population and reduce that down because there could be a whole cohort that would not be using alcohol. So with the cohort that is partaking in alcohol, it actually would show that there is a higher level of domestic violence. When you take in that data, do you take in local community aspects or do you just rely on Health and police to give you that context?

**Mr MINCHIN:** Generally, it is Health and police who will provide that sort of evidence and that sort of information.

**The CHAIR:** So it is very much reliant on Health? In this report that does some comparative stuff with Australia and the UK, they talk about a greater collaboration or a greater capacity for local government to have input into licensing decisions and they are actually part of the process, I think. I am trying to find it again; I am sorry. Given that we have now got this department that has a greater capacity in terms of local government—I understand local government gets to put in a comment, but I am often told by local government that they are very limited. One of the limitations they have is often they can only make a determination or decision about building—does it comply with the building codes to have this massive building built in this spot? What it sells is not necessarily the issue, because they are seen as a large retailer. That is what was, at one stage, explained to me. Is there any discussion about having a greater input from local government so that you can say, “This is an area where local government will facilitate it” and make sure that the community—now that we have got the Public Health Act in and we have got local public health plans that local government is supposed to be doing? Obviously, in places like Halls Creek, actually talking much more to the local government about what are the needs and capacities means that you bring it down in terms of the community. I will probably finish on that.

**Mr ORD:** Thank you, Chair. Obviously, it is fairly early days with our new agency, but we are absolutely looking to benefit from coming together in the way that we have across sport, culture, local government, the Office of Multicultural Interests and so on. We have actually got a very interesting community. Our department is engaged with everybody in the state and also around interrelated activities in which, at times, alcohol can be very negative around sporting things or where we can actually try to improve community attitudes to alcohol use and consumption by having a very common set of messaging. I think Racing, Gaming and Liquor have never been part of a multi-agency focus before, so this is quite new, but it is also very useful because we are able to understand the regulatory environment better and also then how we can assist the regulators, because obviously it is better if we can get community to self-regulate and not try to use the blunt instrument of the law to try to change behaviour. I am certainly very open to improving the status and responsibilities of local government in this area and as the source of more local intelligence. We do have a government open to reforms and we certainly would be happy to bring forward to our combined ministers other matters that the committee raises through your report. Much of our conversation are things that we are discussing currently as issues and are looking for policy responses to put to the government, so we are very open to it.

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**The CHAIR:** We have not got an investigation at this point in time; we are just having the benefit of being able to discuss these issues of these other reports. They are such massive reports. Did you want to add to that?

**Mr MINCHIN:** There are just a couple of things. In terms of the 64 inquiries that we do, we write to and invite the local government authorities to have input. In terms of just liquor licensing in general, local government authorities are able to intervene under section 69 of the act and they can intervene and make representations as to whether the premises is suitable to be licensed or whether the grant of the application may result in annoyance, disturbance or offence to persons who reside in the area.

**The CHAIR:** They are very much planning issues, are they not?

[11.20 am]

**Mr MINCHIN:** No; they can also have control through the planning process, because they can set their planning process, but they can specifically intervene.

**The CHAIR:** Yes, but they cannot talk about harm minimisation; that is not part of their role, given that they now have a public health aspect to them.

**Mr MINCHIN:** But they can object to an application.

**The CHAIR:** Only on planning grounds; that is what I am told.

**Mr MINCHIN:** No. They can intervene on those matters as to whether the premises is suitable as to whether undue offence or disturbance may have occurred to residents, but they can also exercise a right to object.

**The CHAIR:** Okay. I am told by my local government that they do not have that right. I will go back to them and show them the bit of *Hansard* that says, "You can object to these things", because they tell me that they cannot object, that they have the capacity in terms of the planning and the building of it and the impact in terms of the facility in terms of size and stuff like that, but in terms of any particular harm or harm-minimisation issues, they tell me they cannot.

**Mr MINCHIN:** They can under sections 73 and 74.

**The CHAIR:** I will tell them that; thank you very much.

**Mr R.S. LOVE:** I think that is the difference between the local government being the decision-maker and expressing a view.

**The CHAIR:** Yes. That is a very good point. On that basis, thank you very much.

**Mr R.S. LOVE:** Despite all the talk about Liquor Barns, I have not heard anything from you that there is any actual evidence of a causal relationship between the size of an outlet and the amount of alcohol that might be being consumed in the local area. I am wondering why there is so much hesitation about the design or the size of a particular outlet.

**The CHAIR:** There is information out there, member. We will get the McCusker people in here and I am sure they will help you with the debate.

**Mr R.S. LOVE:** I am sure they will try to convince me.

**The CHAIR:** Thank you very much.

**Hearing concluded at 11.22 am**

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