



*community way of life!*

## Clubs SA

### Licensed Clubs Association of SA

### Submission on Liquor Licensing Discussion Paper 2016

**Contact:**

Mike Penfold  
Chief Executive Officer  
222a Henley Beach Road  
Torrensville SA 5031  
T: (08) 8290 2200  
E:



## Contents

<b>1.</b>	<b>Introduction .....</b>	<b>3</b>
1.1.	Clubs SA .....	3
1.2.	Our Submission .....	3
<b>2.</b>	<b>Executive Summary and Recommendations.....</b>	<b>4</b>
2.1.	Executive Summary.....	4
2.2.	Recommendations .....	6
<b>3.</b>	<b>Club Licensing .....</b>	<b>9</b>
3.1.	Club Licence .....	9
3.2.	Trading Hours .....	10
3.3.	Entertainment.....	11
3.4.	Amalgamation of Clubs .....	11
3.5.	Plurality of Licences .....	12
3.6.	Dining and Reception Areas.....	12
3.7.	Extension of Licensed Area .....	13
3.8.	Form of Liquor Licence .....	13
<b>4.</b>	<b>Club Limited Licences .....</b>	<b>14</b>
<b>5.</b>	<b>Deregulation of Off Premises Sales .....</b>	<b>15</b>
<b>6.</b>	<b>Club Application Process .....</b>	<b>16</b>
6.1.	Advertising .....	16
6.2.	Objections.....	16
<b>7.</b>	<b>Club Fees.....</b>	<b>17</b>
7.1.	Application Fees.....	17
7.2.	Annual Liquor Licence Fees.....	17
<b>8.</b>	<b>Approvals.....</b>	<b>18</b>
8.1.	Committees.....	18
8.2.	Club Responsible Persons .....	19
8.3.	Crowd Controllers .....	20
<b>9.</b>	<b>Minors in Clubs .....</b>	<b>20</b>
9.1.	Access to Club Licensed Premises.....	20
9.2.	Signage.....	21
<b>10.</b>	<b>Club Profit Sharing .....</b>	<b>21</b>
<b>11.</b>	<b>Licensed Club Code of Practice .....</b>	<b>22</b>
<b>12.</b>	<b>Transitional Provisions .....</b>	<b>22</b>

## 1. Introduction

### 1.1. Clubs SA

Founded in 1919, Clubs SA is the trading name of the Licensed Clubs' Association of South Australia. Clubs SA is a not for profit association which provides assistance to the licensed club industry of South Australia. Clubs SA is also affiliated with Clubs Australia, a national body, ensuring that the interests of its members are represented at both the local and national levels.

Clubs SA's mission is to preserve, promote and advance the interests of member clubs and the club industry as a whole. Clubs SA has more than 400 members from sporting, ethnic, social and community clubs. It specialises in providing professional assistance to community club administrators in various areas including licensing matters, compliance with legislation and representation to Government agencies and other authorities. Clubs SA provides these vital services to member clubs for a nominal annual membership fee.

For nearly 100 years Clubs SA has been effectively representing the South Australian licensed club industry to government, media and the general public.

### 1.2. Our Submission

Recently the Deputy Premier released the "Liquor Licensing Discussion Paper" calling for ideas for reform with an emphasis on a safer drinking culture, red tape reduction and vibrancy. Then, on 30 November 2015, the Deputy Premier announced an independent review into South Australia's liquor licensing framework as regulated in the *Liquor Licensing Act 1997* ("the Act").

We believe that that liquor licensing reform and modernisation is long overdue and we applaud both of these initiatives, particularly from a club viewpoint. We are encouraged that the Government "*welcomes bold and brave ideas for proposed reform to ensure the best possible outcome for South Australia*" and we also look forward to playing a significant role in the consultative process associated with the independent review.

Many of our member clubs, including the State's peak sporting and community bodies, have indicated that they wanted to make submissions in response to the Discussion Paper and have decided that the best way to do this was to come together to create one collaborative document. To enable this to occur and to ensure the Government fully understands the issues facing licensed clubs and the wider communities they serve, these peak bodies and individual clubs have provided extensive input to Clubs SA. This input has been put together by Clubs SA into a joint submission and represents a united voice.

Clubs SA and the many contributors to this submission strongly support a modern, enlightened and innovative approach to liquor licensing that provides safe and vibrant environments for liquor consumption and enables small businesses such as not-for-profit clubs to flourish and hold their rightful place in the community.

## 2. Executive Summary and Recommendations

### 2.1. Executive Summary

There are over 1,250 licensed clubs in South Australia. These not-for-profit community clubs are vital to the fabric of our society as all are small businesses run for the benefit of grassroots communities, both in metropolitan and regional areas. They provide services not only to their members but to all people who live, work and play in their surrounding areas.

Many of the members represented by Clubs SA are peak bodies with affiliated clubs that do not hold a liquor licence but are impacted by liquor regulation. This can range from those who have not sought a licence because the process appears too complex and costly, to those who apply for limited licences.

Clubs provide a safe meeting place for diverse groups of people including the young, the elderly, servicemen and women (both returned and serving), charities, and people from many different cultural backgrounds where they pursue their sporting, recreational and common interests.

Most clubs are run by dedicated volunteers, and social and economic changes over the last few decades have made it increasingly difficult for clubs to make ends meet financially. There has been a constant roll call of clubs striving to fend off closure. This has occurred for a number of reasons, including:

- general economic weakness;
- increased demand for services without financial backing;
- regional downturns;
- cost increases, including electricity and water; and
- entertainment alternatives.

The *National Club Census 2011* prepared by ClubsNSW and KPMG provides significant statistical information about clubs in Australia. A few key points relating to South Australian clubs are as follows:

- 700,000 people or nearly 60% of the population are members of clubs;
- 8,400 people are employed in clubs (2,110 full time, 1,150 part time, 4,950 casual and 180 trainees or apprentices);
- 30% of employees are aged 24 years or under;
- 40% of employees are aged between 25 and 44 years; and
- 27% of employees are aged between 45 and 64 years.

These statistics indicate how many people in the community benefit from the activities of not for profit clubs. In addition to 700,000 members and their families, there are thousands more who benefit through the support of clubs and the facilities they provide.

Clubs provide employment opportunities to all age groups in full time, part time, casual and trainee roles. These opportunities are particularly important in regional areas where any economic downturn always hits hard.

Beverage sales are most licensed clubs major source of income and any reduction in this has a direct negative impact on the ability of clubs to provide the facilities and support that communities rely on.

While clubs agree that legislative reform in liquor licensing is long overdue, they also agree that such reform must support and enhance club operations, as the opposite would cripple their ability to provide their services.

This is the reason we do not support the sale of alcohol in supermarkets and recommend an increase in standard trading hours for clubs and that clubs be permitted to sell liquor for consumption off their premises.

However, we understand that we cannot achieve the support and improvement of club operations so desperately needed without some compromise. That is why we have recommended that the limited club licence class be abolished and that all clubs hold the same club licence with the same licence conditions.

We propose that some exemptions currently enjoyed by over 800 limited club licence holders will disappear making them liable for the payment of an annual liquor licence fee.

These clubs will also lose their exemption from training requirements which will mean that any person selling or supplying alcohol will have to be trained in the responsible service of alcohol. Clubs can see the benefits in all staff involved in the service of liquor being trained and we believe these additional financial and regulatory imposts will be outweighed by the lifting of restrictions currently imposed on limited club licences and by further amendments to the Act that support and enhance general club operations.

The Government has acknowledged that not for profit club liquor operations are low-risk. One need look no further than the current annual liquor licence fee structure for evidence of this. For example, clubs trading up to 2am, with up to 1,000 people, pay the same as hotels with 200 people.

Clubs SA strongly believes that this acknowledged low-risk nature of club operations, together with the not for profit status of clubs, should be reflected in all aspects of liquor licensing.

Our submission considers reforms that would assist clubs to not only maintain their essential revenue stream but enhance it. It focuses on issues critical to the future of clubs as summarised under the following headings:

Club Licensing:

- one licence for all clubs and all restrictions and exemptions for the current limited club licence removed;
- increased standard trading hours;
- less restrictions on provision of entertainment;
- allow two or more clubs to easily amalgamate;
- permit two or more clubs to occupy the same premises simultaneously;
- remove the requirement for designated dining and reception areas;

- allow extension of licensed areas for sporting grounds; and
- amend the form of the licence to detail trading hours and current conditions

#### Club Limited Licences

- clubs are exempt from payment of application fees for limited licences; and
- allow a limited licence to be granted for a set number of occasions in a year

#### Deregulation of Off Premises Sales

- sale of alcohol in supermarkets not permitted; and
- clubs permitted to sell liquor for consumption off premises

#### Club Application Process

- advertise applications on CBS website at no fee rather than in newspapers; and
- replace objections with submissions in the case of applications for standard trading rights

#### Club Fees

- reduce or abolish application fees for clubs to reflect not-for-profit status and low risk nature of operations; and
- all clubs pay the same level 1 annual fee unless exempted by the Commissioner

#### Approvals

- clubs required to notify the Commissioner with details of committee members and changes to committees rather than seek formal approval;
- responsible person is notified to the Commissioner rather than approved; and
- crowd controllers approved under only one piece of legislation

#### Minors in Clubs

- minors to have access to club premises at any time if in the company of a responsible adult; and
- signage relating to minors to be more appropriate both in wording and location

#### Club Profit Sharing

- no requirement for limited licence or other approval for genuine club fundraising activities

#### Licensed Club Code of Practice

- statutory licence conditions including those relating to Club standard and extended trading hours, carry off, entertainment consent, minors and signage contained in a Licensed Club Code of Practice

## **2.2. Recommendations**

Many of the following recommendations provide significant benefits to clubs in relation to trading rights and reductions in fees. Others impose financial and regulatory burdens. However, when viewed collectively, they provide a fair and equitable outcome for all clubs in addition to promoting a safe drinking culture, reducing red tape and ensuring a vibrant and sustainable club industry.

**Recommendation 1**

The limited club licence is abolished with all current licence holders granted full club licences with minimal administrative burden on the clubs concerned. There will be no exemptions from training requirements regarding responsible service of alcohol for hundreds of clubs.

**Recommendation 2**

Standard trading hours for club licences are 5am to midnight every day, midnight to 2am on Saturdays, Sundays and Public Holidays and at any time with a meal.

**Recommendation 3**

Entertainment, other than that of a prescribed kind, is permitted under a club licence at any time during standard trading hours.

**Recommendation 4**

Two or more licensed clubs are permitted to amalgamate into a new club entity and continue to operate in previously licensed premises with standard trading rights. No fee is payable for an application to amalgamate.

**Recommendation 5**

Two or more clubs holding licences over the same premises are permitted to use those premises at any time with the club/s conducting operations on any given day taking responsibility for those operations.

**Recommendation 6**

Designated dining and reception areas are abolished. Clubs are permitted to provide liquor and meals, including all types of food, in all areas without the need for those areas to be designated for dining. Clubs are also permitted to provide liquor at pre-booked functions (including wine tastings) at any time in any area of the licensed premises without the need for designated reception areas.

**Recommendation 7**

Clubs are allowed to include their sporting grounds and surrounding areas as part of their licensed premises, for no fee, for an appropriate, agreed number of days every year to facilitate events such as home games, golf days, fetes etc.

**Recommendation 8**

Clubs SA recommends that all liquor licences contain details of actual trading and entertainment hours and any conditions specific to the licence and that a review be undertaken to update and re-issue existing licences to this effect.

**Recommendation 9**

Holders of club licences are exempt from payment of application fees for limited licences.

**Recommendation 10**

Clubs are granted a limited licence to cover a set number of occasions in a year to relieve the administrative burden on clubs and Government.

**Recommendation 11**

Supermarkets are not permitted to sell alcohol.

**Recommendation 12**

Clubs are permitted to sell liquor to all patrons, during trading hours, for consumption off the licensed premises, and at any time to members through direct sales transactions, without the restrictions currently imposed. Drive-through bottle shops in clubs are not permitted.

**Recommendation 13**

Club liquor licensing applications are advertised free of charge on the CBS website rather than in newspapers.

**Recommendation 14**

Clubs SA recommends that applications for new club licences with standard trading rights are not subject to objections, but submissions from councils or the public would be considered by the Commissioner.

**Recommendation 15**

Application fees payable by clubs are reduced or abolished to reflect their not-for-profit status and the low-risk nature of club operations including the reduction in administrative burden on Government.

**Recommendation 16**

The annual liquor licence fee for all clubs who cease trade by 2am is set at level 1, currently \$109, and, in accordance with the existing process, any application for fee exemption due to financial hardship is considered by the Commissioner on a case by case basis.

**Recommendation 17**

Club committee members, and changes to committees, are notified to the Commissioner rather than seeking formal approval of all persons concerned. No fees are payable for notifications.

**Recommendation 18**

Club responsible persons are notified to the Commissioner by licensees, without fee, rather than being subject to formal approval. All responsible persons must undergo training in the responsible service of alcohol and can work in more than one premises.

**Recommendation 19**

It is recommended that crowd controllers are approved only under the *Security and Investigation Industry Act 1995* and are permitted to work on licensed premises on successful completion of training in the responsible service of alcohol. Penalties apply for crowd controllers who work on licensed premises without that training and for licensees who knowingly employ an untrained person.

**Recommendation 20**

Minors are allowed to attend club licensed premises at any time:

- in the company of a responsible adult; or
- for the purposes of having a meal; or
- attending an underage function in an area of the premises where liquor is not supplied, consumed or available.

**Recommendation 21**

Each entrance to club premises displays a sign detailing conditions under which minors will be permitted on the premises (s112 sign) while each point of sale (e.g. bar area) displays a sign about the prohibition of liquor supply to, and consumption by, minors (s113 sign).

**Recommendation 22**

When clubs are conducting genuine fundraising activities based on proceeds of liquor sales, in conjunction with other liquor licence holders, neither a limited licence nor the approval of the Commissioner is required.

**Recommendation 23**

Clubs SA supports statutory club licence conditions in relation to standard and extended trading hours, carry off, entertainment, minors, signage etc. being included in a Licensed Club Code of Practice.

**Recommendation 24**

No club licensee will lose any trading rights as a result of a review. Any amendments required to club licences to enhance trading rights are applied after communication with licensees but with minimal licensee involvement. Clubs SA is consulted in the design and content of club licensee communications and any new forms.

### 3. Club Licensing

#### 3.1. Club Licence

Clubs SA supports a review of the number of liquor licence categories and recommends only one licence for all clubs.

This would mean the abolition of the current limited club licence, including the restrictions and exemptions that apply.

Current restrictions include:

- club will not hold a gaming licence;
- club will only sell or supply liquor to members or guests of members; and
- no member will be permitted to have more than 5 guests at any time.

Current exemptions include:

- exemptions from training in responsible service of alcohol for licensees and responsible persons; and
- exemption from payment of an annual fee.

All current holders of limited club licences should be granted full club licences with minimal administrative burden on the clubs.

Clubs SA understands the implications of the abolition of this licence type, particularly in relation to the current exemptions from training requirements. We believe that this training becoming mandatory across the club industry will promote a safer drinking culture and minimise the harm associated with the provision of alcohol with staff in hundreds of clubs being required to undertake training.

In relation to the lifting of the restriction from holding a gaming licence, any clubs now wishing to conduct gaming will have to make application in accordance with the gaming legislation.

#### **Recommendation 1**

The limited club licence is abolished with all current licence holders granted full club licences with minimal administrative burden on the clubs concerned. There will be no exemptions from training requirements regarding responsible service of alcohol for hundreds of clubs.

### **3.2. Trading Hours**

The times that people seek entertainment have changed over the years but often liquor trading hours take a long time to catch up, especially if reviews are few and far between, as has been the case in South Australia. Current club trading hours do not reflect today's modern lifestyle where people now want to stay out later on weekends and Public Holidays, get together for champagne breakfasts on Sundays, go to sporting events on Good Friday, or start Christmas Day with a drink amongst friends before meeting family obligations.

Standard club trading hours need to reflect the changes in society's needs and expectations so that clubs are not required to make expensive applications for permanent changes to hours or suffer the ongoing administrative burden of applying for limited licences to better serve their members' current, modern needs.

Standard trading hours for clubs of:

- 5am to midnight every day;
- midnight to 2am on Saturdays, Sunday and Public Holidays; and
- at any time with a meal

would much better reflect patrons' modern day needs and allow the vast majority of clubs to trade without having to apply for limited licences or extended trading authorisation to cover functions that finish by 2am on weekends.

The safer drinking culture supported by Codes of Practice and the responsible service of alcohol minimise any risk with what would be a relatively small increase in overall trading hours but a significant financial and administrative benefit to these not for profit small businesses, i.e. clubs.

**Recommendation 2**

Standard trading hours for club licences are 5am to midnight every day, midnight to 2am on Saturdays, Sundays and Public Holidays and at any time with a meal.

**3.3. Entertainment**

As stated in the Discussion Paper, if a club wanted to provide entertainment, it had to specify what days and times the entertainment would be provided and what types of entertainment would be available.

Clubs SA is pleased that Parliament has passed legislation that will only require applicants to apply for consent for entertainment after midnight or for certain prescribed entertainment.

Clubs SA supports the provision of entertainment (other than certain prescribed entertainment) at any time during standard trading hours as a trading right. This would reduce red tape associated with the application process and, in the case of clubs, enhance the vibrancy of the community experience.

**Recommendation 3**

Entertainment, other than that of a prescribed kind, is permitted under a club licence at any time during standard trading hours.

**3.4. Amalgamation of Clubs**

Many small clubs face serious financial problems in trying to maintain their premises, especially sporting grounds, but can see no way out other than to close their doors when the money runs out. One solution that would assist such clubs would be to amalgamate with another club or clubs in the same area and/or with similar aims and jointly conduct their operations without losing any clubs' identity.

There needs to be a simple and fee free process within the liquor licensing framework to allow clubs to amalgamate, combine licences and operate in one premises without the need for an expensive application.

For example, Club A and Club B both hold liquor licences over different premises. They decide to amalgamate and incorporate a new association, Club AB, and conduct their liquor operations in what were the licensed premises of Club A with the trading rights as applicable to the original Club A licence. The legislation should provide a simple means for this to occur, with the trading rights being able to be extended to standard hours if this was not previously the case and no reduction in trading hours had occurred as a result of a disciplinary process.

**Recommendation 4**

Two or more licensed clubs are permitted to amalgamate into a new club entity and continue to operate in previously licensed premises with standard trading rights. No fee is payable for an application to amalgamate.

**3.5. Plurality of Licences**

For some clubs, amalgamation is not the answer. They already 'share' premises with detailed conditions on their licences about when they can and cannot use the licensed premises.

It is clear both the clubs and the licensing authority had the best of intentions in relation to these licences, some granted over 20 years ago, however the conduct of clubs has changed dramatically and the way they engage their members and raise their revenue has also changed. The cricket club may have thought it would never need the licensed premises during the winter and the football club could not have thought about summer events, but the reality is that clubs' playing seasons now overlap and many fundraise throughout the entire year and keep members interested by conducting quiz nights and other functions for which they have to apply for limited licences.

Clubs holding licences over the same premises should be able to use those premises at any time whether in or out of season. Responsibility for the conduct of liquor operations would lie with the club conducting those operations with the potential for joint functions, where all clubs accept responsibility.

**Recommendation 5**

Two or more clubs holding licences over the same premises are permitted to use those premises at any time with the club/s conducting operations on any given day taking responsibility for those operations.

**3.6. Dining and Reception Areas**

The idea of a meal that is served in a designated dining area to people seated at a table is now outdated. We didn't have tapas, nachos, sliders and other foods widely accepted today as meals when the current legislation was drafted. Club bars are now places where such food is often available but these are not designated as dining areas under the Act.

Food service has moved on and people now have high expectations and value choice. They want to eat all sorts of food, in all sorts of licensed areas, in all sorts of positions – sitting not only on chairs but also on the floor, standing, leaning on a bar.

The requirement for designated reception areas is also outdated as is the definition of a reception. A club should be permitted to enable one of its sponsors for example to hold a wine tasting event without the need to apply for a limited licence.

**Recommendation 6**

Designated dining and reception areas are abolished. Clubs are permitted to provide liquor and meals, including all types of food, in all areas without the need for those areas to be designated for dining. Clubs are also permitted to provide liquor at pre-booked functions (including wine tastings) at any time in any area of the licensed premises without the need for designated reception areas.

**3.7. Extension of Licensed Area**

Many clubs with sporting grounds currently hold liquor licences that do not include the sporting ground itself or the surrounding areas as part of the licensed premises.

If clubs want to conduct functions, for example on an oval, or set up booths around an oval on match day, they must apply for a limited licence.

Some luckier clubs are, under their licence conditions, permitted to include sporting grounds and their surrounds as part of their licensed premises on a set number of occasions per year which more than covers special events like golf days, fetes and fairs relating to club activities and home games.

All clubs should be allowed this option as part of the application process and clubs with existing licences should be able to have their sporting grounds and surrounding areas included on their licences at no cost and with minimal administrative burden.

**Recommendation 7**

Clubs are allowed to include their sporting grounds and surrounding areas as part of their licensed premises, for no fee, for an appropriate, agreed number of days every year to facilitate events such as home games, golf days, fetes etc.

**3.8. Form of Liquor Licence**

Liquor licences, unlike for example a driver's licence, rarely detail exactly what the licensee is permitted to do. More often than not, they refer to trading rights under various sections of the Act (some of which may have been amended since the licence was granted) without detailing any specific trading hours.

Following recent legislative amendments relating to entertainment consent, a fact sheet available on the CBS website advises that existing entertainment conditions will not apply between 11am and

midnight and that this includes conditions previously imposed by the licensing authority as a result of conciliation following a noise complaint. There appears to be no plan to amend licences to reflect these changes adding further to the confusing nature of the licence.

Although required to be displayed in the licensed premises, licences do not provide patrons, SAPOL or CBS liquor inspectors with any real insight into what the licensee is permitted to do.

If these licences were updated to detail actual trading hours, either on the licence or as an attachment, and current conditions, they would become an effective tool in assisting licensees to ensure legislative compliance and be far more informative for patrons and inspectors.

**Recommendation 8**

Clubs SA recommends that all liquor licences contain details of actual trading and entertainment hours and any conditions specific to the licence and that a review be undertaken to update and re-issue existing licences to this effect.

#### **4. Club Limited Licences**

Limited licences attract an application fee and, in some cases, a licence fee. However, no application fee is payable if the limited licence is for a function that, in the opinion of the licensing authority, is to be held for a charitable or other community purpose.

Because of their not for profit nature, all liquor operations conducted by clubs are for community purposes and they should not have to pay a fee for limited licences.

**Recommendation 9**

Holders of club licences are exempt from payment of application fees for limited licences.

One country football club based in Port Pirie plays "away" in Port Augusta up to 6 times a year (or more with finals) and hires a bus to transport its players. In order to provide the players with one or two drinks on the bus on the way home, the club is required to apply for a limited licence for each occasion currently costing \$79 per application. For a one hour trip home this is a significant financial and administrative burden, particularly for such a low risk event.

Flexibility in the grant of one limited licence for a set number of occasions, rather than for specific dates, would relieve the administrative burden on clubs and Government.

**Recommendation 10**

Clubs are granted a limited licence to cover a set number of occasions in a year to relieve the administrative burden on clubs and Government.

## 5. Deregulation of Off Premises Sales

Clubs SA believes that allowing supermarkets to sell alcohol will be devastating to clubs' on premises liquor sales (both volumes and margins) and therefore reduce the bottom line profits of all not-for-profit clubs. Any proliferation of supermarket liquor sales will threaten the already difficult financial position of clubs and, in turn, threaten the vital services that clubs provide to their communities.

We also believe that the supermarkets will ultimately sell discounted "own or home brands" which will decrease the significant sponsorship to clubs made available from larger beer and wine suppliers who are large local club sponsors. Much of this sponsorship is based on club liquor sales and if sales drop, so will sponsorship.

Clubs are not faceless entities and they return their profits to their local communities. They represent people – and not just their many employees and members - but also all the people in the sporting teams the clubs support, the crowds who enjoy club facilities, the huge number of families, the elderly and children who rely on the unique services these clubs offer. Clubs play central roles in their local communities, not only supporting local sporting activities but acting as social hubs, providing affordable entertainment, dining and function spaces.

Clubs SA supports deregulation and competition but believes that allowing supermarkets to sell alcohol is not the way to go as the risks to community club revenue streams and the huge benefits clubs provide to grassroots communities are too great.

### **Recommendation 11**

Supermarkets are not permitted to sell alcohol.

A better option to create fair and balanced competition amongst liquor licensees would be to allow clubs to sell liquor to all patrons, during trading hours, for consumption off the licensed premises and at any time to members through direct sales transactions, without the outdated restrictions currently imposed e.g. that the licensing authority must be satisfied that members cannot get packaged liquor elsewhere without "inconvenience".

In addition to creating some competition, although clubs would never have take off sales on the same scale as hotel bottle shops and other retail outlets (the clubs' suppliers), it would assist clubs to maintain existing critical revenue streams as their patrons would not be enticed into supermarkets to buy their packaged liquor and perhaps abandon their plans to visit their local club.

All profits from these liquor sales would be put back into local communities who rely on viable and sustainable not-for-profit clubs for the lifestyle and community-focused services the clubs provide.

Clubs are not interested in creating drive-through bottle shops as these do not fit with their family and community focused trading model, therefore legislation restricting clubs from operating such sales outlets in the future would be encouraged.

The role that not-for-profit clubs play in tourism throughout the state should also not be underestimated and could be greatly enhanced.

For example, travellers wanting to sample some of the magnificent wines from any of South Australia's many wine regions often stop at a club to enjoy lunch or dinner in a relaxing atmosphere as part of their overall experience. If a club stocks some local wines that the tourist has experienced while dining in the club and would like to take some home, the club should be permitted to sell it to them. This would not only support local wineries but the club profits would be returned to the whole community.

**Recommendation 12**

Clubs are permitted to sell liquor to all patrons, during trading hours, for consumption off the licensed premises, and at any time to members through direct sales transactions, without the restrictions currently imposed. Drive-through bottle shops in clubs are not permitted.

## 6. Club Application Process

The liquor licensing application process can be tedious and expensive and while we appreciate past efforts to simplify the process we believe that more can be done.

### 6.1. Advertising

Advertising requirements for applications for club licences should acknowledge the on-line world in which we all live and specifically allow applications to be advertised on the internet rather than in newspapers. The CBS website would be appropriate as all applications would be located on the one site. There should be no cost for this as it should be part of the application process.

**Recommendation 13**

Club liquor licensing applications are advertised free of charge on the CBS website rather than in newspapers.

### 6.2. Objections

Given that the Act requires that the relevant licensing authority have regard to the objects of the Act in any decision making process regarding liquor licensing, there are far too many opportunities for objections to be lodged in both the planning and liquor approval processes, thereby prolonging the application process and making it very expensive.

Following the example of the small venue licence, in relation to any application for a new club licence with standard trading rights (including standard hours and entertainment only during those hours), only submissions from councils or the public should be considered - not objections. With new licence applications, there can be no precedent for noise related concerns that often form the basis of objections.

If the application is for an extension of trading rights to an existing, operating licence, the Council and public objection process should be retained.

**Recommendation 14**

Clubs SA recommends that applications for new club licences with standard trading rights are not subject to objections, but submissions from councils or the public would be considered by the Commissioner.

## **7. Club Fees**

Any review of the liquor licensing framework should also involve a review of fees payable.

### **7.1. Application Fees**

Application fees for not-for-profit clubs applying only for standard trading rights should not be the same as those for higher-risk hotels or late night entertainment venues.

Rationalisation of licence classes will provide the opportunity to make application fees more appropriate to the class of licence and provide for a reduction in the fees payable by not-for-profit clubs. The fees payable should be based on the administrative burden on Government - for example, if an application or notification from a club is merely filed by CBS then the fee should be abolished and if the processing time for a low-risk club application is half that of the time taken for a similar application for another licence type, then the fee payable by clubs should be reduced by half.

**Recommendation 15**

Application fees payable by clubs are reduced or abolished to reflect their not-for-profit status and the low-risk nature of club operations, including the reduction in administrative burden on Government.

### **7.2. Annual Liquor Licence Fees**

Currently, holders of full club licences pay a level 1 annual liquor licence fee of \$109 if they cease trade by 2am and have an approved capacity of up to 1,000 people. This fee jumps to a level 2 fee of \$758 if they have more than 1,000 people. For hotel licences, the capacity limit for level 1 and 2 fees is 200 people. Holders of restaurant, residential and producer's licences pay the level 1 fee for trade up to 2am regardless of capacity.

Based on information provided by CBS, Clubs SA understands that there are eight clubs trading after 2am. A number of these also hold gaming licences indicating that their focus at this time is on gaming operations rather than liquor. It is clear that clubs are not about significant early morning trade. They are about communities who want to gather to celebrate important community and family events and therefore be home at a reasonable hour.

The current annual licence fee structure recognises the low-risk nature of club operations compared with those of hotels as it allows clubs to have a higher patron capacity for payment of the same fee.

Over 800 holders of limited club licences are exempt from the payment of an annual liquor licence fee. Abolition of this licence class and granting full club licences to these clubs will mean that this exemption will cease and those clubs will pay the relevant annual fee for a full club licence. The licensed premises of clubs can be very large and they have significant approved capacities - often over 1,000 people - but this doesn't mean that thousands of people attend the club every day and night or that they are a more significant risk. Often this number is approved because that is how many people the licensing authority believes can be accommodated in the licensed area, rather than the actual number that regularly attend the club.

If a club knows that on regular occasions throughout the year it will have sporting events, functions or other events at which significantly higher number of people will attend as compared with regular trading days, it will seek a higher approved capacity to cover those events rather than apply for limited licences on a regular basis.

It would be appropriate for all clubs with standard trading hours to pay the same level 1 annual fee of \$109, regardless of the approved capacity. This would be consistent with the annual fee applicable to other low risk licence classes.

Should any club wish to claim exemption from the fee due to financial hardship, the existing process would remain whereby each application is considered on a case by case basis by the Commissioner.

**Recommendation 16**

The annual liquor licence fee for all clubs who cease trade by 2am is set at level 1, currently \$109, and, in accordance with the existing process, any application for fee exemption due to financial hardship is considered by the Commissioner on a case by case basis.

## **8. Approvals**

### **8.1. Committees**

Clubs are not-for-profit organisations which exist to support their communities, run sporting teams, and provide facilities and services.

Currently, clubs holding limited club licences are required to keep the Commissioner informed of any changes to the composition of the committee or management of the club.

Clubs holding the full club licence, with or without gaming, must have all committee members approved as fit and proper persons on grant of the licence. When subsequent changes to committees occur, clubs with gaming must apply for the new committee members to be approved as fit and proper persons each time. However, clubs without gaming are still required to make application to the Commissioner for approval for those persons to join the committee and then pay the appropriate fee.

Given the low-risk nature of licensed clubs, committees should not be required to go through any application or approval process but rather all clubs would notify the Liquor and Gambling Commissioner of their initial committee together with any changes. The Commissioner would retain the right to notify a club if he considered a committee person was not fit and proper, and that club would have to take action to have the person removed from the committee.

The notification process would not attract any fees, and would therefore significantly reduce the financial and administrative burden on clubs (not to mention the administrative burden on Government) without threatening the integrity and proper conduct of businesses run on club premises.

**Recommendation 17**

Club committee members, and changes to committees, are notified to the Commissioner rather than seeking formal approval of all persons concerned. No fees are payable for notifications.

**8.2. Club Responsible Persons**

Clubs SA applauds recent legislative changes that enable responsible persons to work in any licensed premises, but believes that more can be done to reduce red tape and cut licensee costs without impacting on the integrity of the industry and the responsible service of alcohol.

A significant number of clubs have already been granted an exemption from the requirement to have a responsible person supervising liquor operations. We propose that in consideration of the low-risk nature of the operations of all not-for-profit clubs, these exemptions would remain, but all other clubs would be able to notify their responsible person/s to the Commissioner rather than the current application and approval process.

Amendments to the *Gaming Machines Act 1992* (the Gaming Act) allow all gaming licensees to 'notify', without fee, staff members who will act as gaming managers and gaming employees. This information is provided online and can be used by SAPOL and the Liquor and Gambling Commissioner to ascertain if any of these persons should be prohibited from such employment. The Gaming Act also requires these staff members to undergo appropriate training within certain timeframes. No fees are payable for these notifications.

A similar notification process for responsible persons under liquor, as that provided for gaming employees, is recommended including providing access for SAPOL and the Commissioner to ensure unsuitable persons are prohibited. However, unlike gaming, responsible persons supervising club liquor operations should be able to work in more than one premises after their initial notification. All responsible persons would be required to undergo training in the responsible service of alcohol.

**Recommendation 18**

Club responsible persons are notified to the Commissioner by licensees, without fee, rather than being subject to formal approval. All responsible persons must undergo training in the responsible service of alcohol and can work in more than one premises.

### 8.3. Crowd Controllers

The approval of crowd controllers under two Acts is unnecessary red tape.

A liquor licensee should only employ a crowd controller who has the necessary approval under the *Security and Investigation Industry Act 1995* and who has successfully completed training in the responsible service of alcohol. If a crowd controller works on licensed premises without completing that training, the crowd controller and the licensee (if the licensee knew the training had not been completed) should be guilty of an offence.

#### **Recommendation 19**

It is recommended that crowd controllers are approved only under the *Security and Investigation Industry Act 1995* and are permitted to work on licensed premises on successful completion of training in the responsible service of alcohol. Penalties apply for crowd controllers who work on licensed premises without that training and for licensees who knowingly employ an untrained person.

## 9. Minors in Clubs

### 9.1. Access to Club Licensed Premises

These days, children are going to bed a lot later than we, or our grandparents did. A modern liquor licensing framework needs to reflect this so the following issues could not occur:

- the 16 year old daughter of the Mum who is having her 40th birthday at the club can't go home with Mum & Dad at 1am when the function finishes, she has to go home with Nan or Pop before midnight;
- the 17 year old bridesmaid can't stay for the entirety of a wedding reception as she has to be off licensed premises prior to midnight;
- children at a country dance with their parents have to leave before the dance finishes; and
- grandchildren can't stay until the end of 50th wedding anniversary party for their grandparents.

Rather than club licensees having to seek approval for areas where minors can enter or remain during particular hours, legislation should be amended to make it an offence for minors to be on club licensed premises unless the minor:

- is in the company of a responsible adult; or
- on the premises for the purposes of having a meal; or
- attending a function in an area of the premises at which entertainment mainly for people under 18 years is provided and liquor is not supplied, consumed or available in that area.

Such amendments, with significant penalties for breaches, would allow children to attend low-risk family and community functions in clubs, particularly in regional areas, at any time subject to appropriate conditions.

Clubs SA would support a definition of responsible adult similar to that contained in the Victorian *Liquor Reform Control Act 1998*:

"responsible adult, in relation to a person who is under the age of 18 years, means a person who is of or over the age of 18 years and who is -

- (a) the younger person's parent, step-parent, guardian or grandparent; or
- (b) the younger person's spouse; or
- (c) a person who is acting in place of a parent and who could reasonably be expected to exercise responsible supervision of the younger person."

**Recommendation 20**

Minors are allowed to attend club licensed premises at any time:

- in the company of a responsible adult; or
- for the purposes of having a meal; or
- attending an underage function in an area of the premises where liquor is not supplied, consumed or available.

## 9.2. Signage

Signage requirements in relation to minors, although important, can cause confusion to licensees and patrons in relation to the information on the signs and their location. This confusion can result in the signs losing their relevance and impact.

Section 111 of the Act requires signs at each entrance to an area in the licensed premises declared out of bounds to minors. Section 112 requires signs at each entrance to the premises and at each entrance to areas where minors are prohibited detailing prohibited hours, while section 113 requires signs in each area of the premises in which minors are allowed that state that liquor must not be supplied to or consumed by minors.

Signage requirements should be simplified to make clear the conditions under which minors are permitted in licensed premises and the offences and penalties for liquor supply to, or consumption by, minors. The signs could be made more relevant by appropriate placement.

**Recommendation 21**

Each entrance to club premises displays a sign detailing conditions under which minors will be permitted on the premises (s112 sign) while each point of sale (e.g. bar area) displays a sign about the prohibition of liquor supply to, and consumption by, minors (s113 sign).

## 10. Club Profit Sharing

Clubs (especially sporting clubs), whether licensed or not, are under constant pressure to raise funds to further the fulfilment of their objects.

It has become practice for them to partner with the holder of a liquor licence – ie producers licence, hotel licence, direct sales licence or retail liquor merchants licence. Liquor, (especially bottled table

wine), is sold to supporters of the club on the basis that the proceeds of sale are divided in some agreed manner between the club and the holder of the licence.

For such activity to be lawful, it must be conducted under a limited licence or the profit share "arrangement" must be approved by the Commissioner pursuant to section 99 of the Act. This may incur a fee and is an administrative burden on the applicants and the Government.

This is a very low risk arrangement and the need to seek a licence or approval for this type of fundraising is unnecessary red tape.

**Recommendation 22**

When clubs are conducting genuine fundraising activities based on proceeds of liquor sales, in conjunction with other liquor licence holders, neither a limited licence nor the approval of the Commissioner is required.

## 11. Licensed Club Code of Practice

Licence conditions take the guess work out of compliance with liquor licensing legislation as has been shown with both the General and Late Night Codes of Practice. These Codes contain licence conditions that are clear and simple to understand, are easily reviewable and can be amended without the restrictions of legislative change.

Although some licences may require special conditions as a result of complaints or disciplinary action, statutory licence conditions in relation to standard and extended trading hours, carry off, entertainment, minors, signage etc. could be included in a new Licensed Club Code of Practice.

Capturing these trading rights and obligations in an easy to understand Code would greatly assist clubs with compliance and reduce the administrative burden on Government when amendments are required.

**Recommendation 23**

Clubs SA supports statutory club licence conditions in relation to standard and extended trading hours, carry off, entertainment, minors, signage etc. being included in a Licensed Club Code of Practice.

## 12. Transitional Provisions

As a result of a review of the liquor licensing framework, no club licensee should receive any less trading rights than those held under an existing licence.

However, Clubs SA understands that legislative amendments may require action by licensees to retain existing conditions or take advantage of new extended trading rights.

Where possible, for example with a change to standard trading hours, licensee action should not be required. Rather a new licence should be issued after timely communication with licensees.

If any licensee bulletins or new forms are designed they must be clear and simple and Clubs SA could offer assistance by being actively involved in the design process.

These issues are particularly important for the holders of club licences who are often volunteers donating their time in support of their local communities.

**Recommendation 24**

No club licensee will lose any trading rights as a result of a review. Any amendments required to club licences to enhance trading rights are applied after communication with licensees but with minimal licensee involvement. Clubs SA is consulted in the design and content of club licensee communications and any new forms.