



Department of
**Local Government, Sport
and Cultural Industries**

Liquor Commission of Western Australia

2020-21 Annual Report



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Availability in other formats

This publication can be made available in alternative formats. The report is available in PDF format at www.liquorcommission.wa.gov.au.

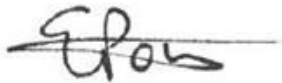
People who have a hearing or speech impairment may call the National Relay Service on 133 677 and quote telephone number (08) 6551 4888.

Statement of Compliance

Hon. Reece Whitby, MLA
Minister for Racing and Gaming

In accordance with section 9K of the *Liquor Control Act 1988*, I am pleased to present, for your information and presentation to Parliament, the Annual Report on the activities of the Liquor Commission of Western Australia for the financial year ended 30 June 2021.

The Annual Report has been prepared in accordance with the provisions of section 9K(2) of the *Liquor Control Act 1988*.

A handwritten signature in black ink, appearing to read 'EPower', with a horizontal line extending to the right.

Emma Power
A/Chairperson

29 September 2021

Overview of Agency

Executive Summary

It is my pleasure to present the Annual Report of the Liquor Commission of Western Australia for the year ended 30 June 2021.

During the year in review, 26 new applications were lodged with the Liquor Commission and five applications were carried over from 2019-20. As at 30 June 2021, the Commission had determined 25 applications, six applications were discontinued, one application was adjourned sine die and 11 applications were carried over to 2021-22.

This reflects a similar workload for the Commission to the last occurring period, indicating that COVID 19 is still impacting the industry.

It was a very interesting year for the Liquor Commission with the introduction of section 36B of the *Liquor Control Act 1988* which has created a new regime in respect to the issue of proliferation of packaged liquor outlets and has required contemplation of new matters under the Act.

The upcoming Supreme Court appeal of *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing GDA 7 of 2021* relating to the interpretation of section 36B(4) has also resulted in a number of applications to the Commission being adjourned or delayed where this section would also be under consideration.

The Commission has further seen a significant increase in appeals of section 115AD barring Orders during this reporting period.

The Liquor Commission has also undergone substantial changes to our Commissioners and, in particular, the retirement of Mr Seamus Rafferty as Chairperson after more than a decade of service.

The Liquor Commission will certainly miss Seamus' expertise and contribution to the Commission. His enthusiasm and dedication to his role were much admired by his fellow Commissioners.

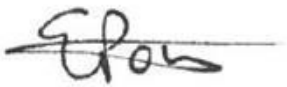
In addition, Mr Alex Zilkens, who has been a valued member of the Commission since 2014, retired from the Commission in June 2021. Alex's careful and insightful consideration of matters will be greatly missed.

The tradition of Commission Members becoming judicial officers also continued with Ms Sarah Oliver being sworn in as a magistrate of the Magistrates Court. I am sure she will do an excellent job as magistrate and wish her well in this new endeavour.

I am sure each of these valued Commission Members will continue to achieve excellence into the future.

Due to Seamus' retirement Ms Kate Pedersen was appointed as the new Chairperson of the Liquor Commission in January 2021 and I look forward working with her on her return from leave in late 2021.

I also would like to take this opportunity to thank all Commission members for their contribution to the effective operation of the Commission throughout the year, as well as staff from the Department of Local Government, Sport and Cultural Industries for their ongoing support.

A handwritten signature in black ink, appearing to read 'E Power', with a horizontal line extending to the right.

Emma Power
A/Chairperson

Operational Structure

Enabling Legislation

The Liquor Commission (the Commission) is established under section 8 of the *Liquor Control Act 1988* to provide a flexible system to review the decisions of the Director of Liquor Licensing (the Director), with as little formality and technicality as practicable. The Commission came into effect on 7 May 2007, to replace the Liquor Licensing Court.

The *Liquor Commission Rules 2007* regulate the practice and procedure of the Commission and matters that are related and subject to the *Liquor Control Regulations 1989*, as to the costs and charges payable in relation to proceedings under the Act.

Responsible Minister

As at 30 June 2021, the Minister responsible for the Racing and Gaming Portfolio was the Honourable Reece Whitby, MLA, Minister for Emergency Services; Racing and Gaming; Small Business; Volunteers.

The Responsibilities of the Liquor Commission

The Commission's primary function is to adjudicate on matters brought before it through referral by the Director of Liquor Licensing, or by an application for a review of a decision made by the Director of Liquor Licensing. The latter is achieved by way of a re-hearing and therefore makes its own determinations based on the merits of each case. When considering an application for review, the Commission may have regard only to the material that was before the Director of Liquor Licensing when making the decision.

The Commission is responsible for:

- determining liquor licensing matters referred to it by the Director of Liquor Licensing;
- conducting reviews of certain decisions made by the Director, or by a single member of the Commission;
- determining complaints and disciplinary matters in accordance with section 95 of the *Liquor Control Act 1988*;
- awarding costs associated with matters before the Commission;
- reporting annually to the Minister for Racing and Gaming on the activities of the Commission; and
- reporting to the Minister for Racing and Gaming, when requested to do so, on the jurisdiction and functions of the Commission, including the provision of high-level policy advice relevant to liquor control matters.

The Commission can make the following decisions:

- affirm, vary or quash a decision subject to review;
- make a decision in relation to any application or matter that should, in the opinion of the Commission, have been made in the first instance;
- give directions as to any questions of law that have been reviewed;
- give directions to the Director of Liquor Licensing, to which effect shall be given; and
- make any incidental or ancillary order.

Parties to any proceedings before the Liquor Commission have the right to appeal any decision to the Supreme Court of Western Australia on a question of law.

Appeals which may be heard by the Liquor Commission

The Commission can determine the following matters under the Act:

Section 24

The Director may refer the whole or part of any matter that is to be determined by the Director, or any question of law arising from such a matter, for hearing and determination by the Commission.

Section 25

Application for review of the Director's decision can be lodged when the:

- decision relates to an application for the grant or removal of a licence;
- decision is to make, vary or revoke a prohibition order under Part 5A of the Act; or
- Chairperson so determines under section 9A(2) of the Act.

Section 28(4A)

When there is an appeal against the decision of one Commission member, it is to be heard and determined by the Commission constituted by three other members, including a member who is a lawyer as defined in section 3 of the *Liquor Control Act 1988*.

Section 95

The Liquor Commission determines complaints and disciplinary matters in accordance with section 95 of the *Liquor Control Act 1988*. Complaints lodged to the Commission may be made by the Director of Liquor Licensing, the Commissioner of Police or a local government authority.

The Commission will determine the validity of the complaint and impose disciplinary measures if grounds exist for such a course of action.

Where a complaint is lodged for disciplinary action, one member of the Commission is to be a lawyer as defined in section 3 of the Act.

The following table shows the number of section 95 complaints that were handled by the Commission during 2020-21.

Complaints Outstanding as at 1 July 2020	1
Complaints lodged 1 July 2020 – 30 June 2021	4
Complaints withdrawn 1 July 2020 – 30 June 2021	1
Complaints resolved 1 July 2020 – 30 June 2021	1
Total Outstanding Complaints as at 1 July 2021	3

Section 115(AD)

An application for a review of a barring notice issued by the Commissioner of Police can be heard by a Commission constituted by one member.

Matters outside the jurisdiction of the Liquor Commission

An application for review cannot be lodged against the following decisions of the Director of Liquor Licensing:

- cancellation of a licence under section 93 of the Act, unless the application for the review is made on a question of law;
- an application for or the conduct of business under an extended trading permit (where the period is greater than three weeks and less than five years) or an occasional licence;
- the imposition, variation, or cancellation of a term or condition of an extended trading permit, or an occasional licence;
- the cancellation or suspension of the operation of an extended trading permit or an occasional licence;
- matters relating to the hearing of an objection;
- finding of fact required to be made in order to dispose of the matter or application; and
- a decision made in the course of, and for the purposes of, the administrative duties of the Director not directly related to the outcome of any application or matter before the licensing authority.

Furthermore, the Commission cannot reconsider any finding of fact by the Director of Liquor Licensing as to:

- the qualifications, reputation or character of a person, or the fitness or propriety of a person in relation to an application or licence;
- the adequacy or suitability of any premises, accommodation or services provided, or proposed to be provided under a licence; or
- in relation to a club licence, or an application for such a licence, or the existence of the club, unless the review is sought by the person who lodged the application in respect of which the decision was made; or by the person about whom the finding was made in relation to the qualifications, reputation or character of a person.

Administrative Structure

Section 9B of the *Liquor Control Act 1988* provides that the Liquor Commission consists of a Chairperson and other members as determined by the Minister for Racing and Gaming. At least one member of the Commission is required to be a lawyer as defined in section 3 of the Act.

Members of the Commission are appointed by the Minister for a maximum period of five years. Members are eligible for reappointment.

The member or members who constitute the panel in relation to an application/appeal shall be selected by the Chairperson, who will give consideration to their knowledge or experience.

Executive support for the Liquor Commission is provided by the Department of Local Government, Sport and Cultural Industries.

As of 30 June 2021, the Liquor Commission consisted of 12 members, namely:

Kate Pedersen – Chairperson (yet to formally commence)

Kate Pedersen joined the independent bar in 2017 and is a commercial barrister with a wide-ranging litigation practice. Before joining the independent bar she was an Assistant State Solicitor in the counsel team at the State Solicitor's Office, having commenced at the State Solicitor's Office as an articulated clerk in 2006. She has acted in an extensive range of matters, including arbitrations, contractual disputes, Royal Commissions, coronial inquests, single judge appeals, and general civil litigation as well as regulatory crime. Kate holds a Bachelor of Law from the University of Western Australia (Hons) and a Masters in Law from the University of Melbourne.

Emma Power – Acting Chairperson (Deputy Chairperson)

Ms Power graduated with a Law degree from Murdoch University in 2004 and has been working predominately in property, development, corporate and commercial law since that time. Prior to studying law, she was a secondary school teacher teaching visual arts. In 2017, Ms Power became the principal of the private law practice Power Commercial Law. She is also the legal member of the Local Government Standards Panel.

Kirsty Stynes

Ms Stynes is a qualified legal practitioner currently employed at Seamus Rafferty Barrister and Solicitor. She was previously employed as a lawyer at Swan River Law Barristers and Solicitors and as an Usher to His Honour Judge Simon Stone at the District Court of Western Australia.

Paul Shanahan

Mr Shanahan graduated from the University of Western Australia (**UWA**) with a Bachelor of Laws degree in 1988 and was admitted to the Supreme Court of WA the following year. Mr Shanahan has over thirty years of experience in legal practice, primarily in litigation and dispute resolution. His practice has focused on commercial disputes, regulatory matters, administrative law matters, insurance and risk management matters, and building and construction disputes. Mr Shanahan has practiced as in-house Counsel, in private practice and in the public sector. His skill-set includes advocacy in a wide range of Courts and Tribunals. Mr Shanahan joined UWA as its General Counsel and Director of Governance in 2020, and he is also Deputy Chair of the Youth Legal Service.

Elanor Rowe

Ms Rowe graduated from the Inns of Court School of Law, London in 2003 after completing her LLB Honours degree at Reading University and a Diploma in European Legal Studies at the University of Maastricht, Netherlands. She has practised as a solicitor in both England and Australia and was admitted as a Lawyer in the Supreme Court of WA in 2010. She now currently works in the hospitality industry and sits on several tourism committees and is also a member of the Local Government Standards Panel WA.

Sarah Oliver

Ms Oliver graduated with a Bachelor of Laws (Hons) in 2002, and a Master of Law (Legal Practice) in 2004. In July 2016, she joined the independent bar. Sarah currently practises as a barrister at Francis Burt Chambers, specialising in criminal and administrative law. Prior to joining the bar, Sarah was employed as a Principal Federal Prosecutor at the Commonwealth Director of Public Prosecutions, and prior to that as a lawyer at the Australian Government Solicitor's Perth and Brisbane offices.

Nicholas Van Hattem

Mr van Hattem is a barrister with experience in commercial, government and criminal law matters. He has a particular focus on commercial disputes involving government agencies and regulatory prosecutions, particularly environmental, occupational safety and health and mining.

Alya Barnes

Ms Alya Barnes is the Director and Principal of Barnes & Gatti Legal, an incorporated legal practice with a focus on contract and commercial law, business sales and pharmacy law issues including acquisitions and disposals. She has a strong background in property and commercial law and has international and domestic legal experience. She holds a Law degree and Arts degree.

Hon Dr Kim Hames

Dr Hames is a recently retired member of Parliament who was Deputy Premier for seven years and, during 20 years in Parliament, Minister for Health, Tourism, Aboriginal Affairs, Water, Housing and Workplace development at various times and Governments. He has also worked for 26 years as a general practitioner including the last four. He is also on the boards of Pathwest and Ronald McDonald House.

Professor Colleen Hayward

Ms Colleen Hayward is a senior Noongar woman with extensive family links throughout the south-west of WA.

For more than 35 years, Ms Hayward has provided significant input to policies and programs on a wide range of issues, reflecting the needs of minority groups at community, state and national levels. She has an extensive background in a range of areas including health, education, training, employment, housing, child protection and law & justice as well as significant experience in policy and management.

Among her many achievements, Ms Hayward has been recognised for her long-standing work for and on behalf of Aboriginal and Torres Strait Islander communities across Australia by winning the 2008 National NAIDOC Aboriginal Person of the Year Award. Ms Hayward is also a recipient (2006) of the Premier of WA's prestigious Multicultural Ambassador's Award for advancing human rights and anti-racism in the community and is the 2009 inductee into the WA Department of Education's Hall of Fame for Achievement in Aboriginal Education.

In 2012, Colleen was inducted into the Western Australian Women's Hall of Fame and was recognised as a *Member in the General Division of the Order of Australia*. 2015 saw Colleen awarded one of Murdoch University's Distinguished Alumni for her work in the areas of Equity and Social Justice.

Pamela Hass

Ms Hass holds a Bachelor's degree in Law (with honours), an Arts degree, and a Master's degree in Law. Until December 2014 Ms Hass was an elected member of the Council of the Law Society of WA where she is now Chair of the In-House and Government Lawyers Committee of Council. Until June 2011 Ms Hass was University Secretary, Director of Governance and Special Legal Counsel at the University of Western Australia. Prior to this she was General Counsel and University Secretary at Macquarie University in Sydney. Before taking up the Macquarie position, she was General Counsel to Curtin University of Technology in Perth, where she established that University's first in-house legal service. Advice was provided at both Curtin and Macquarie Universities in administrative law, governance, intellectual property, dispute resolution, contract/commercial law, property law, and major litigation management.

Since 2011 Ms Hass has been General Counsel, Legal Services with the WA Department of Jobs, Tourism, Science and Innovation (formerly the Department of State Development) where she heads a small in-house legal team working on major resources projects and other State initiatives. She was the first national president of the Australian Corporate Lawyers Association from Western Australia and a past Board member of the RSPCA and the Perth Institute of Contemporary Art (PICA).

Alex Zilkens

Mr Zilkens graduated from the University of Sydney in 1986 with a combined Arts/Law degree and has worked as a lawyer in private practice since his admission in 1987. He has been the principal of Zilkens Lawyers since 1993, taking instructions in commercial legal work as well as dispute resolution. Mr Zilkens was involved in the youth hostelling movement from 1996 to 2018 in various roles including chairman of YHA Western Australia (1996 - 2010), chairman of Hostelling International Australia (2010 - 2016) and as a Vice President of the International Youth Hostel Federation, a registered charity under the Charities Act in England and Wales, United Kingdom (2014 - 2018).

Performance Summary for 2020-21

The table on page 13 provides details of the number, nature and outcome of applications heard and determined before the Commission as at 30 June 2021.

Full determinations are available from the Liquor Commission's website at www.liquorcommission.wa.gov.au.

Outstanding matters as at 30 June 2021.

As at 30 June 2021, there was one matter that had been heard but not determined:

- Section 24 review – JB Foods Pty Ltd, in relation to premises known as “Karratha Cellars”

The following matter has been adjourned sine die:

- Section 25 review – Endeavour Group Limited v Director of Liquor Licensing, in relation to the premises known as “BWS – Beer Wine Spirits – Kelmscott.

The Supreme Court referred the following matter back to the Liquor Commission for reconsideration which has been heard but not determined:

- Section 24 review – Australian Leisure & Hospitality Group Pty Ltd, in relation to the premises known as “Leisure Inn Hotel”.

Furthermore, the following applications are awaiting consideration:

- Section 115AD – two applications (ZAU & MF) vs Commissioner of Police
- Section 25 – JL Davis vs Director of Liquor Licensing
- Section 24 – three applications (BGD, ERBD & KEDD) in relation to fit and proper status.
- Section 25 – Endeavour Group Ltd v Director of Liquor Licensing, in relation to the premises known as “BWS – Beer Wine Spirits - Falcon”.
- Section 95 – Commissioner of Police vs Spinifex Holdings Pty Ltd, in relation to the premises known as “The Spinifex Hotel”
- Section 95 – Commissioner of Police vs Boab Inn Pty Ltd, in relation to the premises known as “Derby Boab Inn”
- Section 95 – Commissioner of Police vs ERB Dillon, in relation to the premises known as The Spinifex Hotel and the Derby Boab Inn.
- Section 147(1) review – Director of Liquor Licensing v Spinifex Holdings Pty Ltd, in relation to the premises known as “The Spinifex Hotel”
- Section 25 – Chief Health Officer vs United Cinemas Pty Ltd, in relation to the premises known as “United Cinemas Rockingham”
- Section 25 - Chief Health Officer vs Hoyts Multi-Plex Cinemas Pty Ltd, in relation to premises known as “Hoyts Karrinyup”

The following table shows the number of applications lodged and determined including withdrawals, during the current reporting period.

Applications lodged and determined in 2020-21			
Case No.	Name	Section of Act	Outcome
L30/01/446	Marvel Loch Hotel Pty Ltd	95	Withdrawn
L30/01/452	JP – Revocation of Approved Manager	95	Withdrawn
L30/01/506	Tookfe Pty Ltd	25	Decision affirmed
L30/01/507	Chief Health Officer re:Sodexo Remote Sites Australia Pty Ltd	25	Decision affirmed
L30/01/508	Chief Health Officer re: Mellen Promotions Theatre Pty Ltd	25	Decision varied
L30/01/509	JJ – barring notice review	115AD	Notice varied
L30/01/510	Lolba Holdings Pty Ltd - CU Mart Cockburn	25	Decision affirmed
L30/01/512	TD – Barring Notice review	115AD	Withdrawn
L30/04/513	Endeavour Group Limited	25	Withdrawn
L30/01/515	AIS Pub Group Pty Ltd	24	Withdrawn
L30/01/516	Commissioner of Police vs EMS	95	Grounds for disciplinary action
L30/01/517	DG – Barring Notice review	115AD	Notice varied
L30/01/518	SL – Barring Notice review	115AD	Notice varied
L30/01/520	JB – Barring Notice review	115AD	Notice varied
L30/01/521	JW – Barring Notice review	115AD	Withdrawn
L30/01/522	BE – Baring Notice review	115AD	Decision upheld
20/4612	RT – Baring Notice review	115AD	Decision upheld
20/5029	LQ – Barring Notice review	115AD	Decision varied
20/5203	MB – Baring Notice review	115AD	Decision upheld
20/5204	GM – Baring Notice review	115AD	Decision upheld
20/5205	EH – Barring Notice review	115AD	Decision upheld
20/5479	CE – Barring Notice review	115AD	Decision upheld
20/5335	EM – Barring Notice review	115AD	Decision upheld
20/5577	Francis 65 Pty Ltd	25	Decision quashed – application granted
21/328	BDA – Barring Notice review	115AD	Decision upheld
21/547	TRM – Barring Notice review	115AD	Decision upheld

Supreme Court Challenges

COMMISSIONER OF POLICE v ALH and OTHERS [2020] WASCA 157

In 2015, Australian Leisure and Hospitality Group Pty Ltd (ALH) made an alteration redefinition application to the Director of Liquor Licensing for premises known as the Leisure Inn, Rockingham. On 21 August 2015, the Director referred the matter to the Commission for consideration in accordance with section 24 of the Act.

The application was to upgrade and redevelop the Leisure Inn located at 2 Chalgrove Avenue, Rockingham converting the existing BWS outlet to a Dan Murphy's Liquor Store.

The Commission constituted by Seamus Rafferty and Messrs Watling and Egan heard the application on 20 July 2016 and determined to grant the application on 11 October 2017.

The Commissioner of Police appealed the decision of the Liquor Commission to the Supreme Court on the following grounds –

1. Economic Benefit considerations are beyond the subject matter, scope and purpose of the Act and are irrelevant considerations.
2. The Commission erred in law by denying the appellant procedural fairness by failing reasonably to give notice of the Commission's view as to the significance to the Commission of the Economic Benefit considerations.
3. The Commission erred in law by misconstruing its statutory function in applying the primary object in s5(1)(c) of the Act by considering whether granting the application would cater for the requirements of consumers for liquor and related services in isolation.

On 5 April 2019, the Hon Justice McGrath upheld grounds 1 and 2 and dismissed ground three. The appeal was allowed and the decision of the Commission was quashed and the matter remitted back to the Commission for reconsideration.

The ALH made application to the Court of Appeal against the Hon Justice McGrath's decision which was considered on 17 March 2020. The Supreme Court delivered its *findings* on 24 September 2020 and dismissed the appeal.

The Commission re-considered this matter on 20 August 2021.

As at 30 June 2021, the Commission are yet to hand down its findings.

LIQUORLAND (AUSTRALIA) PTY LTD v DIRECTOR OF LIQUOR LICENSING - GDA 7 of 2021

On 20 April 2021, the Commission determined an application in accordance with s25 of the Act for a review of the decision of the Director of Liquor Licensing refusing a liquor store licence for premises known as Liquorland Karrinyup.

The Director determined in accordance with amendments to the Act, it failed to discharge its onus under s36B(4) in relation to whether existing packaged liquor premises already met the local package liquor requirements.

The Commission in its findings affirmed the decision of the Director to refuse the application for a liquor store licence.

On 10 May 2021, the applicant appealed the decision of the Commission to the Supreme Court on the following grounds:

The Commission erred in law in that it misconstrued s36B(4) of the *Liquor Control Act 1988* in that:

1. It held that the phrase “the requirements” for packaged liquor is limited in its scope to the physical item or product of packaged liquor when the sub-section, properly construed, does not so limit the meaning of the phrase.

PARTICULARS

- (a) Properly construed the sub-section provides for the consideration of the requirements for packaged liquor by reference to the same matters as are considered under the public interest test in s38(2) of the Act; and
 - (b) The sub-section creates a different test to the public interest test in s38(2) of the Act in that the sub-section applied an objective element by asking whether, or not ‘the requirements for packaged liquor’ can ‘reasonably’ be met by existing packaged liquor premises in the relevant locality, which element is not part of the public interest.
2. It held that the phrase cannot ‘reasonably be met’ means, in effect, ‘cannot sensibly, rationally or moderately be met’ having regard to contemporary standards and expectations for the requirements of packaged liquor
 3. It held that the relevant locality is to be determined by reference to the area from which customers of the proposed premises will be drawn when the sub-section, properly construed, requires that the relevant locality is to be determined by reference to the area, district, or neighbourhood within which the proposed premises are to be located.

At the date of this report this matter is yet to be determined.

Significant Issues Impacting the Liquor Commission

Trends or Special Problems that have Emerged

Section 36B of the Liquor Control Act 1988 was introduced with effect from 2 November 2019 and while its provisions are still relatively new, the Liquor Commission has made findings in ***Lolba Holdings Pty Ltd v Director of Liquor Licensing*** and ***Liquorland (Australia) Pty Ltd v Director of Liquor Licensing*** on how these provisions are to be construed.

Section 36B(4) must be satisfied and in this regard, the Liquor Commission has found that:

- (a) the object of s36B(4) is to limit packaged liquor outlets in a specific locality; and
- (b) the correct interpretation of the term 'local packaged liquor requirements' in s. 36B(4):
 - (i) excludes those matters typically contemplated under s 38, such as contemporary standards in retailing or shopper convenience, preference or habits, one-stop shopping or product choice and preference, or competition; and
 - (ii) is instead limited in scope to consumer requirements for packaged liquor itself.

In light of the changes to the Act and the stated purpose of s 38(4), the Commission also found that the word 'reasonably' in s 36B(4):

- (a) does not allow for shopper convenience or general retail competition to be taken into account;
- (b) invokes a fairly low threshold, with reference to the comments of Malcolm CJ in ***Charlie Carter Pty Ltd v Streeter and Male Pty Ltd***, that the 'word "reasonable" imports a degree of objectivity in that the word reasonable means "...sensible; ...not extravagant or excessive; moderate: Shorter Oxford Dictionary at 1667"', and
- (c) does not create difficulty or inconvenience to customers or prevent liquor from being readily accessed by consumers simply due to an inability to shop in a co-located supermarket.

Forecasts of the Commission's Workload for 2021-22

It is expected that the workload of the Commission for 2021-22 will increase due to the inclusion of s36B and pending the Supreme Court appeal of the *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* (Karrinyup) matter.

Proposals for Improving the Operation of the Commission

The Department of Local Government, Sport and Cultural industries is continuing to explore options to improve capability and efficiencies for executive support services provided to the Commission.

Other Government Policy Requirements

The Commission meets its requirements through arrangements with the Department of Local Government, Sport and Cultural Industries. The Department's Annual Report contains information on how the Department meets the following requirements:

- Disability Access and Inclusion Plan Outcomes;
- Compliance with Public Sector Standards and Ethical Codes;
- Recordkeeping Plans;
- Substantive Equality; and
- Occupational Safety, Health and Injury Management.

Other Legal and Government Policy Requirements

Advertising

Section 175ZE of the *Electoral Act 1907* requires public agencies to report details of expenditure to organisations providing services in relation to advertising, market research, polling, direct mail and media advertising.

The Commission incurred 'Nil' 'Government Agencies' expenditure in 2020-21.

Remuneration of Members

Chairperson

\$1,074 per day for hearings or deliberations/meetings of over 4 hours or \$763 per day for hearings or deliberations/meetings of less than 4 hours.

Plus \$129 per hour for preparation time. The rate which applies is:

3 hours for up to one day and 3 hours for each additional day of hearings or deliberations or part thereof (i.e. 6 hours for 2 days of hearings or deliberations etc or part thereof).

Plus \$129 per hour for decision writing time. The rate which applies is:

5 hours for up to one day and 3 hours for each additional day of hearings or deliberations or part thereof (i.e. 5 hours for 1 day, 8 hours for 2 days of hearing or deliberations etc or part thereof).

Members

\$773 per day for hearings or deliberations/meetings of over 4 hours or \$505 per day for hearings or deliberations/meetings of less than 4 hours.

Plus \$102 per hour for preparation time. The rate which applies is:

3 hours for up to one day and 3 hours for each additional day of hearings or deliberations or part thereof (i.e. 6 hours for 2 days etc or part thereof).

Plus \$107 per hour for decision writing time. The rate which applies is:

5 hours for up to one day and 3 hours for each additional day of hearings or deliberations or part thereof (i.e. 5 hours for 1 day, 8 hours for 2 days etc).

During the reporting period, the following remuneration figures applied to Commission members.

Name	Type of remuneration	Period of membership	Gross/actual remuneration 2020/21 financial year	Superannuation
Kate Pedersen – Chairperson	(Yet to formally commence)	6 months	Nil	Nil
Emma Power – Acting Chairperson	Attendance/Decision Writing	12 months	\$5,014.00	\$476.34
Alex Zilkens – Member	Attendance/Decision Writing	12 months	\$4,710.00	\$447.45
Paul Shanahan - Member	Attendance/Decision Writing	12 months	\$2,817.00	\$207.77
Elanor Rowe – Member	Attendance/Decision Writing	12 months	\$11,934.00	\$1,133.74
Kirsty Stynes – Member	Attendance/Decision Writing	12 months	\$4,374.00	\$415.54
Sarah Oliver – Member	Attendance/Decision Writing	12 months	\$5,215.00	\$495.43
Nicholas Van Hattem - Member	Attendance/Decision Writing	12 months	Nil	Nil
Alya Barnes – Member	Attendance/Decision Writing	12 months	\$3,533.00	\$335.64
Pamela Hass – Member	Ineligible – full time WA Public Servant	12 months	Nil	Nil
Hon. Dr Kim Hames - Member	Attendance/Decision Writing	6 months	Nil	Nil
Prof. Colleen Hayward - Member	Attendance/Decision Writing	6 months	Nil	Nil
Seamus Rafferty – Former Chairperson	Attendance/Decision Writing	6 months	\$4,622.00	\$439.10
		Total	\$42,219.00	\$3,951.01