



Department of Justice and Attorney-General  
Office of the Director-General

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Mr Peter Russo MP  
Chair  
Legal Affairs and Safety Committee  
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Dear Mr Russo

I refer to advice received from the Legal Affairs and Safety Committee (the Committee) Secretary on 5 February 2021 enabling the Department of Justice and Attorney-General (the Department) to provide the Committee with a written response to a late submission received in relation to the Liquor (Artisan Liquor) Amendment Bill 2020.

Please find enclosed a table outlining the Department's response to a submission made by the Independent Brewers Association published on the Committee's website on 5 February 2021.

Should you require any further information regarding this matter, please contact Mr Dominic Tennison, Director, Office of Regulatory Policy, Department of Justice and Attorney-General [REDACTED]

I trust this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Mackie", with a long horizontal flourish extending to the right.

David Mackie  
**Director-General**

**Response to the Legal Affairs and Safety Committee:**

**Issues raised in written submissions on the Liquor (Artisan Liquor) Amendment Bill 2020**

The Department of Justice and Attorney-General has been provided with a late submission received from:

- Independent Brewers Association

| Key issue   | Submission                            | Departmental response   |
|---|---------------------------------------|---|
| <b>1. Promotional events and commercial public event permits</b>  |                                       |   |
| <b>1a. Promotional event permits</b>  |                                       |   |
| <ul style="list-style-type: none"> <li>The craft beer producer permit is not used by the industry.</li> <li>The permit does not allow craft brewers to attend large events such as the Noosa Triathlon or music festivals.</li> </ul> | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>Under existing provisions of the <i>Liquor Act 1992</i> (Liquor Act), craft brewers may attend ‘promotional events’ to give away samples and sell limited takeaways of their beer. A promotional event means an event held primarily for the purpose of promoting produce from a particular region or the hospitality industry, for example, a farmer’s market or craft beer festival.</li> <li>The other type of event provided for under the Liquor Act is a ‘public event’. A public event means an event held away from the licensee’s main premises which is not a private event. Public events may be publicly advertised, open for casual attendance from members of the public, and a fee may be charged for admission. Examples include festivals, races and concerts.</li> <li>The existing craft beer producer permit legislation was specifically created to allow interstate producers access to Queensland promotional events (although Queensland licensees are not prevented from applying).</li> <li>The primary mechanism for Queensland craft brewers to attend promotional events is by licence condition. Applying for this condition incurs a once-off fee of \$112.60. The condition is then perpetually endorsed to allow the licensee to attend as many promotional events as they wish without reapplying to the Office of Liquor and Gaming Regulation (OLGR).</li> <li>Since the craft beer producer permit was introduced, it has been issued to two interstate licensees.</li> <li>Approximately 39 Queensland craft brewers have had a promotional events condition endorsed on their licence.</li> <li>These numbers reflect that the intent of the current craft beer promotional events framework under the Liquor Act is being achieved, with interstate producers accessing the permit and Queensland craft brewers obtaining the licence condition.</li> <li>The Bill replicates this framework for artisan liquor producers and will also allow craft brewers and artisan distillers to sell samples at promotional events, rather than give samples away for free.</li> <li>The approved framework for promotional events is not intended to allow attendance at commercial public events, such as the Noosa Triathlon or music festivals. A commercial public event permit (CPEP) is the existing mechanism under the Liquor Act for attendance at such events. The Bill will provide artisan producer licensees with access to a CPEP. Notably, a CPEP has previously been issued for the Noosa Triathlon.</li> </ul> |

| Key issue  | Submission                            | Departmental response   |
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|  |                                       | <ul style="list-style-type: none"> <li>It should also be noted, the authorities of the artisan producer licence, including the expansion of the existing promotional events framework and the ability to apply for a CPEP, were agreed to at a roundtable meeting chaired by the Director-General of the former Department of State Development, Manufacturing, Infrastructure and Planning on 2 March 2020. The meeting, involving all relevant stakeholders, was attended by the submitter (Mr David Kitchen – Independent Brewers Association (IBA) Board Director).</li> </ul>  |
| <b>1b. Craft brewers should have access to a permit like the permit available under the <i>Wine Industry Act 1994</i></b>  |                                       |   |
| <ul style="list-style-type: none"> <li>The Bill should adopt a definition of 'promotional events' similar to the definition used in the <i>Wine Industry Act 1994</i> (Wine Industry Act).</li> <li>This would allow craft brewers access to a wider range of events without re-applying for a new permit and allow the operation of a bar at a public event.</li> </ul> | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>The Department considers the comments made by the submitter about the definition of promotional events fall outside the scope of the Bill.</li> <li>The ability for artisan producer licensees to attend promotional events within the existing framework was agreed at the 2 March 2020 roundtable meeting, involving all relevant stakeholders and attended by the submitter, about the licence authorisations.</li> <li>However, information about how wine permits operate and the intent of the provisions under the Wine Industry Act is provided below.</li> </ul> <p><i>Operation of a wine permit</i></p> <ul style="list-style-type: none"> <li>Under the Wine Industry Act, a wine permit can be issued to an individual licensee or a group of licensees to operate from the same area at the same event (e.g. operating a Queensland wine booth at a festival).</li> <li>A permit may only be granted if the purpose of the permit is to promote a particular winery or region.</li> <li>Sales under a wine permit may be of wine samples for consumption at the event or takeaways in sealed containers. The permit is not intended to allow a licensee to operate a booth at an event as a wine bar.</li> <li>OLGR have advised all wine permits include a condition stating only the licensee's wine is permitted to be sold under the authority of the permit.</li> <li>OLGR have also advised a 50ml maximum limit on sample sizes is commonly applied as a condition of a wine permit.</li> <li>The permit does not provide the licensee with enduring approval to attend recurring events. However, if the licensee has been granted a wine permit and complied with its conditions, the licensee may apply for approval to merely notify OLGR if the licensee intends to sell wine or provide samples at an event for which a permit may be granted.</li> </ul> |

| Key issue | Submission | Departmental response   |
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|           |            | <ul style="list-style-type: none"> <li>• The ability to notify OLGR about attendance at recurring events only applies to private events, defined under the Wine Industry Act. This means an event which is not publicly advertised or open to the public to casually attend. No admission fee may be payable for the event.</li> <li>• No fee is payable under the Wine Industry Act for a wine permit.</li> </ul> <p><i>Policy intent behind wine permits</i></p> <ul style="list-style-type: none"> <li>• The Wine Industry Act is designed to assist the development of the Queensland wine industry and facilitate the optimum development of the tourism potential of the industry.</li> <li>• Wine producers must predominately grow the fruit from which the wine is made at the licensed premises. As such, wineries are agricultural enterprises generally not accessible without some effort from consumers.</li> <li>• A wine permit allows wine licensees to reach more populous markets to ensure the industry is sustainable and competitive with interstate producers.</li> <li>• A wine permit is not designed to allow wine licensees to randomly operate pop up bars at promotional events or in public spaces, but to promote the wine of a Queensland region through its local winery.</li> <li>• The market access opportunities for wine licensees can be contrasted with those for craft brewers and artisan distillers. These venues are more likely to be located in urban, industrial or accessible regional areas and there is no requirement to grow ingredients in Queensland.</li> </ul> <p><i>Promotional events framework under the Bill</i></p> <ul style="list-style-type: none"> <li>• The Bill will allow craft brewers and artisan distillers to apply for an enduring licence condition to attend promotional events.</li> <li>• This is consistent with the existing framework under the Liquor Act which currently contemplates craft beer production (under a producer/wholesaler licence) and allows the supply of samples and limited takeaways at promotional events. A promotional event is defined under the Liquor Act as an event with the primary purpose of promoting produce from a particular region or the hospitality industry.</li> <li>• Other than the one-off fee (\$112.60), there appears to be nothing provided under a wine permit that is not provided under a promotional events licence condition or CPEP.</li> </ul> <p><i>Ability to apply for a CPEP</i></p> <ul style="list-style-type: none"> <li>• The submission expresses the view that artisan liquor producers should be able to operate a bar at a public event under the promotional events framework. As noted above, the approved mechanism under the Liquor Act to allow certain licensees to operate a bar at a public event is a CPEP. Holders of the new licence can be granted access to a CPEP.</li> </ul> |

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|---|---------------------------------------|---|
| <b>1c. A commercial public event permit does not meet the needs of craft brewers</b>  |                                       |   |
| <ul style="list-style-type: none"> <li>Section 103B limits sales under a CPEP to consumption on the premises – no takeaway sales are permitted.</li> <li>Under section 58(2) and (3) of the Liquor Act, a CPEP only allows one licensee to participate in any space, which means there is no common area at the event where multiple artisan liquor producer's liquor can be sold.</li> <li>The cost of a CPEP is prohibitive for small producers.</li> </ul> | 003 – Independent Brewers Association | <p><i>Takeaway sales</i></p> <ul style="list-style-type: none"> <li>Takeaway liquor is able to be sold at a public event under a CPEP, if the relevant licence authorises takeaway sales. However, this authorisation is not automatic and must be approved as a condition of the CPEP. Prior to endorsing a takeaway condition OLGR must be assured there are adequate controls in the management plan for the event to ensure the same level of responsible sale of liquor occurs at the event as expected from the main premises. This is to minimise harm, and the potential for harm associated with the event, and allows appropriate takeaway limits to be applied relevant to the nature and risk profile of the event.</li> <li>This same process would apply to artisan producer licensees for takeaway sales of their own liquor at a public event under a CPEP.</li> </ul> <p><i>Inability for multiple licensees to share space at public events</i></p> <ul style="list-style-type: none"> <li>Sections 58(2) and (3) of the Liquor Act state that only one licence may be granted over a premises, or part of the premises. However, a licence under the Liquor Act and a licence under the Wine Industry Act may be held in relation to the same premises or part of the premises.</li> <li>The applicant for a CPEP must describe the area where liquor will be sold and consumed. This area is taken to form part of the licensee's licensed premises. Defining the area where liquor must be sold as the licensee's premises ensures the obligations which ordinarily apply to the licensed premises apply to the area where liquor is sold at an event and licensees remain accountable. For example, an obligation to ensure minors are not allowed on the premises. This helps achieves the objects of the Liquor Act to preserve amenity, ensure community safety and minimise the risk of alcohol-related harm.</li> <li>A CPEP may be issued jointly to two or more licensees. In this case, there is one defined area under the permit for which the licensees are collectively responsible.</li> <li>CPEPs have previously been issued for events such as the Craft Beer and Cider Festival attended by numerous liquor producers.</li> </ul> <p><i>Fees</i></p> <ul style="list-style-type: none"> <li>Application fees and licence fees under the Liquor Act are intended to reflect to cost of administration and enforcement of the provisions.</li> </ul> |

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| <b>1d. Existing exemptions under the Liquor Act allow liquor to be sold at public events without RSA qualifications</b>  |                                       |   |
| <ul style="list-style-type: none"> <li>Section 11A of the Liquor Act provides far more capacity for non-alcohol-related businesses to sell beer at events such as school fetes without restrictions on sample size or a requirement to hold RSA qualifications.</li> </ul>   | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>Section 11A exempts non-profit entities, such as non-proprietary clubs, from the licensing requirements under the Liquor Act. However, the sale of liquor by such entities has been identified as low-risk and there are number of limitations under the Liquor Act on how liquor may be sold.</li> <li>For example, a non-profit entity will only be authorised to sell liquor at a fund-raising event if the Commissioner for Liquor and Gaming is satisfied the sale of liquor is ancillary to the event and the net proceeds will be used to benefit the community.</li> <li>The exemptions are not intended to allow commercial liquor producers to operate bars at events such as school fetes.</li> </ul>   |
| <b>2. Off-premises consumption (takeaway)</b>  |                                       |   |
| <ul style="list-style-type: none"> <li>Allowing artisan producers to sell other liquor as takeaways provides a low risk option to ensure customers have the choice to take the product with them when they leave the venue.</li> <li>The Bill should provide that the principal activity of the artisan producer licence is <i>the majority of sales, on premises and takeaway, must be of product produced by the artisanal liquor producer under their licence.</i></li> </ul> | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>The IBA is advocating for a licence authority similar to that available to wine licensees, who can sell other wine for on-premises consumption and as takeaways, provided the licensee's own product comprises the majority of sales. The ability to sell up to 49% of other licensee's wine addresses the particular challenges faced by Queensland wineries as primarily agricultural enterprises, outlined above.</li> <li>Under the principal activity of an artisan producer licence, the licensee may sell other artisan liquor for on-premises consumption, provided at least 70% of sales are for the licensee's own liquor. The licensee may sell unlimited takeaways of their own liquor from their licensed premises, including the ability to take orders for their liquor online.</li> <li>As previously noted, the authorities of the licence, including the principal activity and takeaway sales ability were agreed at the 2 March 2020 roundtable meeting, involving all relevant stakeholders and attended by the submitter.</li> <li>The Department considers the submitter's comments to be outside the scope of the Bill and will not make further comment.</li> </ul> |
| <b>3. Record Keeping</b>   |                                       |   |
| <b>3a. The annual return requirement entrenches red tape</b>   |                                       |   |
| <ul style="list-style-type: none"> <li>The requirement to submit an annual return entrenches red tape and should be removed from the Bill.</li> </ul>  | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>The Bill will obligate artisan producer licensees to provide information about their annual production volume as part of their annual return. The intent is for licensees to provide a single figure indicating the total litres of beer or spirits produced at the licensed premises during the financial year. As noted in the IBA's submission, this information can be easily obtained from the licensee's Commonwealth excise return.</li> </ul>  |

| Key issue   | Submission                            | Departmental response  |
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|   |                                       | <ul style="list-style-type: none"> <li>The volume of liquor produced at the licensed premises is the determinant factor for the principal activity of the licence and the licensee's continued eligibility to hold the licence. Specifically, the licence is only available to brewers who produce no more than 5 million litres of beer each year and distillers who produce no more than 450,000 litres of spirits each year.</li> <li>The benefits of the licence have been designed for small, independent producers. Collecting a total yearly production volume as part of the annual return process is the most efficient way for OLGR to ensure only legitimate artisan producers have access to the licence.</li> </ul>   |
| <b>3b. The Bill imposes an unreasonable penalty for non-compliance with administrative requirements</b>   |                                       |  |
| <ul style="list-style-type: none"> <li>The penalty for not observing administrative record-keeping obligations is unreasonable.</li> </ul>  | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>All liquor licensees are required to keep records under section 217 (Records to be kept by licensee) of the Liquor Act. The information may be used to inform annual returns required to be submitted under section 203 of the Liquor Act.</li> <li>The Bill amends section 217 to provide that artisan producer licensees must maintain a true and up-to-date record of the volume of liquor produced by the licensee (a production record).</li> <li>Requiring artisan producer licensees to keep a production record ensures the licensee continues to comply with the volume restrictions under the principal activity of the licence.</li> <li>Not complying with the obligation to keep a production record incurs a maximum penalty of 350 penalty units. This is consistent with other penalties under section 217, for offences such as not maintaining a transactions record, or failing to establish accurate accounting records. The penalties generally protect the integrity of the liquor licensing framework by ensuring there is record of whether a business is being conducted in accordance with its licence type.</li> </ul> |
| <b>4. Contract and multi-site brewing</b>   |                                       |  |
| <b>4a. The Bill does not reflect current operating realities within the industry</b>  |                                       |  |
| <ul style="list-style-type: none"> <li>The definition of licensee's liquor should be amended to include product made by an artisanal liquor producer under a contract or under direction of the licensee at another licensed premises.</li> </ul> | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li>A producer of liquor is an established concept under the Liquor Act. For example, the principal activity of a producer/wholesaler licence is the production and wholesale of liquor made on the licensed premises.</li> <li>The submitter's proposal seeks to fundamentally alter the operation of the framework which defines the production of liquor and how liquor producers are licensed.</li> <li>The Department therefore considers the comments made by the submitter to be outside the scope of the Bill and cannot make further comment.</li> </ul>   |

| Key issue  | Submission                            | Departmental response   |
|--|---------------------------------------|---|
| <b>4b. Interpretation of provisions relating to licensing of multi-site breweries</b>  |                                       |   |
| <ul style="list-style-type: none"> <li>Historically, OLGR has approved a single company to produce beer at multiple sites under the same licence.</li> <li>In 2020 OLGR changed its interpretation of the Liquor Act to require separate licences to be obtained for each site.</li> </ul> | 003 – Independent Brewers Association | <ul style="list-style-type: none"> <li><i>Guideline 35: Licensed areas</i> clarifies for licensees that the Liquor Act does not contemplate the licensing of separate or detached premises under one licence, with two exceptions.</li> <li>The first is a detached bottle shop, which is only available to commercial hotel licensees and attracts significant licence fees.</li> <li>The second exemption allows producer/wholesaler licensees to include a separate office space or warehouse as part of the licensed premises under a single licence. This exemption reflects that the wholesale of liquor may be facilitated away from where liquor is brewed or distilled.</li> </ul> |