STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE

Members present:
Mr CG Whiting MP—Chair
Mr MJ Hart MP
Mr RI Katter MP (virtual)
Mr JE Madden MP
Mr JJ McDonald MP
Mr TJ Smith MP (virtual)

Staff present:
Ms S Galbraith—Committee Secretary
Ms R Stacey—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE JUSTICE LEGISLATION (COVID-19 EMERGENCY RESPONSE—PERMANENCY) AMENDMENT BILL 2021

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 15 OCTOBER 2021

Brisbane

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The committee met at 8.32 am.

CHAIR: Good morning. I declare this public hearing open. Thank you for your attendance today. I would like to begin today's proceedings by acknowledging the traditional owners of the land on which we meet today. My name is Chris Whiting. I am the member for Bancroft and the chair of the committee. The other committee members with us today are Mr Jim McDonald, deputy chair and member for Lockyer; Mr Michael Hart, member for Burleigh; Mr Jim Madden, member for Ipswich West; Mr Robbie Katter, member for Traeger; and Mr Tom Smith, member for Bundaberg.

The purpose of today's hearing is to assist the committee with its inquiry into the Justice Legislation (COVID-19 Emergency Response—Permanency) Amendment Bill 2021. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. Media may be present and will be subject to my direction. The media rules endorsed by the committee are available from committee staff. All those present today should note that it is possible that you might be filmed or photographed during the proceedings. I remind everyone to turn their mobile phones to silent mode. In line with current COVID-19 restrictions for South-East Queensland, we will be adhering to limits on the number of people present in the hearing room today. I thank everyone for their understanding.

LAMBERT, Mr Wes, Chief Executive Officer, Restaurant & Catering Australia (via videoconference)

ROBINSON, Mr Hugo, Manager, Policy and Government, Restaurant & Catering Australia (via videoconference)

CHAIR: Thank you for appearing before the committee today. I invite you to make an opening statement, after which members will have some questions for you.

Mr Lambert: Thank you, Chair, and thank you, committee, for allowing us to appear and speak. I will keep my opening statement short because I would rather leave it open for questions. Restaurant & Catering is the national industry association peak body that represents the interests of more than 48,699 restaurants, cafes and caterers across Australia. The cafe, restaurant and catering sector is vitally important to the national economy, generating over $37 billion in retail turnover each year as well as employing 450,000 people. Over 93 per cent of the businesses in the cafe, restaurant and catering sector are small businesses employing less than 19 people. In Queensland the sector represents 8,354 businesses, employing 112,000 people each year. I will note that there are 8,354 cafes, caterers and restaurants, there are 900 pubs and bottle shops, and there are 1,100 clubs. We are eight times larger than both the pub and hotel segment of the industry and the club segment of the industry.

Removing beer and RTDs from the legislation as it has been presented, as well as capping it to only a 1.5-litre bottle of wine, will have a devastating effect on the cafe, restaurant and catering segment of the industry. This is because pre COVID only about nine per cent of the industry had takeaway or delivery, which seems quite small but is accurate. At the peak of lockdowns in every state, takeaway and delivery became 100 per cent of the delivery mechanism for food from those businesses. Post COVID and even during the intermittent lockdowns, it has now settled into between 30 and 40 per cent of all revenues that are taken in by restaurants, cafes and caterers—so about 30 to 40 per cent of the market. In Queensland that would represent that anywhere between 2,500 and 4,000 businesses are still using takeaway and delivery as a major revenue source for their businesses because consumer behaviour has changed. Consumers now expect to be able to get takeaway food and alcohol from their favourite cafes, restaurants and caterers.

Really, we got quite confused as to why this legislation was narrowed, because we found it quite odd that the state had taken an anticompetitive position in dictating which juice a quantity of alcohol was delivered in. Ultimately, if it is a health response then the juice that the alcohol is delivered in does not really make a difference, meaning if you are going to allow 1.5 litres of any alcohol it should not necessarily matter which it is because, primarily, when someone orders takeaway or

delivery from a restaurant it is to drink with a meal and when someone goes into a bottle shop they are primarily going to buy an unlimited quantity of any alcohol for the purpose of consumption of alcohol. The health argument sort of goes away if you are allowing it at all. Why you would not allow it in craft beer or premixed spirits?

We are also kind of confused because the Queensland government has recently made a $4 million investment into BrewDog, a craft brewery, so it seems even anticompetitive from a state point of view that you would exclude a limited quantity of craft beer or premixed spirits from takeaway or delivery. Ultimately, we would hope that you would follow the lead of the other states that have allowed takeaway alcohol and increase it to 2.25 litres. However, if this is not an option we certainly put the state on notice to explain what is the reasoning behind allowing 1.5 litres of wine but not craft beer or spirits with the same quantity of alcohol.

CHAIR: Mr Robinson, did you want to add anything?

Mr Robinson: Only to reiterate Wes's point that these are small businesses. Ninety-three per cent are small businesses run by everyday Australians who have now seen that their style of service has changed permanently and irreplaceably. Takeaway will increase. To change the model like this and not to have a government that keeps up with these trends will be devastating for these people. They are not big groups; they are average Australians who run cafes and restaurants. They cannot afford to have policy not keep up with changes in consumer trends.

I think it is very important to keep in mind that we certainly have not seen any form of advice to say that over the 18 months that these temporary laws have existed any sort of social ill has occurred. I think it really does raise questions as to why this has been put in place, rather than the evidence showing that any sort of ill effect has occurred.

CHAIR: Recognising that we have seen a large change in business practices—as you said, it was eight per cent takeaway and now about 30 or 40 per cent of business comes from those takeaways—while we are thinking this will be a permanent change, does your association have any research or information about the permanency or changing attitudes and changing consumer behaviour? Have you done any research in backing what you have presented?

Mr Lambert: Restaurant & Catering produces a benchmarking survey each year that is sent out to the entire membership database as well as the membership databases of our partners that deal directly with restaurants. Response numbers are usually quite high for that benchmarking, so it tends to be quite accurate and it is quite well followed. We back those up with reports that we get from all of the takeaway and delivery companies who then not only share those with us but also back up our benchmarking reports with that evidence. We have been tracking takeaway and delivery for some years and certainly we expect that our benchmarking report, which is out now in survey, will continue to prove up that hypothesis.

CHAIR: If you have the chance, this committee would appreciate those survey findings and those reports being forwarded to us. That would inform our decision-making on this committee. Member for Burleigh, did you have a question?

Mr HART: I declare a conflict of interest. As per my interests register, I am a significant shareholder in a craft brewery on the Gold Coast so I will be avoiding asking questions around beer or even talking about it for the moment. Having said that, I have written down the word 'juice' because I think that is a very valid point that Wes made and something the committee should consider. I will leave it at that.

CHAIR: If we are talking about beer, I had better go straight to the member for Lockyer.

Mr McDONALD: Thank you, Chair. I appreciate that and my interest in it. Wes and Hugo, thank you for your presentation and the information you have shared. I am not sure if you have had a chance to look at the other submissions, but the Queensland Hotels Association says there should be no alcohol, that it should go back to how it was. What are your comments in regard to that?

Mr Lambert: The whole world has changed and going back to the way we used to do things is not good governance. The desires of consumers and the desires of businesses change over time, and COVID has accelerated both consumer behaviour and technology by a decade. Ultimately, consumers feel safer now getting takeaway and delivery and we expect that to be so for the next two to five years. Many hospitality businesses like restaurants, cafes and caterers have re-engineered their businesses in such a way where they have added new revenue channels—like takeaway, like delivery, like retail, like bespoke experiences. Ultimately, we can never go back to the way things used to be. Quite possibly the worst reasoning for any decision is, 'Well, we need to go back to the way it was.' That is a legacy way of thinking. We do not think that way. We try to innovate with businesses as they move forward and as they pivot through these crises that we are in.

Mr Robinson: As I said before, these are primarily small businesses, which hire the most amount of Queenslanders of any hospitality industry. To prevent this from happening would be devastating on those 120,000 Queenslanders that the industry hires. If the policy does not move with the times and it goes back to the legacy establishment, these people suffer and these small businesses in your electorates suffer. I think it is very important to keep that in mind.

Mr MADDEN: My question relates to the type of alcoholic beverages you would like your members to be allowed to sell. The bill provides for 1.5 litres of wine. There is a wide range of alcoholic beverages. What beverages are you talking about that you would like your members to be allowed to sell?

Mr Lambert: Ultimately, the types of alcohol that are available, let's say, in a bottle shop rarely are similar or cross over—besides spirits—to what is available in restaurants, cafes and caterers. If you could go in and buy a [yellow tail] wine in a restaurant and they were trying to charge you $60, you might get a bit upset. Normally, restaurants, cafes and caterers will source bespoke wines, bespoke craft beers and premixed cocktails or they will mix their own. Ultimately, we are looking for craft beers and beers of a different nature that complement food; normally, that is what hospitality businesses do. Technically, the legal definition of a restaurant is that it must have more than 50 per cent food sales; otherwise it becomes an alcohol business. Normally, they would have a much greater proportion of food versus alcohol, and businesses are just trying to complement the food type. Ultimately, it is craft beers, bespoke beers, premixed cocktails or cocktails mixed on premise. They are not usually selling small alcohol bottles that you would get on an aeroplane along with a meal. It is usually a complementary product that also been created by the business.

Mr Robinson: Wes, that is exactly right. Let's say, for example, a restaurant has put a lot of time into sorting out a wine list that they believe is perfect with the meal, you cannot find any of those wines at a bottle shop or a pub. They are completely sourced by them in supporting small and local industries which do not have big deals with the bottle shops. They are going with local Queensland producers or producers around Australia and you cannot find that anywhere else. That is typically what those wine lists look like. As I said, if we are going to have 30 per cent of Australians now dining from home more often, I think it is quite a shame that we would deprive restaurants of the ability to sell that.

Mr McDONALD: Hugo, you make a very good point about the bespoke wine list that a restaurant might have and the opportunities that might come from that. Is it the same for barley juice, or beer?

Mr Lambert: Yes. Actually, most restaurants will start with the cocktail list and then they will go to their beer list. Many of the new hip restaurants, especially in South-East Queensland and Far North Queensland, have quite extensive beer selections, especially as Queensland becomes a pre-eminent producer of craft beers and certainly a forever producer of amazing spirits. You will see that, while most businesses—and we could easily produce menu after menu from restaurants that you know the names of and ones you have not heard of—do have an expensive wine list, they also have quite an extensive cocktail and beer list.

CHAIR: I am so glad the member for Lockyer is an expert on all things bespoke and barley juice!

Mr HART: Wes, can you give us an idea how your industry has been impacted by COVID and the damage that has resulted? How many businesses have gone broke? How many are on the edge? If this legislation goes through, will that take away the ability of some of them to recover sufficiently? Can you talk about that for a minute?

Mr Lambert: The industry used to be about $45 billion, pre COVID. Before this latest lockdown, about $8 billion had been wiped off this segment of the industry—restaurants, cafes and caterers. I cannot say the same for the other segments in accommodation and food service. In fact, I would say that the revenues of the other segments, including bottle shops, skyrocketed. They have not been necessarily negatively affected. I think the figures are somewhere between 60 and 70 per cent for those segments of the industry that have increased revenue. Restaurants, cafes and caterers have been disproportionately affected during COVID because we were never deemed essential for dine-in, meaning that restaurants could not have any dine-in. With takeaway and delivery being almost 30 or 40 per cent of the revenues, it certainly had an effect, even when Queensland ended lockdown.

From an employment point of view, we have lost 100,000 employees across the country. There are tens of thousands of open positions in Queensland. Certainly, any legislation that would seek to limit the reopening and the rebuilding of the hospitality industry around the country would be frowned upon. We do know that, again, consumer behaviour has changed and consumers are less likely to dine in than they were pre COVID and certainly are enjoying more takeaway and delivery at home.

CHAIR: We have some figures in front of us saying that it is the source where you purchase alcohol from that is the determinant of when it becomes takeaway alcohol. It seems to be predominantly from the major hotels and pubs; is that correct? Would that be a good way to characterise the source of those purchases?

Mr Lambert: Each individual business has their own purchasing arrangements. Some of the larger groups will be purchasing directly from the suppliers. Hugo, what percentage do you believe are individual businesses onselling from their bottle shops?

Mr Robinson: I would not have the numbers on me at the moment.

Mr Lambert: We can take that on notice to try to obtain that information. However, I do not believe that it is actually published anywhere because there is not necessarily any sourcing data of who buys. If someone comes into a bottle shop and purchases from that bottle shop, with a regular payment method you might not know if it is a small business or an individual. The bottle shop may know, but it might not be published as to who purchased it.

CHAIR: We will follow that up with you later.

Mr McDONALD: Something that came up the other day in the departmental briefing was the issue of the legality of a 17-year-old delivery driver delivering takeaways of alcohol to somebody at home and the conflict that might exist between an 18-year-old having possession of liquor and a 17-year-old delivery driver having such. Do you have any comments with regard to the employment of 17-year-olds in that space and the effects that might have on a business?

Mr Lambert: Without knowing the specifics of delivery companies, in the case of most of the companies that will be delivering food and beverage we would expect that RSA and all regulations will be followed in Queensland. In answer to a follow-up question from the chair, even if restaurants, cafes and caterers are onselling from the bottle shops, there would not be a negative effect to the bottle shops. In fact, it would be a positive to the bottle shop. It would be double revenue, meaning the bottle shops would be enjoying the revenue from the small businesses buying from them and then the small businesses would then be premixing cocktails to sell. Normally people would not just buy a regular, run-of-the-mill wine or spirit and try to onsell it in their business as a premium product with a high mark-up.

CHAIR: We have been given some figures from the Office of Liquor and Gaming Regulation about the onselling from hotels or bottle shops. I think we have that information, so we will not need to chase that up. The member for Lockyer asked the question I was going to ask about your view on training all staff in responsible service of alcohol requirements. If we are looking at a change of business model for your members, that obviously becomes of greater importance. Every single person needs to be trained in that, whether they are the kitchen hand, the chef, the waiter or they work in front of house. Would that be correct?

Mr Lambert: Anyone who is involved in the handling or service of alcohol would need to be trained as per the liquor and gaming regulations in Queensland. Certainly we would want businesses that are awarded a takeaway licence so they are allowed to offer takeaway to be following those rules to the letter, along with the delivery companies.

CHAIR: There being no further questions, we will close this session. The only questions on notice relate to the research and the reports. If you can send that, that would be greatly appreciated. Thank you very much for your attendance today.

DUNN, Mr Matt, General Manager—Advocacy, Guidance and Governance, Queensland Law Society

FRASER, Ms Karla, Partner, Allens

SHEARER, Ms Elizabeth, President, Queensland Law Society

SHUTE, Mr Andrew, Chair of the QLS Litigation Rules Committee, Queensland Law Society

CHAIR: Thank you all for appearing before the committee today. I invite you to make your opening statements, after which the committee members will have some questions for you.

Ms Shearer: Thank you for inviting the Queensland Law Society to appear at the public hearing this morning. In opening, I would respectfully acknowledge the traditional owners of the land on which we are meeting, the Turrbal and Jagera people, and pay deep respect to elders past, present and emerging.

The bill before you will permanently implement some of the temporary measures that have been introduced over the last 18 months in response to the COVID pandemic. These measures have been of great assistance to our members and their clients. The ability for a party to a legal matter or their solicitor to create documents without needing to be in a particular place to physically sign and without the need for a witness to be physically present but rather to be present by video or audiovisual has led to increased access to justice, increased certainty and reliability as well as cost savings.

For individuals whose work or carer commitments, location, disability or other health needs prevent or make it difficult for them to complete and sign paper documents, the ability to use digital resources to complete a document is invaluable. For example, if a party reaches a settlement in a legal matter and is required to physically sign a deed, their options prior to the pandemic were to attend at their lawyer's office, or for their lawyer to attend upon them, or to have the deed posted backwards and forwards. Even if, for example, a lawyer provided a return envelope, this was still cumbersome and time consuming.

These reforms will assist parties to progress and resolve their matters efficiently and cost effectively. There will be efficiencies created in the court process and within government departments and agencies as well which will ease the burden on courts and these bodies. Information sharing would be easier. Matters can proceed without the delay in organising in-person meetings to sign documents and without awaiting the delivery of a signed document via post. For these reasons, the Queensland Law Society strongly supports the reforms to document execution contained in this bill. We do not share the views of some submitters, including the Crime and Corruption Commission, about an increased risk of fraud—and we can talk more about that later if you are interested.

We have made some suggestions to improve the drafting of some provisions to give the reforms full effect, and I refer you to our written submissions in that regard and note, too, that we agree with the submissions of King & Wood Mallesons and Allens expressing reservations in respect of the requirement for consent to sign deeds electronically. We are concerned that that requirement would potentially introduce unnecessary uncertainty and complications, including for consumers, and we suggest that the requirement in the definition of 'accepted method' and the definition of 'consent' be removed. We also broadly support the amendments to the Domestic and Family Violence Protection Act, the rules to allow for giving evidence via audiovisual link where appropriate, and electronic filing.

Before taking your questions, I would like to ask Andrew Shute to address you with some examples from his practice of where these laws have made a difference.

Mr Shute: By way of example of the difficulties encountered in the early stages of the pandemic last year, when jurisdictions across Australia and the world were grappling with both whether and, if so, how to facilitate electronic signing and witnessing, I was involved in a matter for a client in New South Wales who needed to lodge a statutory declaration in South Australia in respect of goods that had been detained by a landlord, and that was to facilitate release of the goods. The statutory declaration had to be signed by a director of the company. Unfortunately, that director was in lockdown overseas. South Australia had no provisions at that time enabling remote signing and witnessing of a statutory declaration. Accordingly, the client had to locate, appoint and then

immediately remove a director in New South Wales for the purpose of signing a physical statutory declaration. That itself proved difficult given New South Wales was in lockdown and getting solicitors and other people to be able to witness relevant documentation. As you would appreciate, that took a considerable period of time and obviously resulted in delay and additional costs.

That example can be contrasted with the positive experiences I have had in my practice in litigation in Queensland once the COVID regulations were introduced which facilitated the electronic making, signing and witnessing of affidavits in particular, which is a very significant component of what solicitors, particularly in litigation, do. Since that time I must have sworn or witnessed over a dozen affidavits electronically. The process has resulted in considerable time and cost savings for our clients and for witnesses and provides considerable efficiencies for the other parties and the judiciary. As the president mentioned examples in relation to deeds, it is the same experience that we have encountered in relation to affidavits as to the difficulty in dealing with paper documents.

It would come as no surprise that the vast bulk of documents that find their way into affidavits were created in electronic form. However, until these reforms we still had to print out all of those documents and compile them in hard copies so that wet-ink signatures could be applied. The benefits of the searchability of the electronic documents and much of the valuable content within the electronic form of the document was lost, such as details on photographs or maps, formulas in spreadsheets or bookmarks or hyperlinks that were embedded within the documents themselves.

Further, given particularly the size and geographic spread within Queensland, it is not uncommon for witnesses to be located vast distances from any lawyer, let alone the lawyer that is assisting with preparation of the affidavit. This has presented yet further practical challenges that have resulted in considerable delays and costs.

An example is where we might face the dilemma of having to print out the affidavit ourselves, send it by post or courier—that can take a period of days—then hope that the person who does not have experience with the matter compiles that properly, gets it signed and gets it sent back to you. You do not get it back for perhaps a week, and there can be errors potentially in the way it has been compiled and you have to go through that process again. The approach taken by parliament last year and now proposed to be made permanent removed all of those difficulties and I think finally brought us into the 21st century in respect of this aspect of practice.

In addition, I want to emphasise that the technological neutrality approach is welcomed, noting that that is consistent with 20 years or so of experience under the Electronic Transactions (Queensland) Act, and it has proved valuable, given the differing technological capabilities and knowledge that you encounter with lawyers and witnesses. Thank you.

CHAIR: Mr Dunn, did you have anything to add?

Mr Dunn: I have nothing to add at this stage, Chair.

CHAIR: Ms Fraser?

Ms Fraser: Thank you for the opportunity to appear before you today. My opening statement speaks only to those provisions of the bill relating to execution of documents; that is, principally the proposed changes to the Property Law Act. My name is Karla Fraser and I am a partner at Allens, which is a large Australian commercial law firm with offices in Brisbane, Sydney, Melbourne, Perth and overseas. Allens provides legal services across a broad range of sectors to banking and financial institutions, to corporates, funds, trusts and other vehicles and to governments. We are experienced in corporate and financial transactions of all types, including projects and infrastructure, extractive industries, information technology, construction, property, corporate takeover schemes, acquisitions and divestments, and we act for a wide range of domestic and international clients.

Many of my colleagues and I consider daily issues surrounding the execution of documents and regularly give advice to clients in relation to document execution. Needless to say, since the onset of the pandemic, advice in relation to document execution has proliferated for both domestic and foreign clients and often involving cross-border elements and authorised signatories being physically separated in different towns, cities, states and countries, as Andrew has just aptly highlighted.

The pandemic has shone a spotlight on the disparate and sometimes archaic laws in relation to the execution of documents. Different rules apply to domestic companies, foreign companies, other forms of entity, individuals and government bodies, and different rules apply in different Australian states and to the Commonwealth. This has resulted in an enormous amount of confusion and more often frustration. Unfortunately, where there is confusion or inconsistency, the outcome from a legal

perspective is usually to adopt the most conservative interpretation or where there is inconsistency to meet all of the requirements of all relevant jurisdictions. This leads to an increase in costs and risks for all of those involved.

In day-to-day practice, in my area of practice—banking and finance—it is, for example, customary for legal advisers to always provide a closing legal opinion on the enforceability of the executed documents. As a result, it is not an area in which you can be robust or take a commercial view. There are very serious ramifications for getting it wrong. Therefore, the proposal to make permanent the valuable and successful changes embodied in the current temporary COVID regulations in relation to the execution of documents is most welcome.

During the pandemic, the very clear, comprehensive provisions of the Queensland regulations were a model of their kind. My colleagues in other offices and at other law firms have urged other jurisdictions to use these regulations as a model for their own reforms and, as the federal government is now looking to modernise the law in relation to document execution and facilitate electronic commerce, I am hopeful that this will galvanise the other states and territories to reform their laws accordingly, using the Queensland regulations or this bill, if it is passed into law, as a guide.

In our submission we highlighted only a very small number of matters that we would like to see addressed in the legislation. The aim of our submission is to better facilitate electronic commerce and commercial transactions and ensure fair access for all.

It is important that the legislation is clear in its purpose and operation. As I mentioned earlier, lack of clarity or lack of certainty can result in the full benefits of the proposed permanent reforms not being realised, and commercial parties will not accept legal risk when it comes to matters of proper execution of documents.

During the pandemic, as lawyers we bore the brunt of people's frustrations with being asked to print hundreds of thousands of pages of documents on home computers, scan them, arrange couriers to send documents to people's homes for signing, ask neighbours to witness the signing of their documents, or live with the delays embedded in our postal service. In this day and age, people have been bewildered that the law does not allow the inserting of an e-signature in all circumstances or requires signatories to sign the same physical copy of a document. It is important that this changes so that the Queensland economy can appraise fully the digital world and have electronic documents. The proposed reforms go a very long way towards achieving that and I welcome them. Thank you.

CHAIR: Many of the submissions touched on the issue or the variety of issues surrounding e-signatures. Ms Shearer, you talked about one of the strongest recommendations you have made in your submission. Bearing in mind that a lot of people would be reading the testimony from today, could you perhaps explain in brief your recommendation regarding requirement for consent, whether it be removed and why?

Ms Shearer: I will ask Matt to address the consent issue.

Mr Dunn: Certainly. I think in relation to deeds, consent can be considered in a number of different aspects of the formation of the transaction. These days, people agree to matters being dealt with electronically in a far more regular way than they might have previously, so there is a little bit of concern around that being a particularly express requirement for consent to the entering of deeds, as opposed to the fact that somebody actually signing the deed is a consent to enter the deed. Echoing what Allens have said, we would like to see the drafting made a bit more simple in that respect and also a bit more streamlined so that it is not confusing as to how the consent needs to be captured and dealt with.

The Electronic Transactions (Queensland) Act, which Andrew mentioned and which has served us incredibly well for 20 years, was groundbreaking when it came in, and it dealt with these concepts of consent because at that time the receipt of electronic communications for transactions and any kind of electronic communication was not as frequent as it is today. The provisions in the ETA require consent to be expressed before the receipt of electronic communications. If you take that to its furthest extent, that means that before you send someone an email you need to ring them on the phone and ask to get their permission to send them an email or potentially write them a letter on a piece of paper and get their response on a piece of paper and then send them an email. That was fine for 1999 when the policy work for the Electronic Transactions Act was put together from a consensual point of view because it was such a new way of dealing with things. Things have moved on a lot since then. We are in a very different world. The way that we engage with technology is very different. The way we deal with social media is different. Our lives are far more digital now than they ever were.

What we are saying is that, realistically, we need to treat paper transactions and electronic transactions very much the same these days. That is the expectation of clients. That is the expectation of consumers. That is the expectation and the usual experience that we have. Any provisions in the bill which require more consent at a different level to paper really is beyond that. I think it goes a little bit to Andrew's point about the benefit of the way that the ETA was put together. It was very much technology neutral, so it treated all technology the same and said that electronic transactions should be treated in the same way. The logical conclusion of that is, now with our reforms of deeds, we ensure they are treated in the same way as paper transactions.

CHAIR: In essence, you want to be able to capture that consent first through electronic methods. At the moment you need to do it in a different way before you enter into doing that?

Mr Dunn: In terms of a standard contract, you sign a contract electronically. That shows that you consented to sign the contract electronically. I guess we are saying: should the position be different for deeds?

CHAIR: I note that has come through in a couple of submissions. You need to sign a deed to alter the other deed. It took me a bit of reading to get my head around this particular concept. That is a general point you are making—capturing that consent initially electronically, as we have said. One of the things that has come up in the submissions that is very clear is that people have been asking about defining methods of electronic signature and electronic transactions, whether it be in the bill or in regulations. How is that defined? Does anyone on the panel have any views on that in particular?

Ms Shearer: We do have views about that. I will ask Andrew to address the technology.

Mr Shute: Again, we welcome the approach that was adopted in the regulations, where it was technology neutral. There was no statement about how those signatures, or the nature of signing, were required. If I can again speak to some practical examples, during the course of the pandemic last year, as I mentioned, I probably witnessed or signed about 12 affidavits over that period of time. The method used was not the same on each occasion. On some occasions I may have used an iPad and a Stylus to sign, whereas the other person I was remotely witnessing who was signing was either applying a signature that had been precreated or was drawing on a screen using a mouse or typing in a name. There were various methods, depending on the technology they had access to at the time.

Again, I think we have also seen over that relatively short period of time that technology has advanced. Issues were being considered at the time of those reforms. I think initially there were some reforms that suggested some types of technology be used. I think the concern there is that that forces people down a particular path to invest in a particular form of technology that may or may not be readily accessible that also may be prohibitive for the everyday consumer, the actual client, the person who is going to sign it, that they may not be able to invest in that technology. That is the concern that we had which some jurisdictions were starting to do. Particularly overseas, I think they were prescribing particular methods for signing. That starts to introduce unnecessary requirements and complications, which defeats the entire purpose of the reforms.

Ms Shearer: I think we have the example of the technology-neutral nature of the Electronic Transactions Act working for over 20 years. We would not see that now is the time, with technology changing so rapidly, to specify any particular method.

Mr Shute: In relation to deeds, I think this is probably a good example, and I think Karla can probably talk to this. In respect of a very large transaction of high value, there is nothing to stop the parties themselves from seeking to require under the terms of the deed particular forms of signature or verification of that. It is something they are perfectly entitled to do. The approach that the regulations adopt, of the ability for regulations to be made to specify either certain accepted methods that are required or certain ones that may not work, I think is appropriate in the circumstances where we do not know which way technology will go, but there may in fact be methods adopted that prove difficult or unsatisfactory in certain respects. There is scope to make regulations or other provisions that will prevent those methods from being used. Equally, there may be methods that are readily adoptable and used that are found to be satisfactory for other circumstances which can be specified in regulations.

Ms Fraser: The law as it has evolved over many years for us in relation to signatures has always been very flexible. It has recognised that people may be illiterate or are not able to do things. What is recognised by law as being a signature, which is your active intention to be bound, has always been very broad. There has been the original making a mark—that sort of thing.

When you start talking about if we are signing things electronically it has to be done a certain way or meet certain requirements, we actually lose that flexibility that the law has worked quite hard to introduce in terms of people being able to express their intention to be bound. As Andrew said, if

we are concerned about fraud and—I do not agree with this, but I know there is concern—the fact that somehow electronic signatures can increase the incidence of fraud, there are many ways of combating that. It depends on the transaction, what the risk of fraud is and what the potential downside of fraud would be so you can authenticate signatures. You can ring people and confirm that they applied their signatures. It is open then to the parties to determine what that risk is and how much effort needs to be done to circumvent that.

When we are talking about extremely vulnerable people or sectors in society, there is quite a lot of bespoke legislation to address that. We have unfair contract term legislation. We have the various consumer credit legislation. We have the provisions of the Oaths Act or the Powers of Attorney Act or the laws around wills which cater for vulnerability. In terms of just signing documents and what the Property Law Act is seeking to achieve, I do not think we want to go down the route of making that prescriptive.

Mr Dunn: In the legislation, we are dealing with transactions of any value here. It is probably worth also focusing just with respect to deeds as well but broader for any type of electronic signing. We are not dealing with sheep stations. If two people decide that they want to do a deed because they want to resolve a matter between them and they want to state their views and have a deed to witness that for some reason—I cannot think why but maybe—there is no consideration. We are not dealing with value in that space. To then set a standard where they need to apply public key cryptography signatures to that deed in order for it to be a viable deed because that is what we think is appropriate for the transactions that involve the Curtis Island LNG stations is not proportionate.

Putting the legislation together in this technology-neutral way also allows the parties to execute those documents proportionate to the type of transaction they are doing and the level of comfort they have with the particular transaction. It empowers the parties to the transaction, rather than forcing them to a particular method of forming the document which might be completely overblown or inappropriate for the type or nature of the document that it is or the type or nature of the transaction or situation that it is evidencing.

Mr McDONALD: I appreciate the commentary regarding the technology-neutral approach as well as consent issues. Fundamentally, you have a person who wants to consent to signing a document or deed and it is the job of the JP (Qual) or the lawyer or solicitor to make sure that is both informed consent and without duress of some form or another. There is a large onus, as there is right now, on that JP (Qual) or solicitor to witness that with those premises. Do you have any comments on, firstly, making it even simpler? It is the duty of the JP or the solicitor to witness that on those grounds. Secondly, there are restrictions at the present time that the JP (Qual) must have certain training to be able to perform those duties. Do you have any comments about those two things?

Ms Fraser: I will start with a very simple comment and then I will hand over to Andrew, as he has more detail on particular witnesses. It is important to understand that deeds of themselves do not need a special witness. Witnessing can be any of us in this room, because that is the common law about deeds. They are the formalities around individuals signing a deed. You do not need a special sort of witness. I think that should be in its simplest form. That is, as long as we are not putting consent requirements and technological signing requirements around it, it is a very simple process.

Where you have then special types of witness, they are mandated by their various areas of law. In my day-to-day property law, property transactions documents that need to be registered with the land titles office need a certain type of witness. There are formalities around what they need to do, which I think is important to make simple, but then that probably crosses into Andrew's area more than mine.

Mr Shute: The issue in relation to special witnesses I think is a good reform, again, that was introduced into the regulations originally. That was because there was concern about either undue influence or risk of fraud, so they narrowed the category of people who were qualified to be able to witness documents in a virtual world.

I think we would support that move because it does provide that extra degree of comfort. Those lawyers or qualified JPs and certain restricted qualifications in terms of special witnesses do provide that extra layer of protection. There is a requirement on those people who are witnessing signatures to do various things. They need to verify the identity of the person which, again, is an important protection. They also need to be sure that the person is freely and voluntarily signing the document. That is in relation to statutory declarations and affidavits which, again, is an important reform. There is also the reform in terms of the formal requirements of the jurat on the affidavit or the statutory declarations which acknowledges or has the person who is swearing the document acknowledging the risks, if you like, of perjury. Those sorts of reforms are beneficial.

One thing that is of interest, though, is that those reforms are only in respect of electronic witnessing. That does kind of raise the issue about why a person who is witnessing a signature on a hard copy document should not also verify the identity and be sure that the person is freely and voluntarily signing the document. I think that is a legitimate question. The extent to which we should not be treating documents—hard copy or paper copy—any differently I think is important. That does tie into that question of consent.

In relation to affidavits and statutory declarations, there is no requirement for consent. It is accepted, subject to the bill passing, that those documents can be signed either electronically or in hard copy and either way they are treated exactly the same. In terms of deeds, it is slightly different by introducing a consent requirement. That is the concern—that that is treating that category of document differently.

Mr HART: I have a number of questions. I am not a lawyer, so excuse my ignorance if I ask a stupid question. I think our job here is to elicit information so that somebody smarter can work out what we need to make changes to. Going back to the member for Lockyer's question on training for JPs et cetera, a lot of people did their training years ago. We are shifting to something different that they have not seen. Do we need to change the initial training or do we need a refresher course for some people to bring them up to date with what is happening here? Do you have any thoughts on that?

Ms Shearer: I have very little experience of the practical training of justices of the peace, but it would seem to make sense that with changes being implemented there should be updated training for them so that everybody is aware and that members of the community are not disadvantaged because a JP is not quite up with what they can and cannot do.

Mr HART: We will take that on board and maybe make a recommendation. Going back to the issue Allens had around consent, I think I understand what is going on there. During the consultation on this bill, did the Department of Justice and Attorney-General have any thoughts on the point that you made around consent? I have gone through their response and I cannot see where they responded to that, but I may have missed it.

Ms Fraser: I cannot recall from the consultation myself this being specifically discussed. The legislation does say that consent can be inferred, but because it has a separate provision that says consent is also required the concern is really that that additional layer of commentary makes people think they need to do something else other than infer the consent. Our request was that it would be clarified or made clear in the explanatory memorandum that there was no expectation that you need to do something else other than sign the document electronically to infer that consent has been given.

Mr HART: Is it better that that is in the legislation rather than the explanatory notes?

Ms Fraser: Ideally, yes.

Mr HART: Do you have a form that you would like to see, that you suggest the government—

Ms Fraser: I think we do not want a form actually, because that makes it different. That means electronically you have to do something different than if you did it on paper.

Mr HART: Sorry, I did not mean a form; I meant a form of words that should be in the legislation.

Mr Shute: One thing that might be worth looking at is, in fact, the regulation—the current regulation where we are talking about deeds—because that regulation did not have a consent requirement. I have very quickly pulled up section 12O(2) of the regulation, which states—

An instrument that is to have effect as a deed may be made in the form of an electronic document by or for a person even without consent to the making of it in that form from another signatory or any other person.

Certainly my experience over the period of COVID—and I suspect it is probably the same with Karla—is that that worked without any difficulties at all. It facilitated the ability to sign electronic documents without people consenting to signatures and I do not think we are aware—and I am certainly not aware—of the reason for, if you like, going back to requiring consent in these circumstances.

Ms Fraser: That is right.

Mr HART: I hesitate about regulations changing legal practice. Legislation is there for that. Regulation is too easily changed. I do not particularly like that idea. Can we also talk about the issue of deeds not being electronically signed by the state? Explain that to us and what we need to do to fix that.

Ms Fraser: I think the fix is easy, if I start there. You include a provision in these current proposed reforms which makes it clear that the state as a body can sign electronically. In fact, the Queensland Law Society's submission included examples from New Zealand, I think at least, which

actually has a very clear provision. The issue at the moment with electronic execution of documents is largely one of uncertainty. As I said in my opening remarks, the problem with uncertainty is that people default to the conservative position. In the absence of a clear statement, the view is that a government entity which does not fit the categories that are prescribed cannot sign something electronically. You need a clear statement to facilitate that going forward.

Mr Shute: In relation to suggested wording, I think I had referred to the ability to create an electronic document without consent. The provision I meant to refer to is still in 12O but it was subsection (3), which says—

An instrument that is to have effect as a deed may be electronically signed by a person even without consent to the signing in that way from any other person who is to sign the deed.

I think that is the wording that I was thinking about that would seem, from our perspective, more appropriate than requiring consent.

CHAIR: What you have outlined there is what you would say is a beneficial change?

Mr Shute: That is correct, yes.

Mr HART: On deeds, I take it from what you said before that a wink and a nudge might be okay for low-risk deeds versus the LNG facility at Gladstone requiring handcuffs and secured document briefcases and police and whatever else. Are we then shifting the onus completely onto the witness to decide what is good enough and what is not good enough, or have I got that wrong?

Mr Shute: I think the issue that was being identified was in relation to deeds. The parties are entitled contractually to agree amongst themselves as to what they think is the most appropriate way to both record the document and sign the document and to verify signatures and have them witnessed. That deals with deeds. If we are talking about statutory declarations or affidavits, the witnesses have a say in this in the sense of being able to decide whether they want to sign electronically or whether they want to sign in paper. I think that is the important thing—that they have a choice as to which way they want to sign and they are not restricted to the pre-COVID situation of having to sign only in wet ink.

Mr HART: My concern around this is: when someone is sitting in front of you and you are seeing them sign something, you understand that they are not being coerced in any way and you get a sense of who they are and what they are doing versus someone on the other side of an iPad, where something may be happening in the background that you do not know about. You do not have any concerns there?

Ms Shearer: I think it is easy to overstate what you learn in the process of actually witnessing a document. For example, if you are sitting at a counter in a shopping centre and people are bringing their documents in to the JP to witness, I would query whether that is a forum that allows very sophisticated identification of duress other than asking the person. I do not know that doing it electronically is necessarily going to provide any difference. In either scenario there is a risk of some duress happening that is not apparent at the time of the execution of the document, but that is not something that this legislation can address one way or another.

Mr Shute: I will speak practically again to some of my experiences on this. In terms of the process of witnessing electronically, again, they are special witnesses so they are qualified witnesses. They do need to go through the hoops in terms of extra steps than are required in paper, so similar to what the president said there. A JP is not required to necessarily verify the identity or be sure the person is freely and voluntarily signing, whereas if I am witnessing a document electronically I have to do that. Also, when you are using an audiovisual device it is audio and visual, so you have to be able to both hear and see what is going on.

In my experience, affidavits are not instantly created on the spot and you get on the device and you say, 'Sign this.' There is actually a lengthy period of time where those documents are being prepared and compiled so these people are, over a period of time in any event, voluntarily signing. The extent to which you are even dealing with someone who may not be a client or a third-party witness—again, that is an ongoing process. If the person is located remotely, you have to farm that process out to someone else. It is not me; it is some lawyer. You might engage a town agent who, again, does not know this person and has not dealt with this person, so I do not think there are any additional protections in that way. I think the methods we have here currently in terms of those steps of verification and having the audiovisual facilities provide a large degree of comfort, particularly for the types of documents that we are dealing with.

Mr HART: Has the Law Society been pushing for these sorts of changes before, or is it purely triggered by COVID?

Ms Fraser: There has been a look at the Property Law Act, which we have had since the 1970s. A very large study was done into that which often dealt with some aspects of this—obviously largely about deeds and formalities around deeds, which is a very old-school sort of process and concept. There has been a lot of work done into reforming those for some time.

Mr Shute: In relation to affidavits and statutory declarations, probably five or six years ago I attended a conference in a Federal Court sphere where I had actually discussed it and raised it as something that was possible to do electronically, but I had raised the issue that there were restrictions on the ability to do it. It has been on the wish list but something we never thought would be able to occur. It was COVID that actually spurred on the ability to do it and demonstrated the benefits. I suppose it is a positive of the pandemic that has shown that those benefits are available.

Mr MADDEN: Thank you very much for coming in today. My question relates to what you explained before, Mr Shute, about the various mechanisms to create the electronic signature and also, Ms Fraser, what you talked about with illiterate people with their mark. The department advised the committee that where an electronic signature is used that would be highlighted in an affidavit, in the body of the document. Do you see any benefit in highlighting that with the actual signature—indicating that it is an electronic signature at the bottom of an affidavit? Obviously when you do cut and paste, they look very much like a real signature. Solicitors will have securities where they have both forms of documents—with electronic signatures and where a pen hits the paper. Do you see any benefit in having something similar to the mark, Ms Fraser, where it clearly indicates 'this is an electronic signature'?

Ms Fraser: From my perspective the answer is no, because a signature is a signature whether it is electronic or not. The question then becomes fraud prevention and concern about whether or not a signature has been fraudulently applied, and I do not think adding any note facilitates that.

Mr Shute: I would certainly agree with that. I think it also starts to introduce another thing you need to do in terms of how you apply the signature which can add to potentially the cost and the simplicity of the process. The other important thing, though, is that when a statutory declaration is created electronically and then sworn and witnessed electronically you do have to specifically state that in the jurat at the base of the affidavit so it is actually clear on the face of that document that that has been done. I do not think it adds anything to then identify which signature was applied electronically, because you have already stated in the affidavit that that has occurred and that you have complied with the relevant law.

Mr MADDEN: Thank you for clarifying that.

CHAIR: We have a couple of minutes left. I am looking for that central guiding principle. Ms Shearer, you talked about making sure all these documents are dealt with—whether it be affidavits, oaths, deeds or signed powers of attorney—in a consistent standard across all those documents so that lessens the burden upon all of you. I am trying to reduce it down to a nutshell. Am I heading in the right direction with that?

Ms Shearer: I think the consistent theme is that an electronic signature should be equivalent to a wet-ink signature. As to how that is realised, there are inconsistencies in relation to deeds and then affidavits and statutory declarations, but that all goes to the nature of those documents. What we are saying is: do not interfere with the nature of those documents and what they otherwise have to do but in terms of how they can be signed and witnessed, accept electronic as equivalent to wet ink.

CHAIR: Bearing in mind it certainly is the level of witnessing that may differ between those documents, electronic ink equals wet ink is a consistent principle across all of those.

Ms Shearer: Yes, without specifying what electronic ink is.

CHAIR: Are there any further questions?

Mr McDONALD: I have just a comment, Chair. Thank you again for your presentation. Mr Shute, I come back to what you said a while ago in relation to the dozen documents that you have signed. No two have been the same but you have achieved the ability to understand this is the informed consent of the person without requiring the consent and without duress of any type. Even though you might not be able to see things—people would come in to sign something in front of you; you cannot see what happened before they got there—it is about how you make sure that is the case. I think that is a good summary: wet ink equals electronic ink, however that is achieved by the responsible people.

Mr HART: Andrew, if this bill passes and we fix up a few of these things we have discussed today, does that solve any interjurisdictional issues or are there still problems that have to be solved?

Mr Shute: It does not necessarily immediately solve the issues. It certainly helps us as practitioners in Queensland so that we can obviously still get affidavits sworn by people interstate in accordance with our methodologies and it will not impact on the validity of those documents. The issue we may face if we are then doing work in New South Wales or another state, obviously as practitioners in those states doing work there, is that lack of consistency, but I think, as Karla's submission said, increasingly the Queensland approach is being held up as a model. It has been applied. The current approach under the regulations is largely the same as that being proposed under the bill, so those provisions have now been there for a lengthy period of time. They have been beneficial. They are starting to be adopted and recognised in other jurisdictions and there is a considerable amount of work occurring both at a state level and at the Commonwealth level in terms of looking at these reforms, so I think having something out there that can be held up as a standard overall will be beneficial.

CHAIR: The time for this section has now finished. We do not have any questions on notice. Thank you all for being a part of this today.

GREEN, Mr Tom, Policy Manager, Diageo Australia; Spirits & Cocktails Australia (via videoconference)

HOLLAND, Mr Greg, Chief Executive, Spirits & Cocktails Australia (via videoconference)

KITCHEN, Mr David, Director, Independent Brewers Association; Part Owner, Ballistic Beer Company

STEELE, Mr Russell, Representative, Independent Brewers Association; Part Owner, Easy Times Brewery

WEBSTER, Mike, Owner and Brewer, Scenic Rim Brewery

CHAIR: Thank you all for appearing before the committee today. I will invite you to make an opening statement, after which committee members will have some questions for you.

Mr Kitchen: Chair and committee members, I will introduce my colleagues sitting behind us: we have brewers from Sea Legs Brewing and Scenic Rim Brewery. In the interests of time, I have a longer opening presentation but, rather than speaking to that, I will hand it to you afterwards.

The original legislation allowed struggling restaurants to develop a new income stream to mitigate the massive drop in trade over the past year. With patron preferences continuing to move towards takeaway dining, their battle is far from over. I think in any discussion on this legislation there are two principles that should be applied. The first principle is provenance of purchase. Debate on this legislation is not really about whether there will be an increase in the amount of alcohol being served; the debate is about where that alcohol is being purchased. Alcohol bought at a restaurant is exactly the same as alcohol that is bought at a bottle shop. Currently, a customer has a choice between going to a bottle shop or purchasing alcohol at the restaurant. Opponents want to ensure that all purchases are made from their bottle shops and not anywhere else.

The second principle is RSA. The Liquor Act is very clear on what the requirements are for ensuring the responsible service of alcohol. If you have a liquor licence, be it for a hotel, a detached bottle shop, a restaurant or a brewery, the same RSA obligations apply to all of us. If you breach those requirements, you should be prosecuted. There is no variation depending on the location where that alcohol is served or sold. Any discussion about RSA here really is an irrelevance and a distraction. We are all bound by the same overarching requirements.

I have a few general comments. ABV has come up in this a lot. Beer is the only alcoholic product that provides a low-alcohol option: zero alcohol, ultra-low, light and mid-strength beers. The two biggest selling beers in Queensland are 3½ per cent and they outsell all other beverages. The average RTD sits between four and six per cent. However, every bottle of wine is 12 to 14 per cent. Wine is twice as alcoholic as RTDs and four times more alcoholic than Queensland's favourite beers. If the government is serious about harm minimisation, why are we limiting consumers to only purchasing high-ABV wines? Give them the option to purchase low-ABV beers, ciders and RTDs.

In terms of the loss of revenue for bottle shops, last year takeaway liquor sales grew by 30 per cent, or $4 billion, to a total of $16 billion, despite the restaurant takeaway legislation being in action at the time. The impact of restaurant takeaways has been negligible on the massive revenues generated by bottle shops. At the same time, restaurants lost $10 billion. Why is the Queensland government favouring massive financial profits for the two large national companies that own most of the bottle shops over the financial viability of struggling restaurants?

In terms of the amount of alcohol that can be purchased, in my suburb of Moorooka there is a Woolworths shopping centre that I use to buy groceries. On the left-hand side of Woolworths is a Nando's. After buying my groceries, if I pick up a takeaway meal to take home I am allowed to buy two bottles of wine. On the right-hand side of that Woolworths there is a BWS bottle shop. I can walk into that bottle shop and buy a case of wine. I can also buy a carton of beer and, if the fancy takes me, at the same time I can buy a slab of Bundy and cola premix. Why does the government believe that I am a more responsible person if I turn right out of my Woolworths store than if I turn left and go to the restaurant by restricting my purchases to just two bottles of wine with no beer and no spirits? Arguments for volume restrictions are not about protecting the health of restaurant goers; it is about liquor retailers protecting their own business interests, again at the cost of everyone else.

In terms of home deliveries, I have some questions for you. When you order a takeaway meal, are you prepared to wait two hours for that meal to arrive? When you order that food, aren't you always there when that food arrives? Isn't coupling alcohol and food takeaways perhaps the best way to ensure there are no alcohol deliveries to unattended addresses? Isn't food acknowledged as a recommended way to minimise the effects of alcohol under the RSA requirements in the Liquor Act? Isn't delivery to your house a good way to keep you off the road, especially if you already have had a wine? Wouldn't this assist in reducing drink-driving injuries?

Finally, in terms of equity, I was at a recent seminar held by OLGR where they talked about implementing equitable and not equal legislation. Restaurants are not seeking Queensland rights and aiming to become de facto bottle shops; they are seeking an equitable way to maintain viability when their business model has shifted so dramatically towards at-home takeaway dining. Restaurants have always been able to supply wine, beer and spirits to their dine-in customers. Let them continue to provide the same wine, beer and spirits to their takeaway customers and keep those restaurants viable. Rolling back the legislation now to protect bottle shops is like trying to roll back Ubers to protect the taxis. The world has moved on. Legacy models are no longer what works. Unless the consultation draft is adopted, the government will have the blood of mass closures and even greater unemployment in hospitality on their hands.

CHAIR: Mr Steele?

Mr Steele: I would make the simple observation that these sales are happening anyway. You have had a busy day at work, you stop on the way home and you grab something from your favourite local restaurant. The voters have shown that they want to support those small businesses. Those small restaurants support other small artisan producers, not just in the liquor sector. They buy artisan cheese; they buy farm beef; they go to our local seafood producers. They do those things and they put them on your plate or in your takeaway meal container. They also favour food and drink matching. It was always food and wine matching. That is evolving because the voters' tastes are evolving. They support going to their local restaurant and buying the liquor that they would consume if they were dining in the restaurant.

What happens if I am not dining in and I buy that takeaway meal? If we are not allowed to adopt the current temporary measure in full, I have to walk next door to a bottle shop and buy what I want to buy anyway. One of the problems is that those bottle shops do not necessarily have the range of the small producers' products. I am forced into the big producers' pocket and the big business pocket. It is genuinely a choice between putting my money into a big business or putting my money into a small business. The sale is happening anyway.

On the delivery front, the largest deliverers of alcohol in Australia are our Australia Post and courier networks. They drop unaccompanied cartons of wine and have done so for decades. This is somebody delivering a meal or picking up a meal. I am going to be waiting for the hot takeaway Thai that I ordered, but I want to match it with a product that is artisan and local in most cases.

What we urge the committee to do is adopt the unamended consultation draft. That consultation draft allowed what has happened for the past 18 months to continue. The bill as introduced does not allow that. The peak industry lobby—and we understand their perspective; they have to protect their members—has simply moved away from that which supports the small businesses. The sales are happening anyway and this is a genuine, easy-to-amend position because there was already a consultation draft completed.

CHAIR: Thank you, Mr Steele. We will go to Mr Holland and Mr Green.

Mr Holland: Chair, I thank you and the committee for the opportunity to appear. Spirits & Cocktails Australia is the peak body for the Australian spirits industry. We welcome the opportunity to provide testimony today on the Queensland government's bill to make permanent some of the temporary measures introduced as a result of the COVID-19 pandemic. This bill has the potential to stimulate growth for Queensland's hospitality sector, in particular its licensed restaurants, but the current drafting of the bill falls short of achieving this objective.

There is simply no policy justification for restricting the sale of alcoholic beverages and takeaway meals to the wine category, from either a harm minimisation perspective or an industry and economic perspective. The current drafting of the bill allows for higher amounts of alcohol to be sold via two bottles of wine than is contained to a sixpack of premixed spirits or a sixpack of beer. As you may be aware, the ethanol found in wine is the same chemical compound as ethanol found in distilled spirits and beer. Alcohol is alcohol, as we say in the industry.

Issues around harm relate to the total amount of alcohol consumed, not whether the alcohol was beer, wine or spirits. Just as the breathalyser does not discriminate between the type of alcohol consumed, nor should the bill. In fact, the current drafting of the bill hurts Queensland distillers, including the iconic Bundaberg Rum, and burgeoning craft producers as well as significant RTD, ready-to-drink, manufacturers who directly employ thousands of Queenslanders.

Perversely, it favours wine producers located outside of Queensland, in states like South Australia, Victoria and New South Wales. Each of these states is also legislating to allow licensees to sell delivery and takeaway alcohol with meals on a permanent basis. All three of those states have included the sale of cocktails and premixed spirits as part of these legislative reforms. Only Queensland is restricting the category of drinks sold to one. Such a restriction applying only to Queensland consumers appears antithetical to the liberalisation of licensing laws ahead of Queensland's positioning as a premier national and international tourism and hospitality destination including, as the future has, to the 2032 Brisbane Olympic and Paralympic Games.

Takeaway cocktails and RTDs offer consumers a modern and vibrant alternative and one that accords with current drinking trends, which show that Australians are choosing to drink less in terms of volume and better quality alcohol beverages that celebrate the provenance of spirits produced by our award-winning craft distilling industry. In fact, data from the Australian Bureau of Statistics confirms Australia's per capita alcohol consumption is at its lowest in 50 years.

It would be unfortunate if the bill failed to recognise these positive changes to Australia's drinking culture and instead prohibited a Queenslander from buying a sixpack of XXXX or Bundy Rum with a takeaway meal when they could do so in other states around Australia. Therefore, we would recommend that the licensees continue to be allowed to sell premixed spirits with the sale of takeaway meals up to a maximum of a sixpack, thus meeting the dual objectives of promoting economic recovery while minimising the risk of harmful consumption of alcohol. Thank you, Chair and committee.

CHAIR: Mr Green, I know that you are from Diageo Australia, but for the committee could you perhaps give a background to your organisation?

Mr Green: The simplest way to describe who Diageo is in its impact into the Queensland market is: when you see Diageo, you should think Bundaberg. Bundaberg Rum is one of our premier Australian products. We are extremely proud of that brand and obviously it is ubiquitous with Queensland and the drinking culture in Queensland. Yes, we are appearing here as Diageo and we make a range of premixed spirits and RTDs across different alcohol type, but really when we are here at this committee you should see us as Bundaberg Rum. I will leave that as the opening comment. I am keen to jump into some issues as we take some questions.

Mr HART: I will declare a conflict of interest, gentlemen, because I am a shareholder in a brewery on the Gold Coast. I will avoid asking questions.

CHAIR: That is a good idea.

Mr McDONALD: Thank very much for your presentation, gents. Obviously there are worlds of difference between what the industry might like to see returning versus what you would like to see. Mr Holland talked about the sale of a sixpack of Bundaberg Rum. At the moment the bill has tried to capture 1.5 litres of wine, which does not satisfy your lobby whatsoever. Is it just a matter of you wanting to see things return to 2.25 litres as per the draft bill?

Mr Holland: It goes to the point that under the current proposal consumers can purchase up to 16 standard drinks with their meal. In contrast, a sixpack of premixed spirits contains between six and 12 standards drinks, and this is well below the maximum number of standard drinks the government is proposing to allow through the purchase of the two bottles of wine. We are a bit confused by why you would allow 16 standard drinks to walk out the door when a person can come in and buy six and 12 standard drinks.

Mr Green: The 2.25-litre number is a fairly standard one that we have seen across plenty of jurisdictions here in Australia, and the Queensland parliament is not the only parliament that is currently grappling with this question. There is a bill in the upper house in Victoria that is looking at this exact question around expanding the licensing rules for certain on-premises categories. We would like to see the original consultation draft reinstated around that 2.25 litres, which is obviously 375 millilitres times six—whether it is beer, whether it is the bottle of wine as envisioned in that earlier draft, or whether it is a sixpack of ready-to-drink spirits or cocktails that have been sealed.

For us, it is quite a simple ask that we are here to talk about today. You are going to have other states—and we are seeing it in Victoria, South Australia and New South Wales as examples—that are grappling with this question and they are landing on the original consultation draft that the

Queensland government had released around this issue for 2.25 litres, and we do not want to see a scenario where a Victorian consumer has greater access to Bundaberg Rum than a Queensland consumer.

Mr R Steele: There is a section in the Liquor Act that has been there since it started in 1992 called 'presumed quantity of liquor'. It talks about nine litres, essentially being a carton. So 2.25 is a sixpack, by any measure, and that is why that was adopted pretty much nationally on the fly as COVID hit.

COVID caused a lot of effects, but the sky did not fall in. None of the risks and the concerns that have been raised by other lobby groups against this have been supported by evidence. People have supported those small businesses and they have gone home and there has been no significant impact in domestic violence et cetera that is quantifiable and linked directly to this. We are simply asking for the draft as it was consulted. The current draft not only takes away the 2.25 but also makes all of those small business owners have to lodge an application to get approval to do it.

On Monday the regulator, the Office of Liquor and Gaming Regulation, appeared before this committee. They have not even formulated the guideline on how that application might go, whereas the consultation draft made it as of right for all of these small businesses to do the right thing. They have done the right thing throughout this pandemic. They have shown that they can sell alcohol responsibly and they should be allowed to continue to do it because the sky did not fall in.

Mr McDONALD: Mr Steele, what is the fee associated with that application currently? I know there are COVID provisions to waive some of those fees, but what would it be normally?

Mr R Steele: An application to vary a normal liquor licence is about $215 so it would fall somewhere in that, but there is no existing provision for it. That would be what I would expect any such fee would—

Mr McDONALD: It is not affected by volumetric consumption at all?

Mr R Steele: None of those things. It would be a variation to an existing liquor licence. It is a red-tape process. Any application before Liquor Licensing will take one month, two months, three months, and if this bill were to pass before Christmas—we have tourists coming up here to Queensland; they are going to want to get takeaway meals in all of our tourist locations and take them back to their hotel and motel rooms or their Airbnb premises and consume a small amount of alcohol that is a sixpack without an application needed.

Mr MADDEN: My question relates to the various temporary measures legislation that has been introduced that affects your industry. I am interested in what you had to say, Mr Kitchen, about the bottle shop sales increasing by about 30 per cent. Gentlemen, can you give me a flavour of how your industry has been affected by COVID with regard to sales and employment, because it is something that I am not clear about?

Mr Kitchen: There are two parts to it. There are those within the craft beer industry who had their existing canning facilities—we have gone through that and we have done reasonably well. Our venues, however, have done extremely poorly. I have a large debt company-wise to the ATO because we have had to defer payments, as allowed, so that we can ensure we can continue to pay our staff their proper salaries rather than cut them. It has had a direct effect on me, and I think all the gentlemen behind me will also say the same. Scenic Rim Brewery is a tourist driven brewery and he would have suffered greatly as well. The same goes with Sea Legs down at Story Bridge; it is a venue driven operation. For all small craft breweries, the venue itself is one of the primary drivers of our sales.

The biggest issue for us in this is—perhaps not a company of my size, but the smaller site portion of the industry and the 53 per cent of the industry that is regional—they do not get access into the large chain bottle shops. The best way they can get access to market is by such examples as getting your beers into your local restaurant where people are prepared to drive out to a town or up to Toowoomba and they will buy a Toowoomba beer in a Toowoomba cafe that is serving Toowoomba beef. We have just lost, unfortunately, in the artisanal liquor producers legislation, the right to be able to sell other craft breweries' products as takeaways. That was removed from the legislation. This is the second time in a matter of months where the right for us to be able to gain some market access, as promised under the craft beer strategy, is being challenged by those who run very large bottle shop chains. It is an opportunity for us to be able to sell and get market access somewhere where we are working directly with the owners of the businesses to ensure that our products are getting out into market and to allow those companies to continue to grow.

Mr MADDEN: Has the temporary legislation which was to support your industry had the desired softening effect with regard to the COVID-19 pandemic?

Mr Kitchen: Absolutely. Any additional revenue stream over the last 18 months has been a boon for us. Certainly for the smaller businesses, and particularly those that do not have the ability to can their product, it is absolutely a very good way of getting in. They can either do kegs or if they can get their product into canning or bottling they can get them into those venues as well, but it has certainly provided an additional source of income for them.

Mr MADDEN: Gentlemen on video, is that the same for your industry?

Mr Holland: I will defer to what the effect has been on Bundaberg Rum, for example, in Queensland, but overall, to answer your question, certainly sales in bottle shops have soared by about 26 per cent during the pandemic, but on licensed premises the sale of our products has fallen by about 75 per cent across the country. Whilst those sales have gone up, as I said before, the Australian Bureau of Statistics has done research over the last two years to show that overall consumption has not increased at all. While obviously people are buying more drinks to drink at home, overall consumption has not increased because of the inability to go to venues. I will pass over to Tom to talk about the effect on the visitor experience, particularly in Bundaberg.

Mr Green: In Queensland, Bundaberg is known most predominantly for our distillery in Bundaberg and the visitor centre that is attached to it. That has recently been through a large $8½ million refurbishment. Usually it would bring in about 75,000 tourists a year; it is a real tourist venture there in Bundaberg. We have seen a dramatic reduction in the amount of visitors that we are getting through that visitor centre. For us, whilst the off-premises sales quantity is quite strong, which are your bottle shops and the like, on-premises sales have been really badly affected by the COVID-19 pandemic across the country. One of the things we have been trying to do through our Raising the Bar program is really help and support the on-premises customers that we deal with, whether they be pubs, bars or restaurants, to assist them in getting through this pandemic.

That investment from Bundaberg has been quite well received by the on-premise community. It is a mark of the fact that in this particular space every single on-premise revenue stream that has been available to operators—regardless of whether that be pubs that have been able to keep their bottle shops open in some states throughout the pandemic or whether it has be takeaway food; some of the pubs have been able to access that revenue stream—we have found from talking to our customers and talking to the on-premise industry that that has been a godsend for them. That is the case whether that be delivery, whether that be takeaway, whether that be food or whether that be alcohol.

Mr MADDEN: So the consensus is that the temporary measures have had the desired effect?

Mr Green: Absolutely.

Mr R Steele: Agreed. In this context where it has genuinely made a difference is: when a snap lockdown happens a restaurant has all of their food orders, all of their liquor orders and everything in stock and they cannot sell it because consumers cannot come into their venues. If they can sell that as a takeaway product, they get to maintain the revenue. As we move forward and hope that you take on board our goal to get the consultation draft reinstated, it is not just a COVID-19 measure; it may be a rainy day outside today and consumers might not want to go out and dine in a restaurant, and that restaurant will benefit from this small bit of revenue. It is sucking on the side of a very big hose. That is all it is.

Mr Green: I will add to that, if I may, especially around the cocktail experience that we have found. Cocktails present an interesting innovation piece in this space that we have seen. It has been quite an amazing thing to see. There is true innovation in this space around the cocktail example. These are not a Bundaberg RTD or a bottle of beer that is the same bottle of beer sold in any available outlets. Some of these cocktails are genuine innovations.

We have had some excise issues with the ATO now resolved around whether or not that alcohol is excisable and whether or not those small businesses are required to gain a further licence to do that. What we have seen is the opportunity for consumers to interact with and purchase some of our craft, boutique distilled spirits in Queensland—whether they be different types of Queensland rum or gin or any of those distilled spirits. They can access those cocktails for takeaway in a way that was not available to them before the pandemic. It was a product that was not available anywhere else in the market. I think there is a real innovation piece that should be called out around the cocktail. I think it is a very distinct market opportunity and a very distinct cultural opportunity for a lot of these smaller venues to interact with their customers. It is not an RTD, a bottle of beer or a bottle of wine that you might be able to purchase somewhere else; it is a unique cocktail that can only be purchased at that restaurant or bar.

Mr McDONALD: I am interested to see how the COVID-19 exemptions around funding and costs are affecting you now. Are all of those application fees covered by the current COVID-19 measures? What is not covered?

Mr R Steele: There was support from the government in waiving annual fees. They automatically waived them last year. This year there was some red tape involved where they were waived after they were paid in most cases and refunds have occurred. That level of support has been excellent. There are fee waivers for increasing your licence area, for some extended hours permits and things like that. That level of support has been excellent. For a lot of things there is still an administrative lag. Even if it is a free application, you still have to lodge it. Within the current draft of the bill there is a model where a restaurant that can currently, as of right, sell these small amounts of takeaways will have to apply to the Office of Liquor and Gaming Regulation for approval. It is a free application for a short period of time—a year or so—but it is still an application. There are small businesses out there that will not have the time to lodge that application. The red tape and hurdles to jump over should not be there. They were not there in the draft bill and not in the temporary measures and they should not be included.

Mr Kitchen: They already have a liquor licence. What this is asking for is yet another piece of documentation to go onto a document already prepared by OLGR that governs our operations. They have the licence so why are we now saying that you need another piece of paper to do what you have already been doing? It is superfluous.

CHAIR: I would like to hear from Mike Webster from Scenic Rim Brewery specifically about how his brewery supplies its products to local visitor experiences and what he usually does at his brewery.

Mr Webster: I am the owner and brewer at Scenic Rim Brewery, which is out past Boonah—roughly 100 kilometres west from here.

CHAIR: Thank you for coming in today. Could you address what you supply to local restaurants and local experiences and what the effect has been on your brewery as a destination?

Mr Webster: As for all small businesses, you have to have many arms to your sales. This has created another arm that we needed. We were not online before COVID. It gave us the opportunity during shutdown to start online. We mainly supply restaurants and resorts. Binna Burra is one of our biggest customers. We need all those tentacles to make things work. As Russell said, everybody has become a food expert. They want food experiences. Through the tourism board that I am part of, we say regularly that food is the new superdeal. I have customers come into my brewery where we have a cafe attached which has German and Dutch style food. They can have an experience and go back to their accommodation and they might say, 'We're not going to go out tonight. We're going to get some takeaway from Boonah or Aratula,' but they will be restricted to have my alcohol that they enjoyed during the day. That is where I see the whole system going.

CHAIR: You probably had a bar and perhaps a small restaurant in your brewery?

Mr Webster: Yes.

CHAIR: With COVID-19 have you seen that essentially dry up?

Mr Webster: We were originally seating 120 people before COVID. That was pulled back to 55. That meant we had to turn over a lot of customers a lot quicker, so we were doing 90-minute sittings. Because of the seated and service requirement, that meant two extra staff and a whole new ordering system. We basically tread water. I am happy to do that because if I were in Victoria I would be out of business. You do what you do to survive. We need those many arms to distribute product. I am not a volume producer so I cannot suddenly take a pallet up to BWS and say, 'This is going to help us survive.' That does not work.

Mr HART: Will the COVID emergency bill that covers off on some of the conditions that are allowed at the moment not still be in existence while the application process is underway?

Mr R Steele: At the moment it is dependent on the commissioner to issue a takeaway liquor authority. The last ones expired at the end of last month. They were then granted on the following day through until 31 January, when they will expire. They can be withdrawn at any time. If small businesses want to build in a regular package—so that I can buy wings on a Wednesday and takeaway ribs on a Thursday with a sixpack of beer—they are not putting as much into that because the rug might get pulled out at any point. If that is made permanent, those offers get to become my normal Wednesday night where I have a meal with some boutique, artisan produced liquor at home with my family. That happens without having to apply for it.

CHAIR: The time allocated for this session has now expired. I thank Mr Kitchen, Mr Steele, Mr Webster, Mr Holland and Mr Green for appearing. We do not have any questions on notice. Thank you for attending today.

HOGAN, Mr Bernie, Chief Executive, Queensland Hotels Association

STEELE, Mr Damian, Industry Engagement Manager, Queensland Hotels Association

CHAIR: Before we start this session, I point out that we have had a document given to us by Mr Russell Steele and Mr Kitchen. There being no objection, that is tabled.

I now welcome representatives from the Queensland Hotels Association. Good morning and thank you for appearing before us today. I invite you to make an opening statement. After that, committee members will have some questions for you.

Mr Hogan: We will make a brief statement and then welcome any questions from the committee. Firstly, the QHA would like to thank you for the opportunity to provide input into the committee's consideration of this bill. The QHA is the peak representative body for the hotel, hospitality and accommodation industry across the state. Our member hotels and accommodation businesses span the length and breadth of Queensland in virtually every town and locale. They provide jobs, entertainment and hospitality to Queenslanders and visitors alike. Our members include over 1,000 companies such as the traditional pubs you all have in your head right now, international accommodation providers and particularly family owned enterprises.

QHA makes the following comments on aspects of the bill which propose to allow cafes and restaurants to sell takeaway alcohol with takeaway food. QHA supported allowing limited takeaway sales during lockdown periods of COVID-19. It was an emergency relief measure while on-premise trading was unavailable for all parts of the industry. We understood this made sense and allowed people to move stock they had already ordered, as previously mentioned to the committee.

To be clear, QHA does not support cafes and restaurants selling any type of takeaway liquor—beer, wine or spirits—now that trading has returned essentially to full capacity. QHA suggests it is an opportunistic representation regarding the COVID-19 emergency response temporary relief measures becoming permanent. The bill is not intended to significantly expand the scope of the takeaway liquor licensing framework already operating in Queensland. It is fit-for-purpose and effectively services Queensland's community. There would be very few people who would say we are underserved in Queensland at the present time.

This bill should not be used to circumvent the takeaway liquor licence framework and harm minimisation requirements at the expense and disadvantage of the existing and established retail network—businesses that have invested in the appropriate licence types, training and harm minimisation obligations for many years. This would be a disproportionately adverse effect on existing approved retailers of takeaway liquor, especially in regional and country areas—we will come to that later. Many of those are family businesses.

It should be noted that across Queensland there are 1,412 commercial hotel licence holders and attached to them 831 detached bottle shops, and there are 867 community clubs, all of whom are currently approved to sell takeaway liquor to their members. Despite the impressions of some submitters, they effectively serve and meet the demands of Queensland consumers.

I would also like to dispel the supermarket duopoly myth. There are two major companies in Queensland—ALH and AVC—which many people will know from their brands. They operate 215 hotels, which is only 15 per cent of the hotel industry. They also operate 487 detached bottle shops. Combined they represent 23 per cent of the total number of takeaway outlets in Queensland. That means 77 per cent are operated by small and family businesses. I think an important thing that people miss is that this is a bill for all of Queensland for all time. It is not about South-East Queensland, where people may see a certain brand a lot of the time.

QHA encourages the committee to recognise and consider the disproportionate effect on small businesses that are not located in South-East Queensland. I will give you a quick example of a small country town. I grew up in one. It has one pub, a Chinese restaurant, a cafe and a golf club. The town I grew up in is Mirani. They did name an electorate after it. It does not have what you would call a booming tourist business. There is no sudden expansion in the population, yet simple economics tells you that with going from one outlet to potentially five outlets all you are doing is moving business from one business to others. The purpose of this bill is not about wealth redistribution or killing a small business. When you take away the pub that employs people in that town, you start to wave goodbye to regional Australia.

As mentioned, although the QHA opposes the sale of any type of takeaway alcohol products by cafes and restaurants, at the very least the proposal in this bill allows cafes to sell two bottles of wine with takeaway meals. It mirrors and extends the existing trading entitlements where on-premise diners can already take one opened and one unopened bottle of wine—in effect doubling their capacity.

If this bill is to pass, as is the case with other sellers of takeaway liquor, restaurants and cafes should have an approved manager who has a current responsible management of licensed venues qualification and who is reasonably available at all times when takeaway liquor is sold. They were talking about equality within the industry. That is a requirement of anybody who sells takeaway liquor in the industry now. We do not see why we should be carving off parts of the industry to get a special pass.

In our view, every business needs to return to business-as-usual operations as soon as possible. It should be noted that hotels and community clubs have gained no support from these measures and will gain no support from these measures and are now faced with the situation that their businesses will be permanently impacted. This is not about 18 months; this is forever. Thank you for the opportunity to appear here today. We are now in your hands with regard to any questions.

CHAIR: In your submission you talked about the fact that in some areas the RSA—the responsible service of alcohol—requirements may not be as stringent for some of the takeaway venues. Did you want to expand on what your concerns are with that?

Mr Hogan: I think RSA is something that has been looked at across the industry when it comes to delivery. There are some sensible parts in the bill, like saying it has to be a substantial meal. What we do not want to see is a garlic bread and a sixpack delivered at two o'clock in the morning to 15-year-olds. The individual delivering needs to have an RSA. There needs to be something at stake. We talk about the RMLV—the responsible management of licensed venues—qualification. In a hotel situation, if they allow that sale their licence is at stake and their livelihood is at stake. If you have somebody who does not have an RSA, who does not have any skin in the game, or a minimal investment, that impetus is removed. We believe in the responsible service of alcohol right across Queensland.

Mr D Steele: The primary purpose of cafes and restaurants is the provision of food. The primary purpose of hotels and other entities is the sale and supply of liquor for consumption on and off the premises. The entire livelihood of the business is underpinned by maintaining that liquor licence. If one of those other businesses, like a cafe or restaurant, does the wrong thing down the track, they might lose their wine fridge out of the corner but they can still be a restaurant or a cafe. The impetus for responsible service and compliance is underpinned by the liquor licence type. That is why we suggest it must be done via application. It must be done with those same requirements that exist for takeaway liquor.

It was mentioned earlier that there are 8,000 cafes and restaurants in Queensland. If one of the suggestions by the submitters was adopted, automatically overnight you would have 8,000 more outlets—be it your fish and chip shop, your hamburger joint or your kebab shop—that potentially could have the ability to sell takeaway liquor with no objection as is the case for other sellers of takeaway.

Mr Hogan: It will increase from 1,000 to 8,000. The alcohol fuelled violence policies that this government brought forward were all about access to alcohol. If it is open to everybody then suddenly you have 8,000 more outlets. I do not think that gels with the existing policy.

CHAIR: I should have mentioned that the member for Traeger, Mr Robbie Katter, is on the phone. Thank you for coming along, Robbie.

Mr McDONALD: For me this highlights why we do these inquiries. The example you just gave, Mr Hogan, of Mirani and saying that this is a bill for the whole of Queensland is a stark reminder that something so simple and which might be consumer driven could have serious unintended consequences. I was thinking during the previous presentation—and I am pleased that you were in the room for that—that maybe we have got this a bit wrong. Maybe we should be reducing restrictions for boutique brewers and brewers producing a bespoke product and allowing an offering and leaving the rest alone. Maybe we should be making it specific to that experience.

Mr D Steele: To that point, I think it is worth noting that there certainly has been work done to support the artisanal brewers and distillers. We have created a specific licence for them which the QHA supported. We now have 100 liquor licensees that hold that type of licence across Queensland. There is no barrier to market entry. There are plenty of success stories of small brewers who have grown and become successful with stock ranges across the retail network. There is no barrier to entry for any entity that wants to sell their products in the existing network. They just have to get off their backsides and make it happen.

Mr Hogan: The point we made is that it has to be by application. That means that there is an assessment done of what is already being served in that area. I will give you the example of Barcaldine. Barcaldine currently has four operating hotels. It also has a golf club. It has a hotel that

is closed at the present time. There is one that was sold because it could not make it. I am already talking about seven outlets and now we are going to let several others in. There are plenty of thriving businesses in Barcaldine, particularly in the last 18 months.

Mr MADDEN: Caravan parks.

Mr Hogan: Caravan parks, indeed. By opening up and saying everybody can do it, we are adding more outlets. This is forever; it is not just because we were facing a pandemic. It is opportunistic saying, 'We desperately needed it,' which we agreed with during the pandemic. We do not believe that Queenslanders have intrinsically changed all of their consumer habits. There are already delivery services that deliver alcohol of all types to your door.

Mr McDONALD: What is the cost associated with an application for takeaway for you? Is that the same for your establishment as it is for others?

Mr D Steele: To get a commercial hotel liquor licence your application fee is $3,977. There is an application fee per detached bottle shop of $1,107. There is an annual liquor licence fee for each detached bottle shop of $4,418. You are looking at $9,502 to establish a single detached bottle shop via the application and advertising process, with the ability for the community to object. More importantly—and this has not been mentioned—the applicants must meet probity. We need fit and proper people selling a product which we all recognise is a legal drug. There must be those parameters around it.

Mr McDONALD: One of the other issues that came up for us was 17-year-olds delivering alcohol. It would make sense to me that as long as that 17-year-old is trained in RSA that should be sufficient. Do you have any comment about that?

Mr D Steele: In the trade it is common that minors work in the sale and supply of liquor with appropriate mandatory training—

Mr Hogan: And supervision.

Mr D Steele:—and supervision. I know the government is looking at the online sale environment and harm minimisation, as they said in the public briefing on Monday. We would support RSA for all delivery drivers.

Mr McDONALD: The fees you talked about totalling $9,000: that is not on a volumetric basis, is it?

Mr D Steele: That is per entity. That would be the same for the little bottle shop in Mirani as it is for the Story Bridge Hotel.

Mr Hogan: It is per outlet. You may or may not be aware that the licensing arrangements in Queensland are that you can have a limit of three detached bottle shops connected to a hotel within a 10-kilometre radius. Whilst everybody looks out and says, 'Look at all of those bottle shops of a particular brand'—and I am not saying one—'they are taking over everything,' they have also invested in 215 hotels which employ thousands of Queenslanders. They have bought the right to be able to spend an additional $30,000 to apply for that business.

Mr D Steele: I think it needs to be highlighted that the Queensland jurisdiction is different to other jurisdictions where these bottle shops are not standalone entities. These are attached to trading hotels. I know that some of the other states will have an individual bottle shop that can be owned by individuals independent of the hotel. There is a bit of a myth when they talk about all these bottle shops and looking at the bottle shops in isolation. They must be attached to a trading hotel, which employs all those people and has all those other products and services that underpin that. They are not isolated silos; they are part of the trading hotel itself.

Mr Hogan: You cannot cookie-cutter what has happened in Victoria or New South Wales. There is no such thing in Queensland as Bernie and Damian's bottle shop. We have to own a hotel first.

Mr MADDEN: The question I am going to ask you is a similar question to one I asked of previous submitters. Can you give a general taste of the effect of COVID-19 on your industry? Also, can you give me a taste of how the temporary legislation introduced by the state government has supported your industry?

Mr Hogan: In terms of the first part of your question, hotels were obviously affected horrendously, like everybody else in the hospitality industry. There are restaurants in hotels and they were shut. A successful hotel has multiple revenue streams, as has been spoken about before. Yes, bottle shops were still open. I do not think we wanted marching in the streets, so bottle shops did stay

open. That is fine, but hotels were shut for a very long period of time. They were further restricted when restaurants were opened. We had capacity constraints far higher than they did. That made it very difficult to operate your food and beverage services. That is right across the state.

To this day, anywhere within the drive market of South-East Queensland—and I think one of submitters said this before—is going okay. They are not going out the back door. They are certainly not doing well. They are keeping their heads above water in anticipation that tomorrow is a better day. The further reaches of our state are absolutely devastated still. I was in Cairns last week. Whilst everybody will point the finger at international tourism, the locals simply cannot support what is there already to then be told there are going to be more outlets. The further afield you go, the harder it is on Queensland businesses.

With regard to the support, as the previous submitters said, it was really welcomed that we had licence fees waived. After much lobbying from the industry, we enabled that into this year. As they said, some had already been paid and some could not have been paid this year. That was absolutely appreciated, but hotels did not receive anything else apart from the licence fees being waived. A lot of things came with energy and there was a lot of that for small business. Hotels are on a commercial and industrial tariff rate—not small business—so they did not get it. There were things they did for the tourism industry, but hotels did not get it. There were things for small businesses, but hotels did not get it. Hotels really did not do as well with some of the support measures as expected, and we have spoken extensively with the government about that.

Mr MADDEN: The licence fee relief was the main support you received from the state government?

Mr Hogan: Absolutely. As a previous witness said, it was gratefully accepted and was vitally needed across the industry.

Mr McDONALD: Mr Hogan, you said regarding the Barcaldine example that when an application for a takeaway licence was being made all of those different venues or opportunities in that town were considered in that process. Do you have confidence in that process to protect the interests of those entities there, or are you just saying that is a step in the process?

Mr Hogan: That is what is there currently. There is a community impact statement that has to be carried out. We would expect it would be the same as what happens if a hotel decides they want to open another detached bottle shop—that a community impact statement has to be completed and assessed. If you want to sell takeaway alcohol, why are we suddenly creating a new process to do it? It is already there and we think it actually is fit for purpose. Is that correct, Damian?

Mr D Steele: Absolutely, and I will just make another point. We have heard and we all acknowledge that the home-delivery market has grown. I know that restaurants said their food deliveries had increased by 30 per cent, which I think is fantastic considering that is their principal activity. It is a little bit perplexing when they say if this little amendment does not go through as it was in its original format, 'Woe is me. The sky will fall. We'll be devastated.' I find that hard to rationalise, to be honest, because if that is the underpinning success requirement for their business I would suggest they are not viable in the first place.

Mr KATTER: My question is not so technical. My concern is about the inadvertent effects of things like this because I would imagine there are scenarios that we are probably not even thinking about where people get creative and innovative with these expanded licences. I was told recently that Pizza Hut had started delivering booze, which was sort of an anomaly to the laws but was innovative practice by Pizza Hut exploiting a law that is there. Do you think it is a concern that there are scenarios that have not even been conceived of yet that could be exploited and would expand the scope of these changes?

Mr Hogan: Our industry is full of entrepreneurs and they will find a way to get a licence to work for them. Yes, you are absolutely correct. A licence was granted to every Pizza Hut in Queensland in the last six months. They used a licence that was actually intended and was written into the act for alcohol to be sold as a subsidiary to a primary business—think of florists selling flowers with a bottle of champagne. That would be a gift basket or something like that which has a bottle of wine in it. That is how it was always intended.

Straightaway we saw the ads coming out for a small pizza and a sixpack right across Queensland. That is not the intention of the licence. We can tell you that in Queensland inside the last year this has already happened. I think we would have rose-coloured glasses on if we said, 'If we change this, that won't happen. It's magic because it has a COVID overlay.' I think that is a little bit

naive. You are right that there are unintended consequences. As I said earlier, we will not come back to this. This will be a bill that will be in for 50 years, so we need to make sure when we make that deliberation it is futureproofed.

Mr McDONALD: And does not have unintended consequences.

CHAIR: That is a good point, member for Traeger.

Mr McDONALD: If there was to be some ability for the boutique breweries, can they now sell takeaway food and their product less restricted than the 2.25 or 1.5?

Mr D Steele: They could currently sell under the artisanal licence exactly that. There are no limits on the amount of their own product they can sell.

Mr McDONALD: So I could ring up one of their breweries and ask for their beer and food if they were selling it and there is no restriction?

Mr D Steele: That is my understanding.

Mr Hogan: We have spoken to the Queensland government. There are other initiatives. Whilst there is a policy in place at the present time, as the Independent Brewers Association said earlier it is not perfect yet. There is far more we can do to get those great little entrepreneurial businesses into the hands of more Queenslanders. We are more than happy to be working on that.

CHAIR: There being no further questions, we will close this session. Thank you for coming along and giving us your expertise.

GIORGI, Ms Caterina, Chief Executive Officer, Foundation for Alcohol Research and Education (via videoconference)

CHAIR: Good morning and thank you for appearing before the committee today. I invite you to make an opening statement, after which committee members will have questions for you.

Ms Giorgi: I would like to start by acknowledging the traditional owners of the land on which we meet today and pay my respect to elders past and present. I would also like to thank you for the opportunity to appear today.

The COVID-19 pandemic has shown us that our health and wellbeing is the most important thing. For many of us, this pandemic has created a lot of fear, uncertainty, financial strain and social isolation. Eighteen months in, we are now starting to see the hidden harms of this shadow pandemic on people's mental health, on family violence and on alcohol and other drug use. Since the beginning of the pandemic, alcohol retailers and companies have used this public health crisis to aggressively market their products as a way to cope. Alcohol retailer turnover increased by $3.3 billion from 2019 to 2020, reaching a record $15.6 billion, an increase of 26.7 per cent.

While this has been highly profitable for alcohol companies and retailers, we are now starting to grapple with the impact of increasing rates of alcohol harm on families and communities. The National Alcohol and Other Drug Hotline has recorded an approximate doubling in calls in early 2020 compared to 2019, and just last week the ABS released data showing an 8.3 per cent increase in alcohol induced deaths between 2019 and 2020. There are also signs of increases in people seeking support from alcohol and other drug treatment services and increased involvement of alcohol in family violence. This is the reality that many people across our country are living with during this pandemic.

The bill in question today fails to consider the overall health and wellbeing of Queenslanders. This bill, which attempts to make temporary measures during the COVID-19 restrictions permanent, allows for more venues to be able to sell alcohol into the home, effectively making every food takeaway and restaurant a bottle shop. This is particularly concerning given the evidence that increasing the density of alcohol outlets increases harms like family violence. Extending access to alcohol would mean that the increased levels of harms that we see in our communities right now will become our new normal, and we cannot put our children and families at further risk.

Instead of looking at ways to increase the availability of alcohol, we should look at responding to the changing ways in which alcohol companies sell and deliver alcohol products online. We can start this by amending the Liquor Act to include measures such as ensuring that alcohol that is delivered to homes is not sold to children or to people who are intoxicated and that companies with particularly harmful practices, like rapid alcohol delivery, have further checks and balances in place. As we now look forward to safely coming out of this pandemic, let us make sure that every decision we take puts the health and wellbeing of our children, our families and our communities first.

CHAIR: One of the things in your submission that I found very interesting was that, of those Australians receiving alcohol deliveries within two hours, 70 per cent drank more than four standard drinks that day and, of that group, a third drank 11 more standard drinks that day of delivery. How do you recommend addressing that? Do you see this bill perhaps exacerbating that problem?

Ms Giorgi: We definitely see extending the availability of alcohol as exacerbating alcohol harms. What we have seen is a huge explosion in alcohol delivery from a range of companies like BWS or Dan Murphy's, and that explosion of deliveries has particularly happened in that rapid delivery category which we know is associated with increased harm. That is because people are tending to order alcohol through rapid delivery while they are intoxicated and using it to top up, and that, of course, contributes to more harm at home. We also know that more harm is more likely to happen later at night, so having alcohol sold into the home late at night is really problematic.

To be completely honest, we do not have the right parameters for alcohol delivery and we cannot keep people safe with what we have in place at the moment. In Queensland there is a lot of work to do around alcohol delivery more broadly, so by opening the floodgates and allowing all takeaway and restaurants to sell alcohol we are worried about what that will mean for alcohol harms and we are really concerned because these measures will be in place for a really long time.

CHAIR: When you talk about that late-night delivery, I think this bill has a cut-off time of 10 o'clock. Is it 10 o'clock or later than that where the issue is with rapid delivery?

Ms Giorgi: When it comes to rapid delivery, the thing we are proposing is that there is a two-hour delay between when someone orders and when the alcohol arrives so that it is not used for topping up. That 10 o'clock time would be fine. This is for other delivery where people are licensed to sell alcohol and selling it in that way as long as that two-hour delay is implemented.

I think there is a further issue here, which is that we are essentially making takeaway and restaurants all bottle shops. We know that alcohol causes significant harms. That is why there are separate licence categories for them and that is why there are requirements around community impact statements. Just opening up a completely new category essentially where every takeaway becomes a bottle shop, including places like, as I heard the discussion before, Pizza Hut—there are already loopholes that need to be addressed and this would just be opening the floodgates.

CHAIR: One of the issues you have talked about, and we have heard about already, is delivery to people who are already intoxicated. Does it become hard, then, to refuse the service of alcohol to someone once you are literally at their door with it in your hands as a delivery driver?

Ms Giorgi: Absolutely. We are putting a whole bunch of people at risk, and that is why things like sales later at night, when we know people are more likely to be intoxicated, present even further harm. At the moment we do not even have really basic common-sense measures in place around verifying age, and that is for bottle shops that are selling online and are able to sell online. By opening this up to restaurants and takeaways—for them, it is not their primary business—to understand RSA to manage harms, and we do not have the legislative framework that allows us to properly manage harms, we are putting ourselves in a position where there could be the potential for a huge increase in harms.

CHAIR: Member for Burleigh?

Mr HART: I can probably ask one here, I think.

CHAIR: Yes, you can.

Mr HART: When we were briefed by the department we did quiz them about the possible unintended delivery of alcohol to children, the age of the delivery drivers and all those sorts of things, and they reassured us that people involved in that sector would have to have an RSA or they would look at the possibility of drivers having to have those qualifications so there is a penalty involved. Is that enough, do you think, to ensure that people who are involved in the delivery to homes of alcohol have an RSA?

Ms Giorgi: Absolutely not. RSA parameters are set largely for bricks-and-mortar establishments and even more so for pubs and clubs. Within RSA training and requirements there are things like being able to identify a range of things, like signs of intoxication or if the person is under age. If someone is purchasing takeaway food or restaurant food, there is not even a requirement for them to put in their date of birth, which is a requirement on bottle shop sites. Even then, they just have to guess what year they would be born and then go from there. There are proper technologies that allow for age to be verified, for licences to be verified online, and that should be a requirement when selling alcohol online. It is something that the New South Wales government is implementing next year. Then at the point of delivery your ID should be checked. If those two points happen then companies will be meeting their requirement to make sure they are doing all they can to not sell alcohol to children. At the moment those requirements are not being met. Just saying that people will be over-age and we will try and do our best is not really good enough when it comes to protecting our kids from alcohol harm.

Mr MADDEN: One thing that has come out of today's submissions that I find absolutely astounding is that the sales from bottle shops have increased by between 20 and 30 per cent during the pandemic. I am at a loss to know how to address this to you except by saying that it must be of absolute concern to you and your organisation, particularly with regard to domestic violence and things like that. I guess what I could ask you is: do you think this is a temporary thing or do you think this increase is a permanent thing?

Ms Giorgi: It is a really great question. What we saw from 2019 to 2020 was a $3.3 billion increase in alcohol sales across the country. What we thought was that that might reduce somewhat with some states and territories that had reduced restrictions in 2021, but we have actually seen sustained sales during this time and so we have seen that trend continue. Even in areas where pubs and clubs have opened, we have still seen that takeaway sale increase sustained.

What a lot of people do not realise is that 80 per cent of alcohol sold, even before the pandemic, was sold via takeaway and delivery, so it is a huge cause for concern. What we are seeing across the country where data is available is an increase in alcohol induced deaths. We are seeing a huge surge in people who are reaching out to alcohol and other drug services. In Victoria, where we have some data, there are now 3,600 people waiting for alcohol and other drug treatment and in New South Wales, where we have done some surveys with family violence services, they have indicated there has been increased alcohol involvement with these family violence incidents, both with the perpetrator

and with the women who are in these terrible situations, locked in their home with the perpetrator, who are drinking more alcohol to cope. Alcohol and other drug use and alcohol use disorder has a long tail, so we will not see the real impacts of it for some time. Some 1½ years in, we are seeing quite a bit and this will continue to happen. That is why we are particularly concerned about anything that extends the availability of alcohol, particularly directly into the home where we just do not have proper controls to reduce harms.

Mr McDONALD: Thank you, Caterina, for your presentation. This is another one of those unintended consequences of what might seem a very simple continuance of a consumer driven market and the reason we have controls there in the first place.

Ms Giorgi: I think you have absolutely hit the nail on the head. This is a market that has rapidly expanded and changed, and the controls required have not kept pace with that. We really need to look at the Liquor Act and make sure we have the right controls in place. We have seen really aggressive marketing tactics from some alcohol retailers and lots of marketing saying, 'Hey, the way to get through, the way to cope with the anxiety and stress, the way to get through this period, is to drink.' It is just not on and it just should not be allowed.

Mr KATTER: We have been battling public alcoholism here in Mount Isa. We have itinerants and a lot of people coming out of the riverbed. We have just successfully held off a new bottle shop opening in the CBD. Obviously that is the sort of thing you are talking about as well, where this can contribute to general access.

Ms Giorgi: I have heard about the proposal from Endeavour Drinks to have a new bottle shop in Mount Isa. It did remind me of the proposal to have a new bottle shop in Darwin near a dry Aboriginal community. Putting additional bottle shops in areas where there are already high levels of harm and where there are already too many people doing it tough absolutely contributes to harm and increases harm. It is great to have seen the community come together to advocate against that store.

In relation to public drunkenness, it is really important that there are adequate supports in place, so lots of supports for local alcohol and other drug services and also different options and models looked at that might be right for that local community, just to make sure that people have the help they need. What we also do not want is the over-criminalisation of these practices so that people cycle in and out of the criminal justice system, which we know does not help and does not prevent harm.

Mr MADDEN: There has been a 30 per cent increase in the sales from bottle shops. Delivery through Australia Post has been mentioned previously. I presume there has been an increase. Do you have any idea of the increase in sales by Australia Post and courier services?

Ms Giorgi: We know that there has been a significant increase in alcohol being sold online. I do not have an exact figure for that, but we know that Australia Post is a significant deliverer of these alcohol products, yes. We know there has also been a rapid increase through alcohol delivery in that rapid way, so same-day delivery through big retailers like BWS and Dan Murphy's. Interestingly, when it comes to Australia Post, they have an online ID service that can be used to check IDs that is not being used in this instance. It is a good example of a tool that is sitting there that can be implemented really easily that is not being implemented to check IDs.

Mr MADDEN: That is interesting. I was recently at an RSL in Stanthorpe and they had to take a photograph of my licence before I could enter. Clearly some institutions are using an ID process.

Ms Giorgi: Yes. We can easily apply that online. We can easily have age verification online where it essentially does that: it takes a photograph of your licence and it checks that you are 18, and if someone checks at the door that you were the person who ordered the alcohol it is a good way to make sure that alcohol is not being sold to children, which none of us want.

CHAIR: There being no further questions, we will close this session. Thank you very much for your appearance here today. We really appreciate that. The committee will now adjourn for a short break and we will resume at 11.45 in the Dandiir Room.

Proceedings suspended from 11.14 am to 11.50 am.

MANDIGORA, Mr Gus, Senior Policy Adviser, Chamber of Commerce & Industry Queensland

CHAIR: Good morning and thank you for appearing before the committee today. I invite you to make an opening statement, after which members of the committee will have questions for you.

Mr Mandigora: Thank you, Chair and committee, for this opportunity. As most of you are aware, CCIQ is Queensland's peak industry association for small and medium businesses. We represent over 448,000 small and medium businesses in Queensland who employ 44 per cent of Queenslanders in the private sector.

With the COVID crisis over the last 18-plus months, CCIQ has contributed formal submissions and participated in parliamentary hearings on various aspects of COVID management and COVID related legislation. In all of these interactions we have shared a couple of recurring themes which you will hear throughout my evidence. These themes are certainty, clarity, predictability and business friendly. While clarity, certainty and predictability are self-explanatory, by business friendly we refer to reforms that reduce the cost and complexity of doing business. These are the themes that will guide our evidence today.

Firstly, we fully support the intent behind this amendment bill. We believe that making certain parts of COVID-19 temporary legislation permanent is the right thing to do. It adds certainty, and if the measures in place are business friendly we fully support them. We commend the Queensland government for progressing that call.

Secondly, going to the bill itself, we support a number of issues that we did not expressly mention in our submission. I will go through them really quickly. We support the document reforms which allow for more recognition of electronic signatures and electronic processes for documents. We support that as it is business friendly and reduces complexity and facilitates business. Despite a lot of people not thinking domestic and family violence is a business issue, I will quickly point out that CCIQ recently published a thought leadership piece on domestic and family violence as a workplace issue. I have brought hard copies of that if anybody is interested.

Thirdly, going to the nub of the issue—the reason it is the nub of the issue is that it really encapsulates what we mean by business friendly—we support the intent behind making the liquor licence reforms permanent. To re-emphasise, we believe that is business friendly because it reduces the cost and complexity of doing business for sectors affected by COVID-19. Permanency adds certainty and adds clarity for future reference.

We do, however, need to re-express some of the concerns we have around the newly introduced restrictions. Firstly, we do not believe there is a direct causal link between alcohol abuse and these specific amendments as they relate to restaurants and cafes. Secondly, we believe that the newly introduced restrictions are out of step with other jurisdictions such as South Australia and Victoria. As a direct result of this, we recommend making this amendment bill permanent, however, going back to the previous allowances on takeaway liquor. We would also recommend as a separate stream of work a review on liquor licensing processing and fees because it is a recurring theme in the consultations we have had with business so far.

With that, I will close my evidence—really short and sharp. I look forward to hearing the questions and responding to them.

Mr MADDEN: There was one issue that arose in the previous submission. It was by the member for Traeger with regard to Pizza Huts applying for licences. Just to put you in the picture, the Pizza Hut at my shopping centre is only takeaway. There are obviously two sorts of Pizza Huts: Pizza Huts that you could call restaurants and Pizza Huts that are purely takeaway. Does your organisation have any concerns as to the possibility of Pizza Huts advantaging themselves from this legislation in being able to sell liquor along with pizzas?

Mr Mandigora: We do not have an opinion regarding a particular restaurant chain or a particular chain of businesses. However, the point we need to make is that if a business finds a way to increase their revenue and to increase their revenue streams and their business through this amendment we welcome that, unless there is clear abuse of process, unless there is clear abuse of law.

The other issue we will highlight is the fact that we are hearing constantly from organisations and from people who are worried about alcohol abuse. The question we raised in our submission, which I will raise again, is that restaurant related liquor has mark-ups of up to 400 per cent depending on type. If somebody is determined to abuse alcohol, will they go to the trouble of ordering a meal and ordering liquor at up to a 400 per cent mark-up? We believe that is not the case. Secondly, we

also believe that, as I stated earlier, there is no direct causal link that has been shown between the temporary amendments on takeaway liquor licensing and alcohol abuse, so we believe that the restrictions that have come in are out of proportion and have no link to the problem that has been stated.

Mr HART: Before I start, I declare that I have a perceived conflict of interest due to owning shares in a brewery on the Gold Coast. It is registered on my interests register, so I will stay away from the subject of beer. Gus, have you had any feedback from your members about the changes to the process for signing documents? Has that been of assistance to your members? Are you getting any specific feedback from them about that?

Mr Mandigora: We have received feedback that it is very helpful because having to physically sign documents and physically witness documents is a drag on business. It is a complexity. There is often duplication. Barring electronic signatures has always been a challenge for businesses. The feedback has been positive. We welcome that reform because it does make it easier and it does facilitate business. I summarise by saying that the feedback has been positive and it is something we fully support.

Mr HART: On the subject of liquor licence applications, does the CCIQ have a view on whether specific applications should be made or, as per the COVID bill, just assume to be granted to people?

Mr Mandigora: As a general rule, members would not support additional processes and additional hurdles. However, if that has been imposed as part of this amendment bill, it needs to be easy and it needs to come at no additional cost. The other issue to emphasise is that the current amendment bill adds a number of processes and restrictions. Yes, one can understand if there is a need for an application process. However, as a general rule, members and small businesses would prefer to have as few processes and application fees as possible. This cuts across different sectors, not just liquor licensing.

Mr McDONALD: Gus, I appreciate your appearance today and the information you have been able to share with us. I wonder if you have had any information from the different businesses that you represent. We have heard the different perspectives from the craft brewers and ALH and the unintended consequences that might come from this. Do you have any awareness of what ability some of those craft brewers or other artisan and bespoke producers have in the marketplace under the existing arrangements that would be still available if these changes were not made?

Mr Mandigora: If I understand the question correctly, it is on the other sectors such as the craft brewers and how they might respond to the amendment bill as it stands?

CHAIR: Are you still there, Jim? I think he has dropped off the line, but we will assume that is what he meant.

Mr Mandigora: Again, I will shy away from speaking specifically on behalf of a sector that already has a representative organisation, but I will say that it is important to take their feedback into account. To give an example, having read through the submission of Restaurant & Catering, it appears that the previous version of this amendment bill, the temporary amendments, was incredibly helpful and they were able to demonstrate that. My take is that for other associations supplying restaurants—such as the craft brewers—the previous provisions around liquor licensing would be more beneficial for them. We would say it is important to take their feedback into account because we believe that they are the ones at the coalface in terms of this legislation. If they believe that legislation has enabled them to weather the storm of COVID-19 and legislation supports their members, we are fully in support of that.

The other issue we will add that goes to the question of unintended consequences is that we must also ensure this amendment bill does not unintentionally stifle competition. We would not want to have a sector protected at the expense of a different sector that wants to sell liquor under what are clearly pretty rigorous conditions. Let us not stifle competition. I think that is one unintended consequence we would like to bring to the table.

CHAIR: There being no further questions, we will conclude this part of the session. We do not have any questions on notice.

Mr Mandigora: For anyone interested in the report, I am happy to leave a few hard copies.

CHAIR: Thank you.

CAUGHLIN, Mr David, Executive Director, Legal, Risk and Compliance, Crime and Corruption Commission

CHAIR: Good afternoon and thank you for appearing before the committee today. I invite you to make an opening statement, after which committee members will have questions for you.

Mr Caughlin: The CCC thanks the committee for the opportunity to appear this afternoon and more broadly for the efforts and consultation of the Department of Justice and Attorney-General. On 6 October 2021, the commission provided a written submission to this committee on the contents of the bill which has been numbered as submission No. 11. We have now had the opportunity to consider submissions made by other stakeholders, so I provide these comments in light of those submissions.

As stated in our written submission, the commission supports the proposed amendments to the Oaths Act 1867 to permanently retain certain modified arrangements for the making of affidavits, statutory declarations and oaths as provided for under the Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020. However, the commission has noted its reservations as to the manner in which electronic signatures are verified. This relates to the definition of an 'accepted method' for electronically signing a document.

As noted in the Queensland Law Society's submission, the proposal is essentially for two streams of acceptable electronic signature. The second reflects the position in the Electronic Transactions (Queensland) Act 2001, and the CCC has no objection to that form. We note that the requirement under the electronic transactions act for the receiver to consent to the use of electronic signature is removed, but in our view that is obviously appropriate for unilateral instruments such as affidavits and declarations. Given the nature of the documents and the potential ramifications of such documents being signed fraudulently, the CCC submits that those criteria are appropriate to mitigate those risks.

The first limb, in our view, is more problematic as it allows or contemplates other means of acceptable electronic signature pursuant to regulations, rules or practice directions for particular courts or tribunals. While the bill requires a court considering making such a practice direction to consider the need to ensure consistency with other jurisdictions, this leaves open the possibility of an inconsistent approach. That in turn is likely to lead to uncertainty and delay where documents may be created which are acceptable to one tribunal but not to another. We also adopt the submissions made by the Queensland Law Society in relation to the drafting of section 31Y. The section in its present form appears to allow for the possibility of multiple official versions of a document. In our view, that is undesirable.

Finally, both the submission of the Law Society and the joint submission by Allens, Linklaters and King & Wood Mallesons raise an issue in relation to amendments to the Property Law Act in respect of electronic execution of deeds. Both those submissions note that the provisions for electronic execution of deeds omit deeds executed on behalf of the state. The CCC agrees with the submissions that the state should be included in these provisions.

Finally, on 4 May 2021 the commission made a submission seeking the permanent retention of provisions under a separate regulation which permitted attendance notices in relation to CCC proceedings to be electronically signed and served via email, and hearings to be conducted remotely through the use of audiovisual links or audio links. The commission notes that these provisions have not been addressed in this bill and consider this to be a missed opportunity.

The commission does not wish to make any comment on the balance of the provisions as they are not applicable to the commission's functions. I would like to thank the committee again for inviting the CCC's submission on the bill. We welcome any questions on the matters raised in our submission or in these remarks.

CHAIR: Thank you. It was very interesting to read the recommendation of the implementation of that three-step criteria, similar to what was adopted in the electronic transactions act. In the briefing from the Law Society and Ms Fraser from Allens today, one of the interesting parts of that was the broad principle of accepting electronic signatures as the same as wet-ink signatures but certainly keeping to all those different levels of witnessing—whether that be deeds, powers of attorney, affidavits and oaths. That is maintaining those but verifying those through a different means. You are recommending that three-step criteria. Can you go into a bit more detail about how that would work? A person signs the document and then the signature uses digital code and encryption technology to

verify the contents of that. Is that the same as when you sign something and then you get a code sent to a phone and you hit yes or no? Is that what you are talking about?

Mr Caughlin: That is certainly one of the technical options that would be available. I note that the drafting in section 1B(2)(b) refers to the method as being—

(i) as reliable as appropriate for the purpose for which the document is signed, having regard to all the circumstances, including any relevant agreement; or

(ii) proven in fact to have fulfilled the functions described in paragraph (a), by itself or together with further evidence.

That reflects the intent of what we set out as an example in our written submission, so it may be that there is a method where, as you say, it is verified by a separate code or some separate method of having a signature which is not simply a copy and paste of a signature onto a document. Again, that would depend on the seriousness of the document being executed and the necessity to ensure accuracy and verifiability of that signature.

CHAIR: In the response to your submission the department said it had a definition and it mirrors what is in the act. How would you respond to that response?

Mr Caughlin: We agree with that.

CHAIR: I think you talked about that before. Mirroring it is an acceptable solution perhaps?

Mr Caughlin: Yes.

CHAIR: I will leave it there. That has answered that question.

Mr MADDEN: An interesting issue arose in the submission by Mr Shute from the Queensland Law Society today with regard to the actual inclusion of the signature. I just assumed that all these signatures being included were basically a cut and paste of an image, but he talked about people using styluses on iPads. I was not aware of that. Do you think there is a need for uniformity with regard to how signatures are applied? The Queensland Law Society said it did not really matter as long as the witness attested that that was a signature. I am interested in your view.

Mr Caughlin: I think broadly speaking that is right. The attestation issue is the key issue there. If there is some dispute about the signature, I guess that is where the rubber meets the road—if there is a question about the method by which that signature was applied. In a technical sense, I do not know at what level you can analyse how a signature is actually put into an electronic document. I think the essential criterion really has to be that, whatever mechanism is used to put the signature into the document, there is a way of tracing that back to be able to record it. I guess with electronic signatures there may be some scope to technically analyse how that was done. I do not know; I am not technically minded. The point is the ability at the end to verify it, however technically that can be done.

Mr MADDEN: It is the attestation that is the important thing, not how the image was put on there.

Mr Caughlin: Yes.

Mr HART: The Queensland Law Society did not seem to have an issue with there being a possibility of fraud. They gave me the impression that they think the seriousness of the document that is being signed would reflect the level of scrutiny that may come to the person's signature, cross or whatever it may be. Do you have a view different to that? If you do, with regard to fraud, can you give us an example of what you may be worried about?

Mr Caughlin: I think that is right. There is always a possibility of fraud or forgery with execution of official documents. I guess it is a matter of balancing that risk—so the more important the document, the more scrutiny there needs to be. The requirement in our view for special witnesses in relation to documents that I guess have greater import and where their method of execution is different from what might otherwise be the case for witnessing, say, a paper signature is an appropriate way of mitigating that risk. That risk does remain but there is a degree of risk in signatures on paper documents as well.

I guess the question is: what technology is available in order to facilitate that? That could be the use of an audiovisual link for someone to witness the document being signed, to actually in practice turn the camera around to see that there is a document there which is being signed. There is a mechanism for verifying that and I think, provided those people who are special witnesses—legal practitioners, justices of the peace—understand what their obligations are and they are alive to those risks of fraud when witnessing these sorts of unconventional methods of execution of documents, that is an appropriate way to mitigate that risk.

Mr HART: Does the Crime and Corruption Commission think there needs to be any further training for these special witnesses to incorporate these changes?

Mr Caughlin: I think further training would be valuable, whatever the mechanism is that brings it to the attention of those people who are qualified to be special witnesses. I think under the legislation I would be a special witness for the purposes of the CCC. Certainly training would be valuable. That is something that can be done through the department of justice for JPs and commissioners for declarations and through the Law Society and Bar Association for legal practitioners.

Mr HART: I take you back to your opening statement. You said something about different judiciaries having different rules. Can you explain that to us, please?

Mr Caughlin: Under the bill there are two mechanisms by which an electronic signature can be signed by what is referred to as an accepted method. There is a prescribed method in subsection (2) but in subsection (1) where there might be some difficulty—and this was pointed out in the Law Society submission—it allows a court or a tribunal to propose an accepted method for signature through a practice direction or a rule or regulation. The difficulty with that approach is that different courts have the capacity to issue practice directions about their own proceedings. You can imagine—I do not know whether this would happen—the Magistrates Court has a different requirement for what they will accept as an accepted method than does the Supreme Court. That may be less of a problem for entities that have legal practitioners witnessing signatures who are experienced in this area. In terms of uniform access to justice, you can see that the people who do not have the same access to legal representation might be confounded by the idea of an acceptable method of signature for one court not being acceptable to another court.

Mr HART: How do we fix that?

Mr Caughlin: I think the proposal would be that it is only that second limb that is actually adopted.

Mr HART: You commented in agreement with Allens about the state. What is your concern there? What are the benefits to moving that way?

Mr Caughlin: I think in the Allens and King & Wood Mallesons submission there was an example which they gave about a transaction that was delayed significantly because, while all the other parties to the transaction or to the deed could execute it electronically, the state, which was a party to the deed, was unable to execute it other than on paper. It is not a situation that we have experienced, but in our view it is a commonsense step.

Mr SMITH: I seek a quick clarification. In the three-step notes, the signature identifies the person and indicates their intention, for example providing approval via an email. Would the CCC through an AV link sign off on the document in front of witnesses and attach it to an email and cc in all parties as well? Does that give greater indication of intent? What is the expectation from that proposal?

Mr Caughlin: That would certainly be one mechanism and a useful mechanism by which someone could signify their intent. Obviously an email circulated to all the relevant parties would clearly signal and provide a record of that intent. Again, this is a situation where the legislation needs to be suitably flexible to adapt to any given situation. That is why we noted the similar criteria to the Electronic Transactions (Queensland) Act. That is what is replicated in this bill.

Mr MADDEN: I just want to clarify something in relation to your application for further laws to be made with regard to service of documents by the CCC. I notice in your submission you say that you would like to be able to serve attendance notices electronically and via email. I am not familiar with the names of documents in the CCC. Is that the initial document you receive from the CCC or is this simply notifying you of a hearing date?

Mr Caughlin: The attendance notice is effectively the initiating process for someone to be required to attend before a hearing, yes.

Mr MADDEN: When you say 'permitted to serve it by email', are you saying permit it pursuant to an order of the court to serve it by email as in the case in the Family Court, where somebody is evading service but they are on Facebook or on email? Do you want this as of right, not as an order of the court?

Mr Caughlin: Yes, in effect. The regulation as it currently is framed allows for service through that mechanism. Our submission is that that is one of those reforms that could be made permanent.

Mr MADDEN: Is it usual in other jurisdictions, say quasi-criminal jurisdictions, to serve notices to appear by email?

Mr Caughlin: I understand there are provisions in relation to notices to appear which have had similar amendments. I am not completely across them, but I think there have been some proposed amendments. The difficulty is always going to be in proving service and ensuring it is brought to a person's attention. That is our primary objective here. It may be that it is not something which is routinely used. I do not know whether any notices have been served pursuant to that regulation, but it is about providing that flexibility so that they could be in an appropriate circumstance.

Mr MADDEN: I was sent a bill with regard to solar panels installation, and I received a phone call saying, 'You haven't paid the bill.' It had gone to my junk mail because the email address was not in my contact list.

CHAIR: That is a point.

Mr MADDEN: I am thinking about those sorts of issues with regard to this proposal.

Mr Caughlin: That is always going to be an issue with service by email if you are seeking to enforce the notice: the ability to prove that it has been received at the address. That is similar to being able to prove that something has been received by post.

Mr MADDEN: True.

Mr HART: What was the situation before COVID?

Mr Caughlin: The Crime and Corruption Act does not expressly provide the mechanism by which notices can be served. Notices are generally served personally, but that also depends on if, for example, a person is represented. Then service will often be effected through their solicitors or on an appropriate officer by an agreed means.

Mr HART: You can do it via email as well? Are you seeking to rely on an email being sent and saying it has been received?

Mr Caughlin: Obviously that is a circumstance that is available for a witness or a recipient of the notice that is cooperative or agreeable. The common thing is for a witness who has legal representation who is willing to accept service through a solicitor. The distinction here would be to make that mechanism available more broadly, in which case the issue at the end of the process if the person does not cooperate is going to be about proving that they have been effectively served.

CHAIR: There being no further questions, we will close this session. We do not have any questions on notice. Thank you very much for appearing before us today. I thank everyone for their attendance at today's hearing. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I declare the hearing closed.

The committee adjourned at 12.24 pm.