



FAA-05163/03

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Dear Ms Gilhome

## **RESPONSE TO THE INQUIRY INTO REFORM OF BUSINESS LICENSING IN WESTERN AUSTRALIA (DRAFT REPORT)**

Thank you for the opportunity to provide a submission to the Economic Regulation Authority (ERA) Inquiry into reform of business licensing in Western Australia Draft Report. The Department of Health (the Department) is providing a whole-of-agency response to the following requests for information:

- **Request 10:** please provide feedback on the draft recommendations. Would they operate well together as a package?
- **Request 11:** could the recommendations be implemented with existing resources, and are there obstacles to implementing the recommendations?

### ***Summary of comments***

Overall, the Department is supportive of the objectives of the Draft Report. Reform is an important endeavour and the ERA's work in this space is commended. The Department supports the proposal to introduce an omnibus bill focussed on legislative changes to improve licensing schemes. The successful implementation of this initiative will depend on central agency leadership.

However, concerns have been raised regarding the practical implications of some of the recommendations.

Recommendation 3 proposing the introduction of sunset clauses in primary legislation for licensing schemes is not supported. The Minister for Health has portfolio responsibility for 29 Acts. Based on the broad definition of business licensing schemes, as proposed by the ERA, 14 of these Acts will be affected. If a particular Act is not reviewed in time, and a licensing scheme lapses, there is a significant risk of licences being granted without the requisite power. The additional bureaucratic complexity and uncertainty caused by sunset clauses will lead to adverse outcomes for patients of health services across the State.

Further, it is proposed that the licensing teams within the Department may require additional resources to satisfy the recommended reporting requirements. The additional work load is not expected in the reporting itself, but in the achievements expected in the reports. For example, Recommendation 2 states that agencies must:

- Report annually and publicly;
- Outline improvements intended over the next 12 months; and
- Provide a summary of improvements made in the previous 12 months.

There is also potential duplication in reporting requirements for agencies if:

- Agencies must report annually under Recommendation 2; and
- Report to the proposed Licensing Evaluation and Reform Unit on performance under Recommendation 7.

The Department considers that the proposed annual reporting is too onerous and does not allow time for the consultation required as outlined in Recommendation 4. A more flexible timeframe of approximately two to four years would be more appropriate.

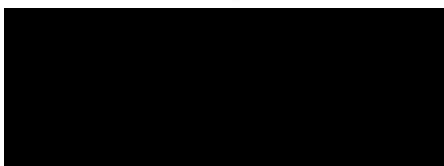
As a final note, the Department considers that a significant barrier to improved efficiencies in licensing is ICT resources. An online whole-of-government licensing application and payment platform could be beneficial to improve user experience. Without investment in centralised licensing technology across government, the additional reporting requirements are considered to be an administrative burden on regulatory agencies.

### ***Specific responses from licensing teams***

Individual licensing teams across the Department have provided specific feedback on each of the recommendations. These are outlined in **Attachment A**.

Please contact Melissa Lui Yuen at [REDACTED] or [REDACTED] if you have any further questions.

Yours sincerely



Dr D J Russell-Weisz  
**DIRECTOR GENERAL**

11/12 December 2018

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## ATTACHMENT A

### Inquiry into reform of business licensing in Western Australia – Draft Report (22 October 2018)

#### Department of Health submission

Recommendation (excerpt)	Licensing and Accreditation Regulatory Unit	Environmental Health Directorate
<b>Recommendation 1</b>  Agencies should treat business licensing schemes as public assets and continually manage and improve these schemes.	Agreed	<p>How is this going to work with 'licensing schemes' that are safety based? Especially when the requirements for 'licensing' might be based on national and international agreements.</p> <p>Some licensing schemes may not be able to be completely 'transparent' due to either confidentiality or security concerns.</p> <p>Some licensing schemes already have a reporting requirement. It would be duplication of effort to require additional reporting.</p> <p>Efficiency of licensing schemes should be reviewed from time to time as necessary, however this would probably need to be undertaken as part of a broader review of the regulatory scheme itself.</p> <p>What types of changes does this refer to? In safety licensing schemes it could be that new licence types are used (for new modalities or types of equipment).</p> <p>This is considered to be an administrative burden for government, particularly when there is a lack of investment in licensing technology across government to enhance user experience.</p> <p>Whilst the recommendation makes sense from an oversight point of view, there are practical issues around predicting and meeting licensing scheme improvements in the next 12 months. It would be fairly simple to provide a catalogue of changes that have occurred in the past 12 months.</p> <p>Further, there is no specific budget for supporting continuous improvements to some schemes, such as the tobacco licensing scheme. This is certainly the case for licensing process improvements such as online forms, web based payment systems, etc</p>
<b>Recommendation 2</b>  In order to encourage agencies to improve licensing schemes, agencies should report annually and publicly on improvements planned, and changes made in previous 12 months.		

Recommendation (excerpt)	Licensing and Accreditation Regulatory Unit	Environmental Health Directorate
<b>Recommendation 3</b>	<p>Definitely support first and second bullet aspect as LARU have changes we wish to make now and timeframes to achieve change are currently quite long and daunting.</p> <p>Sunset clauses are not supported – cannot have hospital licence schemes lapsing.</p> <p>To make reform and improvement of licensing schemes easier, the Government should introduce an annual omnibus bill, only the elements of licensing schemes that need parliamentary consideration go to Parliament, not admin aspects, and consider including sunset clauses in the primary legislation for licensing schemes.</p>	<p>Health supports the omnibus bill approach as it would stimulate internal review of licensing processes and performance.</p> <p>Health does not support sunset clauses for risk based licensing activities managed by the Department. If the ‘sunset clause’ implies that the licensing system ceases to exist – that would be a problem where the licensing system is for safety.</p>
<b>Recommendation 4</b>	<p>Agreed</p> <p>Agencies should improve consumer input into the design and management of licence schemes.</p>	<p>If this refers to the paperwork processes of the schemes, then Health agrees. If this refers to the technical aspects, then this is usually considered at the stage of national and international agreements and generally does not need to be done again.</p> <p>A more cost effective approach would be in centralising licensing technology used across government. This would support significant improvements in the administration and processing of licensing schemes.</p>
<b>Recommendation 5</b>	<p>Agreed. However, regarding public reporting on compliance – agencies should have the ability to discuss draft findings and the timeframes (particularly where the RIA requirements relate to older licensing schemes or where the speed of change of regulation may be contentious).</p> <p>The Better Regulation Unit in the Department of Treasury should report publicly on agency compliance and publish and maintain a central repository of agencies' PIA and CRIS documents.</p>	<p>Agreed, except where there may be confidentiality or security concerns. For example, some PIAs deal with Cabinet in Confidence matters.</p>

Recommendation (excerpt)	Licensing and Accreditation Regulatory Unit	Environmental Health Directorate
<b>Recommendation 6</b>  A Licensing Evaluation and Reform Unit should be established as part of the business licensing governance framework.	As long as the intention / emphasis is to support agencies to improve rather than just review / add to the workload (LARU has been reviewed a lot!) Perhaps the title should be The Licensing Evaluation and Reform <b>Support</b> Unit. The LERSU could distribute advice, best practice, resources, providing education, training / information on initiatives eg regulatory stewardship	<p>The proposed Unit should work within and be compatible with existing frameworks. In some safety based licensing schemes, the basis for licensing is based on national and international agreements.</p> <p>Reforms would be better invested in ensuring government as a whole review their primary and subsidiary legislation (including licensing schemes) within a specified timeframe e.g. every 5 years, rather than only focusing on the licensing component.</p> <p>A key focus should be on investment in technology to support improved administration of licensing schemes across government. There are significant inconsistencies in the use of technology and administration processing times across government which would be improved with better use of technology. For example, you cannot update your address online for all licensing schemes. A central “change my address” website for all licensing and registration schemes would be more effective rather than the user having to contact multiple agencies.</p> <p>Also, please note that any proposed schedule for licensing reform would conflict with the existing regulatory review program undertaken by the Department of Health to support the introduction of the <i>Public Health Act 2016</i>. This program is currently identifying the need to improve or repeal any existing licensing schemes and will comply with the RIA process. Depending on the proposed timeframes for implementation, the licensing reform program will impede on this work.</p>
<b>Recommendation 7</b>	Again feel the frequency is far too often – should be at most every 2-3 years	<p>Where agencies already report annually, it would be a duplication to require additional reporting.</p> <p>This is a burdensome administrative task for government to complete each year. It is unlikely that any meaningful feedback would be generated from stakeholders on an annual basis. It is suggested that if such a process is to be considered, a more realistic time frame of every 2 to 4 years would be more appropriate.</p> <p>Agree to the concept. Would seek some assurance with other licensing agencies that the reporting process would be simple and very clear. This process is apparently driven by stakeholders to make sure that licensing processes and assessments meet community expectations. We advocate that the licensing agencies are key stakeholders for the management of risk processes and as customers of this proposed assessment should be consulted about what manner of reporting is required for assurance.</p>

Recommendation (excerpt)	Licensing and Accreditation Regulatory Unit	Environmental Health Directorate
<b>Recommendation 8</b>  Agencies should review the outstanding review recommendations for the 65 licensing schemes that have been reviewed in the last five years.	Agreed	Resources should be allocated for a review to be undertaken.
<b>Recommendation 9</b>  Agencies should assess licensing schemes that have not been reviewed in more than 10 years (appendix B), to determine whether a major review is required.	Agreed	<p>Need a commitment to assist agencies in moving towards online licensing systems.</p> <p>Provide financial support to agencies to procure a suitable licensing and knowledge management system.</p> <p>For agencies where statutory licensing requirements comprise only a very small component of the agency's main business, such as Health, having dedicated funding from Treasury for these projects is vital.</p>