



Department of
Local Government, Sport
and Cultural Industries

CONSULTATION ON OPTIONS TO STRENGTHEN THE BANNED DRINKERS REGISTER TRIAL



INTRODUCTION

Preventing and reducing alcohol-related harm is an ongoing priority for the McGowan Government. The State's vastness and diversity, present unique challenges in developing policies that help protect individuals and communities at risk of alcohol-related harm. Following consultation with industry, local governments, police and the community, the State Government is trialling a Banned Drinkers Register (BDR) to target harmful levels of alcohol use by controlling access to takeaway packaged liquor.

In December 2020, the State Government, through the Department of Local Government, Sports and Cultural Industries, started a two-year BDR trial in the Pilbara. Subsequent BDR trials commenced in the Kimberley in July 2021, and the Goldfields in March 2022.

The DLGSC engaged the University of Western Australia (UWA) to undertake an independent evaluation of the BDR Pilbara and Kimberley program trials. The Kimberley evaluation also includes the Takeaway Alcohol Management System, and is expected to be finalised in late 2022.

The interim evaluation of the Pilbara BDR trial's first year of operation identified a range of opportunities to enhance the program's effectiveness as a harm minimisation tool. This consultation seeks feedback on a suite of reform options to improve and strengthen the BDR.

THE BDR

The BDR is a register of Western Australians who are banned from purchasing takeaway alcohol.

The BDR has been extended to packaged liquor retailers in areas where a BDR is in operation. There are three pathways to BDR registration: being subject to Prohibition Orders or Barring Notices, or through voluntary self-nomination. By prohibiting purchases, the BDR aims to restrict access to alcohol in cases where consumption levels are causing harm.

In areas where the BDR operates, anyone purchasing takeaway packaged liquor must present an eligible form of identification. Staff use a BDR scanner to scan the eligible ID at the point of sale. Scanners immediately notify staff if the customer is on the BDR, which provides them with information to determine whether the sale can proceed. A recognised strength of the BDR is its focus on restricting the purchase of takeaway alcohol by people with harmful alcohol use and on the register, without impacting on moderate alcohol consumers.

As at 5 September 2022, BDR registrations per region were as follows:

Region	Barring Notice	Prohibition Order	Voluntary Referral	Total
Pilbara	5	47	7	59
Kimberley	10	44	29	83
Goldfields	15	8	4	27

BDR Pilbara Trial Interim Evaluation: Observations and recommendations

The Pilbara evaluation focused on the BDR technology and system from an industry perspective, noting that this stakeholder group, as the system's main users, was well placed to identify issues with, and improvements to, its operation.

The evaluators observed that after 12 months of operation:

- The BDR program has been implemented as industry stakeholders expected.
- Industry stakeholders had anticipated a greater number of people being registered on the BDR.
- The number of people registered on the BDR presenting to stores was relatively low.
- There were indications people on the BDR were accessing alcohol through store hopping and/or secondary supply, albeit in small numbers.
- Linkage of people on the BDR to support services was not strong
- Scanners did not operate, or were not operated correctly, in a small number of cases.
- Scanners did not work and/or did not connect to the internet for extended periods in some locations.
- There was no evident reduction in major crime categories relative to other regional locations without a BDR.
- The number of people registered on the BDR had stabilised at a relatively low number. This was attributed to limited pathways to registration.

The evaluators recommended the following broad courses of action:

- Introduce a framework to expand pathways to BDR registration.
- Increase engagement with designated liquor-restricted premises (under Part 5B of the *Liquor Control Act 1988*) to create an additional pathway to BDR registration.
- Strengthen linkages between people on the BDR and a range of services to support them to address their harmful alcohol consumption.
- Implement a standardised automated store-level reporting framework that can more efficiently identify and resolve scanner technology issues.

- Further investigate incidents of ‘store-hopping’ and secondary supply.

Similar improvements to the BDR have been suggested by other stakeholders outside of the interim evaluation process.

Proposed Changes to Optimise the BDR

In response to the interim evaluation findings, the State Government is considering a suite of legislative changes to optimise the BDR. These legislative options are highlighted below and detailed in the attached Table.

1. Mandatory BDR Participation

- Provide the Minister or Director of Liquor Licensing with the power to mandate licensees to participate in BDR trials or programs in the regions or locations where the BDR operates.
- Include a sunset clause limiting the mandatory participation requirements to the duration of the BDR trial. If the program is established as an ongoing initiative, the sunset clause could be amended or repealed.

2. Enhance and Expand Registration Pathways

- Enact additional BDR pathways in WA, such as:
 - Options for police and court-related pathways to the BDR.
 - Expanding the range of people who can seek to place a person on the BDR.
- Examine elements of the *Northern Territory Alcohol Harm Reduction Act 2017* that could be adapted as additional BDR pathways.
- Expand the criteria for the issue of a Prohibition Order to include alcohol-related violence, driving under the influence of alcohol and other alcohol-related offences.
- Provide that causative behaviour for a Prohibition Order or Barring Notice be linked to the consumption of liquor **not** on or in the vicinity of licensed premises.
- Enable WA Police at or above the rank of Senior Sergeant, in areas subject to a BDR, to issue short-term, immediate Barring Notice(s) for up to 30 days.
- Enable data sharing between DLGSC and other State Government agencies to create additional pathways for placement on the BDR. This could include, but not be limited to provisional voluntary referral, therapeutic referrals by health professionals, and protectionary referrals by, for example, the Department of Communities and the Department of Health specialist frontline staff (e.g., child protection case workers, emergency room health professionals), and other specialist service providers funded by State Government agencies (e.g., mental health or family and domestic services).

3. Minimise Secondary Supply

- Create an offence for supplying liquor to someone known to be on the BDR register, in locations where the BDR is operating.
- Create an offence for the possession of packaged liquor by a person registered on BDR due to a Prohibition Order or Barring Notice, and provide police with the power to seize and dispose of that liquor.

Enable the expansion of the BDR program to other locations during the trial phase

- Provide a head of power to enable regulations to prescribe the locations in which the trials are being undertaken, with the potential for additional locations to be prescribed.
- Establish a legislative framework to recognise and support the BDR trials, including the inclusion of a definition, purpose and objective of the BDR.

4. System and Process Enhancement

- Prescribe the types of identification that can be accepted for scanning at licensed premises.
- Clarify the privacy provisions in the Act to allow DLGSC to provide information about relevant support and help services to people on the BDR.
- Introduce a requirement for licensees that sell liquor online to check if a purchaser is on the BDR before permitting a sale.

Consultation

The attached table outlines a suite of proposed legislative amendments to enhance and optimise the BDR and the rationale for each amendment. When reviewing the options review and providing feedback you are encouraged to consider the following:

1. Which of the proposed amendments do you support and briefly explain:
 - a. Why do you support it.
 - b. The advantages of the proposed change.
 - c. Other matters you believe are relevant.
2. Which of the proposed amendments would you change and briefly explain:
 - a. Why you would change it.
 - b. How you would change it.
 - c. The advantages of your proposed change.

Rationale	Proposed amendments and reforms	Feedback
<p>The Banned Drinkers Register (BDR) is not defined in the <i>Liquor Control Act 1989</i>, therefore there is no legal basis for establishing BDRs in other areas where consumption management and harm minimisation measures are needed.</p> <p>In addition, implementation of the BDR by licensees is voluntary and by agreement.</p>	<ol style="list-style-type: none"> 1. Establish a legislative framework within which the BDR can operate by: <ol style="list-style-type: none"> a. inserting a definition of Banned Drinkers Register (purpose and inclusions); b. Inserting a Head of Power to enable the establishment of regulations to prescribe designated BDR regions. 2. Prescribe the types of identification that can be accepted for scanning at the licensed premise. 3. Mandate the BDR for all licensed premises selling takeaway alcohol in areas where the BDR operates. 4. Draft model regulations that could be used to declare any area a designated BDR area. 5. Include a sunset clause for the regulations to repeal if/or when the BDR program and/or trial ceases. 	
<p>Option for consideration</p> <p>The Northern Territory Alcohol Harm Reduction Act 2017 includes a definition of a banned drinker register.</p>		
<p>BDR registration mainly results from on-premises offences leading to a Prohibition Order (POs) and Barring Notice (BNs). POs and BNs can only be issued for inappropriate or offending behaviour on or in the vicinity of licensed premises.</p> <p>Voluntary referral is the only pathway for people who commit alcohol-related offences off-premises.</p> <p>This situation enables individuals who commit off-premises alcohol-related offences, such as violence, crimes</p>	<ol style="list-style-type: none"> 6. Amend Part 5A sections 152A to 152NA to expand/clarify the definition of and criteria for Prohibition Orders as a protection order across the community (i.e., not limited to licensed premises) to include alcohol-related violence, traffic offences and other alcohol-related offending. 	
	<ol style="list-style-type: none"> 7. Amend Sections 115AA to 115AE to permit WA Police officers at or above Senior Sergeant rank to issue an immediate short-term Barring Notice for a period of 30 days. 	

Rationale	Proposed amendments and reforms	Feedback
<p>and traffic offences, to continue purchasing takeaway alcohol. The BDR's limited scope and pathways to registration constrain its effectiveness as a consumption management and harm minimisation tool.</p>		
<p>Options for consideration</p> <p>The Northern Territory Alcohol Harm Reduction Act 2017</p> <ul style="list-style-type: none"> • Prescribes individuals other than police officers who can apply for BDR registration (Division 4). • Defines alcohol-related offences for the purposes of issuing a Banned Drinker Order (S10 (3)). <p>Part 5A of the Queensland Police Powers and Responsibilities Act 2022 provides for short-term banning orders, known as an initial police banning notice.</p>	<p>8. Prescribe the level of evidence required to issue a Barring Notice e.g., a police officer reasonably believes a short-term Barring Notice is reasonable in the circumstances.</p> <p>9. Enhance voluntary registration pathways through actions such as:</p> <ul style="list-style-type: none"> a. Frontline staff from relevant State Government agencies encouraging voluntary registration in situations where harmful alcohol use is a factor. b. Relevant agencies providing information about voluntary BDR registration to clients who may be using alcohol at a harmful level. <p>10. Enable staff of relevant State Government agencies, who are experienced in client assessments, to make a direct application to the Director of Liquor Licensing to register an individual on the BDR (e.g., emergency room health professionals, child protection case workers).</p>	
<p>There is an opportunity to better link BDR registration to support service referrals or access. The ability to link BDR registrants to support services</p>	<p>11. Amend Section 152(1) to grant that the Director Liquor Licensing authority to notify support services about people on the BDR in their area</p>	

Rationale	Proposed amendments and reforms	Feedback
<p>can enhance its effectiveness as a harm minimisation tool, and through this contribute to better long-term outcomes for individuals, families and communities at risk of alcohol-related harms.</p>		
<p>Option for consideration</p> <p>S26 of the Northern Territory Alcohol Harm Reduction Act 2017 grants the BDR Registrar authority to refer a person to a clinician for assessment for treatment.</p>		
<p>The BDR applies only to in-person purchases of takeaway alcohol. It does not prohibit secondary supply or liquor possession. Added to this, existing secondary supply provisions do not apply to adults, and PNs and POs do not prohibit alcohol possession. As such, people on the BDR can still access alcohol, thereby limiting the system's effectiveness as a consumption management and harm minimisation tool.</p>	<p>12. Create an offence for knowingly supplying liquor to a person who is on the BDR (Section 122A and new section).</p>	

Rationale	Proposed amendments and reforms	Feedback
<p>Option for consideration</p> <p>Under Section 42 of the Northern Territory Alcohol Harm Reduction Act 2017 it is an offence to supply alcohol to persons subject to a prohibition.</p>	<p>13. Create an offence for a person registered on the BDR due to a Barring Notice or Prohibition Order to be in possession of liquor and the ability for police to seize and dispose of liquor</p>	
<p>The BDR does not apply to online takeaway alcohol purchases. As such, people on the BDR can still access alcohol, thereby limiting the system's effectiveness as a consumption management and harm minimisation tool.</p>	<p>14. Require licensees selling liquor online to check BDR before proceeding with the sale.</p>	
<p>A range of legislation and orders can be used to restrict and/or prohibit individuals from accessing alcohol. For example, Parole Orders and Post Sentence Supervision Orders issued under the Sentence Administration Act 2003 can include liquor-related conditions. However, because these Orders are not a pathway to BDR registration, parolees subject to them can purchase alcohol undetected.</p>	<p>15. Amend Section 119 of the Sentence Administration Act 2003 to enable data on current relevant Parole Orders to be uploaded to the BDR.</p>	

Rationale	Proposed amendments and reforms	Feedback
<p>Option for consideration</p> <p>Queensland legislation allows for copies of banning orders to be provided to venues to which the ban relates, including to approved operators for uploading to the approved ID scanning system. The Queensland Police Service and the Office of Liquor and Gaming Regulation will work closely with industry to facilitate suitable arrangements for the distribution of this information.¹</p>	<p>16. Amend the Act to allow for approved operations to access information on individuals under barring notices.</p>	
<p>Individuals who are prohibited through a legal order external to the <i>Liquor Control Act 1998</i> are not captured on the BDR (e.g., bail conditions under the Bail Act 1982). Bail conditions can include a prohibition on a person consuming liquor, such as Intensive Supervision Orders, and Community Supervision Orders. Persons subject to these orders are not captured by the BDR because the information is not shared with DLGSC.</p>	<p>17. Allow Bail condition information to be uploaded to the BDR</p>	

¹ <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/liquor/compliance/refusal-service/banning>

