

Statutory review of the alcohol delivery reforms

Review Plan - July 2022

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1 Introduction

1.1 Background

Improvements in technology and increasing consumer demand for fast and convenient online delivery services has seen the continued growth of online alcohol sales and same day delivery around Australia.

In November 2020, Schedule 3 of the *Liquor Amendment (Night-time Economy) Act 2020* introduced changes to the *Liquor Act 2007* and *Liquor Regulation 2018* to address the heightened risk of minors or intoxicated people accessing alcohol through delivery services. It lifts harm minimisation standards so that they are more comparable with those at physical bottle shop premises, particularly for higher-risk alcohol deliveries made on the same day as ordered.

1.2 The reforms

The Alcohol Delivery Reforms in the *Liquor Amendment (Night-time Economy) Act 2020* specify that for all alcohol deliveries from 1 July 2021:

- ▲ Liquor must not be delivered to a minor
 - It is now an offence for a licensee or any person delivering packaged alcohol on behalf of a licensee or other business to make a delivery to a minor.
 - This offence has a maximum penalty of \$11,000 or 12-months imprisonment (or both).
- ▲ Liquor must not be delivered to an intoxicated person
 - It is now an offence to deliver packaged alcohol to an intoxicated person, where it has been sold by retail and is being delivered within NSW as part of a commercial arrangement.
 - This offence has a maximum penalty of \$11,000.

1.2.1 Additional same day alcohol delivery requirements

Same day alcohol deliveries can often be made rapidly (in as little as 30 minutes) with more predictable times of delivery. Some people may try to use these services to continue a drinking session when they otherwise wouldn't be inclined to or would be unable to through licensed premises like bottle shops.

Due to the increased risks associated with same day delivery, the alcohol delivery reforms focus on this service, and include several additional laws that apply only for same day deliveries.

From 1 July 2021, the following laws apply across the range of business models used to provide same day alcohol deliveries, as well as to employees and agents who complete the deliveries:

- ▲ Age must be verified upon delivery if the recipient looks under 25 years old.

- ▲ Only the adult named on the order is able to accept the delivery and identity must be verified.
- ▲ Licensees and other providers are unable to impose financial penalties on same day delivery drivers for refusing delivery to an intoxicated person, or when the recipient's age or identity cannot be verified.
- ▲ The Responsible Supply of Alcohol Training (RSAT) course is mandatory for all same day alcohol delivery drivers from 1 December 2021.
- ▲ Same day alcohol providers must offer customers an option to self-exclude.
- ▲ Restrictions on same day alcohol delivery before 9am on any day, after midnight from Monday to Saturday, or after 11pm on Sunday.
- ▲ Restrictions on same day alcohol delivery in public areas where alcohol cannot be consumed.
- ▲ Requirement for same day delivery providers to record and report on same day alcohol sales.

The following change commenced on 1 June 2022:

- ▲ Requirement for same day delivery providers to implement mandatory age verification at initial point of sale for all first-time purchases.

Industry has been given until 1 September 2022 to implement this final requirement, due to unforeseen technical issues and the opening of new, temporary age verification options in June 2022 (see the [Liquor & Gaming NSW website](#) for more context).

1.3 Review of the alcohol delivery reforms

Under section 114R of the *Liquor Act 2007*, the Minister is to review the operation of the Act in relation to:

- ▲ same day deliveries
- ▲ other liquor deliveries
- ▲ the requirement to provide evidence of age and identity for same day deliveries and other liquor deliveries.

Stage 1 (**Evidence of Age Review**) will review the operation of the Act in relation to:

- ▲ the requirements to provide evidence of age and identity for same day deliveries and other liquor deliveries.
 - Note: the focus of stage 1 is on age and identity verification at the point of delivery, though information will be collected to inform current, and future, point-of-sale requirements.
- ▲ consideration of whether additional evidence of age requirements are needed for liquor deliveries that are not same day deliveries.

Liquor & Gaming NSW (L&GNSW) has also included a review objective in stage 1 relating to:

- ▲ the outcomes of the RSAT course. The RSAT course has been included in the scope as it is being designed to train alcohol delivery staff to follow the amendments introduced as part of Schedule 3 of the *Liquor Amendment (Night-time Economy) Act 2020*.

A report on the outcome of the Stage 1 review is required to be tabled in both houses of Parliament by 31 December 2022 (within 6 months of 1 July 2022).

Stage 2 (**Comprehensive Liquor Delivery Review**) includes a review of the operation of the Act in relation to same day and other liquor deliveries. This review must include consideration of:

- ▲ whether the policy objectives of the Act in relation to same day deliveries, including rapid delivery, remain valid, and the terms of this Division remain appropriate for securing the objectives
- ▲ emerging trends and technologies relevant to liquor deliveries that are not same day deliveries, and any additional harm minimisation measures that may be appropriate for the liquor deliveries, and the use of direct and social media marketing and the collection of consumer data to target vulnerable communities.

A report on the outcome of the Stage 2 review is required to be tabled in both houses of Parliament by 31 December 2023 (within 6 months of 1 July 2023).

1.4 Target audience and intended use

Reports for stages 1 and 2 of the statutory review of the alcohol delivery reforms will be tabled in both Houses of Parliament. The deadlines for the reports to be tabled in Parliament are 31 December 2022 (stage 1) and 31 December 2023 (stage 2). The reports will also be used by L&GNSW to inform whether changes to the same day alcohol delivery provisions in the *Liquor Act 2007* are required. The reports will be made publicly available on the L&GNSW website.

2 Methodology

2.1 Program logic

A program logic model for the same day alcohol delivery reforms that commenced on 1 July 2021 is at **Appendix A**. The program logic model outlines the intended immediate, intermediate, and ultimate outcomes of the reforms. The outcomes articulated in the program logic have informed the review objectives.

2.2 Review objectives

The objectives of stage 1 of the review are to:

1. assess awareness of the respective age and identity verification requirements for same day alcohol deliveries and other liquor deliveries

2. assess compliance with the respective age and identity verification requirements for same day deliveries and other liquor deliveries, and identify any potential barriers or emerging technologies relevant to compliance
3. assess whether additional proof of age requirements are required for liquor deliveries that are not same day deliveries
4. assess the level of uptake, awareness and satisfaction with the RSAT course among course participants and other stakeholders.

The objectives of stage 2 of the review are to:

1. assess (a) the extent to which the policy objectives in relation to same day deliveries, including rapid delivery, remain valid, and (b) the extent to which the terms of Division 1B of Schedule 3 of the *Liquor Act 2007* are appropriate for securing these objectives
2. assess the implementation and operation of same day alcohol reporting requirements
3. examine emerging trends and technologies relevant to liquor deliveries that are not same day deliveries
4. assess whether there are any additional harm minimisation measures that may be appropriate for liquor deliveries
5. assess the extent to which direct and social media marketing and the collection of consumer data have been used to target vulnerable communities, in relation to liquor deliveries.

2.2.1 Key review questions

The key review questions related to each stage 1 objective include:

Objective 1: To assess awareness of the respective age and identity verification requirements for same day alcohol deliveries and other liquor deliveries:

- ▲ Has the strategy for communicating the alcohol delivery reforms (including reporting requirements) by L&GNSW been effective?
- ▲ Are stakeholders aware it is an offence to deliver alcohol to a minor for any delivery?
- ▲ Are stakeholders aware of the requirement to provide evidence of age and identity for same day deliveries?
- ▲ Has the new mandatory training for same day alcohol deliveries effectively communicated the evidence of age and identity requirements?
- ▲ What factors, if any, have affected stakeholder awareness of the respective age and identity verification requirements for same day deliveries and other liquor deliveries?

Objective 2: To assess compliance with the respective age and identity verification requirements for same day deliveries and other liquor deliveries, and identify any potential barriers or emerging technologies relevant to compliance:

- ▲ Do stakeholders believe that the operation of the requirement to provide evidence of age and identity for same day deliveries has been successful? If so, why? If not, why not?
- ▲ How many breaches, if any, have been detected relating to the respective requirements to provide evidence of age and identity for same day deliveries and other liquor deliveries? How have they been detected (e.g. controlled purchasing operations)?

- ▲ Are there any barriers or challenges to compliance with the requirement to provide evidence of age and identity for same day deliveries and other liquor deliveries?
- ▲ Are there any emerging technologies relevant to evidence of age and identity that may warrant amendment to the definition of “evidence of age document” under section 4 of the *Liquor Act 2007* or other regulatory changes so delivery people can accept additional digital forms of ID to verify age?

Objective 3: To assess whether additional proof of age requirements are required for liquor deliveries that are not same day deliveries:

- ▲ What harms, if any, have been associated with provision of alcohol to minors via liquor deliveries that are not same day deliveries?
- ▲ Do stakeholders believe that there is a risk of harm to minors from liquor deliveries that are not same day deliveries?
- ▲ Should additional requirements to provide evidence of age be included for non-same day deliveries? If yes, what requirements would be appropriate?

Objective 4: To assess the level of uptake, awareness and satisfaction with the RSAT course among course participants and other stakeholders:

- ▲ Has the strategy for promoting the RSAT course by L&GNSW been effective?
- ▲ How many people have completed the RSAT course?
- ▲ To what extent are delivery staff aware of the requirement to complete the RSAT course in order to undertake same day alcohol deliveries?
- ▲ How many instances have been detected, if any, of delivery staff undertaking delivery duties while in breach of RSAT training requirements?
- ▲ Do participants understand the purpose of the RSAT course?
- ▲ To what extent are stakeholders satisfied with the RSAT course and the requirement to complete training?

The key review questions related to each stage 2 objective include:

Objective 1: To assess (a) the extent to which the policy objectives in relation to same day deliveries, including rapid delivery, remain valid, and (b) the extent to which the terms of Division 1B of Schedule 3 of the *Liquor Act 2007* are appropriate for securing these objectives:

- ▲ To what extent have emerging trends and technologies impacted same day alcohol sales?
- ▲ Do the policy objectives relating to the provision of same day alcohol deliveries, including rapid delivery, in Division 1B of Schedule 3 of the *Liquor Act 2007* remain valid? If not, why not?
- ▲ Have any industry or regulatory changes affected the validity of the policy objectives?
- ▲ Are the current terms of Division 1B of Schedule 3 of the *Liquor Act 2007* appropriate and sufficient for securing the policy objectives?

Objective 2: To assess the implementation and operation of same day alcohol reporting requirements.

- ▲ Do stakeholders believe that the operation of the additional reporting requirements for same day alcohol have been successful? If so, why? If not, why not?
- ▲ Is compliance able to be assessed, and if so, have breaches been identified?
- ▲ Are there any barriers or challenges to compliance with the mandatory reporting for same day deliveries?

Objective 3: To examine emerging trends and technologies relevant to liquor deliveries that are not same day deliveries:

- ▲ What emerging trends and technologies relevant to liquor deliveries that are not same day deliveries, if any, have been identified since the introduction of the *Liquor Amendment (NTE) Act 2020*?
- ▲ Does Division 1B of Schedule 3 of the *Liquor Act 2007* sufficiently account for emerging trends and technologies relevant to liquor deliveries that are not same day deliveries? If not, why not?
- ▲ What amendments should be made to Division 1B of Schedule 3 of the *Liquor Act 2007* for it to sufficiently account for emerging trends and technologies relevant to liquor deliveries that are not same day deliveries?

Objective 4: To assess whether there are any additional harm minimisation measures that may be appropriate for liquor deliveries:

- ▲ What harms directly related to liquor deliveries, if any, have emerged since the introduction of the *Liquor Amendment (NTE) Act 2020*?
- ▲ Are any additional harm minimisation measures required to prevent harms relating to liquor deliveries?
- ▲ What are the issues, if any, that could arise if harm minimisation measures are further extended to non-same day liquor deliveries, which can more readily travel across state and territory borders? If extended, what issues could arise where there is non-compliance? Could any proposed measures be enforced?

Objective 5: To assess the extent to which direct and social media marketing and the collection of consumer data have been used to target vulnerable communities, in relation to liquor deliveries:

- ▲ What is the distribution of liquor deliveries across NSW?
- ▲ To what extent does the frequency and volume of liquor deliveries differ depending on the socio-economic status of a community?
- ▲ What communities experience a greater proportion of direct and social media marketing relating to the availability of liquor delivery?
- ▲ What impact does consumer data have on the strategy of marketing and what communities are targeted by those marketing strategies?

2.3 Key stakeholders

The following key stakeholder groups have been identified for the review:

- ▲ Alcohol and youth research, advocacy and service providers
- ▲ Alcohol delivery providers
- ▲ Digital identity service providers
- ▲ Liquor industry peak bodies and other industry groups
- ▲ Local Government NSW
- ▲ NSW Government agencies
- ▲ Responsible Supply of Alcohol Training (RSAT) course participants
- ▲ Same day alcohol delivery customers.

2.4 Review methods

The review will utilise a mixed-methods approach whereby a range of quantitative and qualitative evidence will be collected and analysed. The central premise of the mixed methods approach is that it provides a better understanding of research problems than either a quantitative or qualitative approach alone (Creswell & Plano Clark, 2017¹).

Evidence will be collected through:

- ▲ key stakeholder interviews
- ▲ written submissions through the NSW Government 'Have Your Say' website
- ▲ literature reviews
- ▲ survey of RSAT training participants once they complete their course (this survey has already been developed and conducted by TAFE NSW)
- ▲ survey of same day alcohol delivery drivers
- ▲ survey of same day alcohol consumers (stage 2 only)
- ▲ RSAT completion data, sourced through TAFE NSW
- ▲ same day alcohol delivery data (provided by same day delivery providers)
- ▲ compliance data, sourced from L&GNSW
- ▲ social media monitoring.

3 Project Governance

The review will be led by the Research & Evaluation team in L&GNSW with the assistance of a Project Steering Committee. It will adhere to the principles of the *NSW Government Program Evaluation Guidelines*:

www.dpc.nsw.gov.au/programs_and_services/policy_makers_toolkit/evaluation_in_the_nsw_government

¹ Creswell, J.W. & Plano Clark, V.L. (2017). *Designing and conducting mixed methods research* (3rd ed.). Sage Publications.

4 Timeframes and Reporting

The indicative timeframes for the review are shown in the table below.

Activity	Start
Begin stage 1 of review	July 2022
Stage 1 public consultation	18 July to 12 August 2022
Stage 1 report tabled in Parliament	December 2022
Begin stage 2 of review	July 2023
Stage 2 public consultation	To be confirmed
Stage 2 report tabled in Parliament	December 2023

Appendix A: Program logic model for the alcohol delivery reforms

Program Logic Model: Regulatory controls for alcohol delivery reforms

Situation: Technology improvements and consumer trends are driving the growth of online alcohol sales and same day delivery markets. These evolving business models are potentially exposing intoxicated people, minors and other vulnerable groups to greater alcohol-related harms.

Inputs			Outcomes - Impact		
	Activities	Outputs	Short	Medium	Long
<ul style="list-style-type: none"> Research on the growth/composition of same day alcohol delivery operations Feedback from stakeholder consultation process on alcohol delivery policy options PMO approved business case and funding for development of RSAT eLearning course (including video production) and L&GNSW Learning Management System by TAFE NSW 	<ul style="list-style-type: none"> Development and implementation of legislative and regulatory reforms for alcohol delivery as detailed in the <i>Liquor Amendment (Night-time economy) Act 2020</i> Development and roll out of Responsible Supply of Alcohol Training (RSAT) course handbook, <u>course</u> and online knowledge test for same day alcohol delivery operators Promotion of legislative and regulatory reforms on L&GNSW website and other communication channels L&GNSW compliance operations focusing on covert and overt inspections of same day delivery operators 	<ul style="list-style-type: none"> Legislative and regulatory reforms are implemented Legislative and regulatory reforms are communicated to relevant stakeholders RSAT course handbook, online training course and knowledge test is rolled out Compliance with legislative and regulatory reforms is monitored and enforced 	<ul style="list-style-type: none"> Stakeholders are aware of regulatory changes Reduced ease of access to alcohol for NSW minors, intoxicated <u>people</u> and vulnerable groups Regulatory controls and administrative measures established to enhance related RSA standards 	<ul style="list-style-type: none"> Greater awareness among same day delivery drivers of obligations when supplying alcohol Reduced misuse of alcohol delivery processes by intoxicated people, minors and vulnerable groups (<u>e.g.</u> self-excluded problem drinkers) in place 	<ul style="list-style-type: none"> Reduced exposure of minors, intoxicated <u>people</u> and vulnerable groups to alcohol-related harms Responsible and sustainable development of alcohol delivery business model balanced with risk-based oversight

Assumptions:

- No material changes made to the nature or timing of proposed controls arising from the planned consultation process involving industry and community stakeholders

External Factors

- Under the current regulatory framework interstate licensed businesses are able to sell alcohol to consumers in NSW and have it delivered the same day.
- An Online Alcohol Sales and Delivery Code of Conduct was launched by Retail Drinks Australia on 2 July 2019.