DECEMBER 2006

NSW GOVERNMENT RESPONSE

TO THE

REPORT ON THE INEBRIATES ACT 1912

LEGISLATIVE COUNCIL STANDING COMMITTEE ON SOCIAL ISSUES

BACKGROUND

The Inebriates Act 1912 provides for the care, control and treatment of an "inebriate" or "a person who habitually uses intoxicating liquor or intoxicating or narcotic drugs to excess." It applies to both offenders and non-offenders.

A review of the Act was an important recommendation of the NSW Summit on Alcohol Abuse held at Parliament House on 25-29 August 2003. Summit delegates, in considering broader issues around the compulsory treatment of offenders and non-offenders, recommended that:

- The Inebriates Act should be reviewed by the Social Issues (Legislative Council Standing Committee):
    - to consider whether the *compulsory treatment of people (not offenders)* with severe alcohol dependence should be provided and, if so, under what conditions;
    - to consider whether legislation is required to provide for the *compulsory assessment or treatment of persistent alcohol-related offenders* (Recommendation 9.35); and
- Persons, who as a result of their alcohol abuse and who are within the jurisdiction of the Inebriates Act, should be considered for assessment of the level of impact of their alcohol use. This assessment may be imposed as a condition of the Act, which may serve to assist the person to receive appropriate interventions, which may minimise the harm associated with their alcohol use (Recommendation 9.36).

In response, on 23 September 2003, the Attorney General, the Hon RJ Debus MP formally requested the Legislative Council Standing Committee on Social Issues to inquire into and report on:

1. The Inebriates Act 1912 and the provision of *compulsory assessment and treatment* under that Act;
2. The appropriateness and effectiveness of the Act in dealing with persons with severe alcohol and/or drug dependence who have not committed any offences and persons with such dependence who have committed certain offences;
3. The effectiveness of the Act in linking those persons to suitable treatment facilities and how those linkages might be improved if necessary;
4. Overseas and interstate models for compulsory treatment of persons with severe alcohol and/or drug dependence including in Sweden and Victoria;
5. Options for improving or replacing the Act with a focus on saving the lives of persons with severe alcohol and/or drug dependence and those close to them.
6. Any other related matter.

The then Special Minister of State, the Hon JJ Della Bosca, MLC and the Attorney General made a formal Government submission to the Standing Committee in December 2003 which incorporated advice from a range of Ministers and Government agencies in relation to issues relevant to the Inquiry's Terms of Reference. The submission also posed seven additional issues to be taken into account during the Inquiry:

- Is dependence on alcohol and narcotic drugs a significant enough condition for society to intervene to remove people's liberty in order to legally enforce assessment, detoxification and treatment? If so, under what conditions should this happen?

- Should there be a minimum and/or maximum time for committal under any compulsory treatment legislation? If so, how should this time be determined and what controls do there need to be to protect patients?

- Should legislation for the compulsory treatment of people who are addicted to alcohol or other drugs include additional provisions to protect the committed person? If so, what additional protection do these people need?

- Is it appropriate for people to be compulsorily detained in the interests of their relatives? If not, what should the rationale for compulsory detention be?

- Should compulsory treatment apply to treatment in non institutional settings such as community programs or day programs?

- Should there continue to be a process of certifying institutions for the purpose of treatment under the Act or should any agency be able to provide compulsory treatment?

- If it is decided that compulsory treatment should be continued should all drug and alcohol treatment organisations be required to accept people referred by the Courts? How would this work in practice?

The Standing Committee completed its inquiry and tabled a comprehensive report in Parliament in August 2004 including 55 recommendations each of which are addressed in this Government response.

This response reflects a whole of Government position drawing on advice from eleven Government Ministers and extensive interagency consultations.

PART A - PROPOSAL TO REPEAL THE ACT

Recommendation 1 Repeal of Inebriates Act/Introduction of new legislation
That the Inebriates Act 1912 be repealed and replaced at once with legislation reflecting subsequent recommendations of this report.

Response and action

The Government concurs with the expert clinical and other evidence put to Inquiry that issues arising in relation to the Inebriates Act are complex and remedial action with regard to the Act's operation and its flow-on consequences is required. The issuing by a court of an order for compulsory treatment is a significant event that can have important consequences for the lives of often vulnerable individuals and their families.

As the Committee's findings confirmed, cases dealt with under the Inebriates Act can be extreme involving people with severe substance dependence and long term entrenched health, social and other problems. The Government agrees with the need for a credible framework to help these people start to rebuild their lives which is structured around both clear therapeutic objectives and legal and medical safeguards.

In responding to Recommendation 1, the Government has noted the Committee's findings and evidence put to the Inquiry with regard to the Act's operational shortcomings.

Further, it is noted that the Committee has concurred with the view put in the Government's own submission to the Inquiry that the legislation has not kept pace with modern clinical approaches to drug and alcohol dependency. Evidence to the Inquiry showed the Act continues to provide for the ordering of people with severe substance dependence to prescribed psychiatric facilities which are not necessarily able to provide the level of drug and alcohol treatment required to assist the extreme cases dealt with under the legislation. This is anomalous with the Act's objective to treat an "inebriate" as if he or she is the victim of a disease requiring treatment for recovery.

In light of the Committee's finding that compulsory assessment and treatment can be warranted in cases of severe substance dependence, the Government agrees it is necessary to correct the Act's shortcomings and establish a new legislative and treatment framework with appropriate safeguards that enables people with severe substance dependence to be linked to suitable treatment.

However, the Government also notes the Committee's advice that its recommended new framework would be difficult to operationalise and make sustainable on a state-wide basis. The Committee has further acknowledged the limited evaluation of involuntary care models in other jurisdictions as well as the range of expert views on whether coercive orders and interventions can produce long term beneficial outcomes for people with severe substance dependence.

Consequently and in line with the Government's evidence based approach to drug and alcohol policy, it is not proposed at this time to accept Recommendation 1 for the immediate repeal of the Act.

It is proposed instead to conduct a two year trial in a confined geographical area of a new legislative and treatment framework for the short term involuntary care of people with severe substance dependence consistent with the Committee's recommendations. The proposed site for the Trial will be within the inpatient withdrawal facility at Nepean Hospital with the Trial area targeting the Sydney West Area Health Service. Further detail is set out in the following responses to the Committee's recommendations.

The trial will inform decisions about the future of the Inebriates Act 1912. In the meantime, the Act will continue to apply outside the Trial area. While evidence to the Inquiry indicated limited use of the legislation in recent years and adverse impacts in some cases through inappropriate treatment responses, there is also evidence that orders issued under the Act have benefited other individuals. Consequently, the Act will be amended to require that a compulsory order may only be made when the court is provided with, and satisfied by, a medical assessment that the order would be of benefit to the individual in question.

For those cases where a medical assessment indicates an order should not be given, the individual will instead be encouraged to enter voluntary drug and alcohol treatment. Protocols between the courts and health system will be established under the intergovernmental agreement referred to in Recommendation 6 to support the management of this group of people.

In appropriate cases, consideration will also be given to referring individuals to the Integrated Services Project for Clients with Challenging Behaviour, a new integrated service model that commenced in September 2005 (see response to Recommendation 27).

Recommendation 2 New System of Short Term Involuntary Care
That the Government establish a system of short term involuntary care for people with substance dependence who have experienced or are at risk of serious harm, and whose decision making capacity is considered to be compromised, for the purpose of protecting the person's health and safety

Response and action
As indicated in response to Recommendation 1, the Government does not intend at this time to introduce a new "system" of short term involuntary care for state-wide application but will conduct a Trial of a new therapeutic framework built along the lines recommended by the Committee.

The Government accepts the Committee's findings and related evidence that compulsory treatment can be effective and therefore justified when its overriding purpose is to provide a short term intervention to protect a person from immediate harm, restore their health and capacity, and enable them to make informed choices about moving on to longer term treatment. It is noted the Committee found a clear consensus on this point amongst clinical experts and other Inquiry participants as well as insufficient evidence that the use of such court ordered interventions for other purposes was effective in the longer term.

The Government also accepts the criteria proposed in Recommendation 2 for determining people whose substance dependency is sufficient to warrant such orders. Clinical advice suggests that people currently covered by the Inebriates Act frequently have acute health needs associated with their substance abuse and may suffer co-morbid conditions including mental illness and serious physical problems.

They will therefore need a high level of specialised medical care as well as detoxification.

Consequently, it is intended to conduct the trial in an existing medicated detoxification facility operating within a public hospital. Such facilities are equipped to provide the type of treatment and expertise people under involuntary care orders will require including withdrawal management, assessment, preparation of treatment plans for use following discharge, and referrals to other services such as housing and supported accommodation.

For the purposes of the trial, the Government will establish a new secured four bed involuntary care unit co-located at the Nepean Inpatient Withdrawal Facility which will have capacity to accept up to 50 patients per annum during the Trial. Further details of the proposed new short term involuntary care are dealt with in the following responses to the Committee's specific recommendations on this issue.

PART B - NEW LEGISLATIVE FRAMEWORK FOR INVOLUNTARY CARE

Recommendation 3 When is compulsory treatment ethically justified? Objects of the new legislation
That the purpose of the new legislation be to enable involuntary care of people with severe substance dependence, in order to protect the health and safety of the person, and that the aims of the legislation be to:

- reduce harm to the person through the provision of medical treatment including, where necessary, medicalised withdrawal
- stabilise the person and comprehensively assess them
- restore their decision making capacity and provide the opportunity to engage in voluntary treatment and
- provide an entry point, where appropriate, for care and support for people with significant cognitive impairment under guardianship

Response and action

The Government concurs with this recommendation which addresses some of the key issues put to the Committee in the Government's submission to the Inquiry. In particular, the Committee's finding is noted that the current Act has been used not so much "for the purpose of addressing harm to the person, as for the purpose of control [and] ... in many cases, not in the primary interests of the person, but in the interests of others." Consequently, to ensure the Trial has an appropriately therapeutic focus, the recommended principles will be incorporated into the legislation indicated in the response to Recommendation 1.

Recommendation 4 New system to cover any substance dependency
That the proposed legislation enabling involuntary care for people with severe substance dependence be inclusive of any substance dependence.

Response and action

The Government notes that the current legislation applies in relation to alcohol and intoxicating and narcotic drugs. While it may be useful for the Trial to test the effectiveness of the proposed compulsory treatment orders on as wide a range of substance dependence as possible, there are certain limitations arising from other recommendations by the Committee.

As discussed below in response to Recommendations 9 and 12, for a particular substance to be meet the objectives of the proposed Trial and legislation it would have to be capable of inducing a 'severe dependence' and affecting a person's capacity to consent to treatment. Further, the compulsory treatment itself would have to be capable of benefiting the dependent person and effectively managing the dependency within the timeframes recommended by the Committee.

This will not always be possible or necessary in relation to particular substances. For example, people dependent on benzodiazepine require a month or more for withdrawal. Not only would this be outside the timeframes recommended by the Committee, clinical advice indicates that the majority generally are able to be managed as outpatients and would not require the acute therapy setting envisaged by the Committee.

Consequently, while the Government supports a broader range of substances being covered by the Trial, it will take clinical advice on this point during drafting and ensure that there is capacity to add by regulation additional substances as is considered appropriate from time to time.

Recommendation 5 Portfolio Responsibility
That the proposed legislation fall within the Health portfolio.

Response and action
Allocation of the proposed legislation to a particular portfolio will depend on the final form of the legislation. However, it may be appropriate for the administration of the new Act to be a shared responsibility of the Minister for Health and the Attorney General given the key role of both the health and judicial systems would have in the legislation's operation.

Recommendation 6 Interagency Agreement on Roles and Responsibilities
That the Government develop an interagency agreement setting out the respective roles and responsibilities of relevant agencies under the proposed legislation.

Response and action
The Government accepts this recommendation. This approach was suggested in the Government's own submission to the Inquiry. It is also consistent with approaches taken in other key initiatives of the Government including the Compulsory Drug Treatment Correctional Centre.

An interagency agreement will be developed by an interagency taskforce to be led by NSW Health and comprising the Attorney General's Department, NSW Police, Department of Community Services, Department of Aboriginal Affairs, Department of Ageing, Disability and Home Care and the Department of Housing.

The agreement will be formalised as a Memorandum of Understanding between the Chief Executive Officers of those agencies and be finalised prior to the commencement of the Trial referred to in the response to Recommendation 1.

Recommendation 7 New Act
That the proposed legislation be stand-alone legislation

Response and action
The Government accepts this recommendation. The legislation for the Trial will be stand-alone legislation.

The Government notes the Standing Committee's advice against including the proposed new legislation in either the Mental Health Act 1990 or the Guardianship Act 1987 given the different thresholds and objectives of those statutes.

Recommendation 8 Legislation to conform to UN Principles
That the proposed legislation conform to the United Nations *Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.* The legislation should stipulate that in any decision in relation to involuntary care, the person's interests should be paramount.

Response and action
The Government concurs with this recommendation and agrees that the proposed approach and stipulation will be incorporated into the draft legislation indicated in the above response to Recommendation 1. The Committee's recommendation addresses a key issue raised in the Government's submission to the Inquiry and is consistent with the proposed set of principles included in that submission:

- involuntary admission should only be used as a last resort for the person's own protection from serious physical harm or for the protection of others from serious physical harm;
- the order should be the least restrictive alternative in terms of the type and duration of detention;
- there should be appropriate safeguards for the rights of people who are involuntarily detained, eg a right to independent review of the involuntary restraint;
- a right to treatment and quality of treatment should be ensured, and there should be an evidence base to support the treatment provided.

Recommendation 9 Criteria for Involuntary Care

That the proposed legislation stipulate the following criteria for involuntary care, all of which are essential:

- the person has a severe substance dependence
- the person has experienced or is at immediate risk of serious harm to self
- the person lacks the capacity to consent to treatment
- there is an initial treatment plan demonstrating that the intervention will benefit the person.

Response and action

While the Government concurs in general with the Committee's findings and recommendation on this issue, it is noted that there may be some concern that the use of strict criteria could exclude some people with substantial dependency issues who could benefit from compulsory treatment but are ineligible because they do not meet the required degree of "severe dependence".

However, as indicated in the Government submission to the Inquiry, legislation that underpins something as significant as orders for compulsory treatment should include greater safeguards for individuals such as clear criteria identifying the target group. Any inappropriate exclusion of people with dependency issues will be monitored during the Trial and will be considered in the evaluation. A further concern raised during the Inquiry was that Aboriginal people may have been over-represented amongst those ordered under the current Inebriates Act. Similar concerns have been raised within Government with regard to people with an intellectual disability. These issues will also be monitored during the Trial.

In this context, it is considered the recommended criteria will help prevent inappropriate use of the compulsory orders during the Trial and ensure it operates within the parameters identified by the Committee as to when it is medically and ethically justified to order compulsory treatment (see Recommendation 3).

Details of how a court would satisfy itself that particular criteria are met will be dealt with in drafting including requirements for medical assessment to establish, for example, issues of dependency and lack of capacity.

With regard to 'severe substance dependence', it is noted that the Committee has suggested that a diagnosis be based on an internationally accepted diagnostic tool such as the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV)*. NSW Health has advised against restricting the legislation to any particular diagnostic tool as, in practice, medical practitioners are likely to rely on their own powers of observation and experience as well as on one or more of a range of reliable diagnostic tools which are currently in use.

Recommendation 10 Serious Harm to be defined
That the proposed legislation define 'serious harm' in the second criterion (of Recommendation 9) holistically, that is, in terms of a person's health and welfare.

Response and action
The Government notes the Committee's recommendation and the evidence for its position including the holistic interpretation of "serious harm" under the Mental Health Act 1990. However, it is not intended at this time to define the term. Instead it is proposed to leave 'serious harm' open to interpretation at common law for the purposes of the Trial.

This would be consistent with the approach taken under the Mental Health Act 1990 (and continued in the Mental Health Bill 2006) where "serious harm" is undefined but is understood to be interpreted broadly by the Mental Health Review Tribunal to include physical harm, financial harm, harm to reputation, harm to relationships, self-neglect and neglect of others including children. This approach is preferred to that recommended by the Committee because it will allow the individual circumstances of each case to be considered.

Concerns have also been raised within Government about proposals to define terms such as "welfare" which are considered vague and could lead to inconsistent applications.

The Trial legislation will refer to serious self harm and not harm to others, consistent with the Committee's Recommendation 9 above. This will guard against the legislation being misused to override the interests of the person under consideration for involuntary care. A holistic interpretation of 'serious harm' at common law is however expected to include consideration of cases where, in the process of harming him or her self, the person may also be harming others close to them. This means that instances of domestic violence or child neglect, for example, will form part of the evidence in decisions on involuntary care. This approach will be closely monitored during the Trial to ensure the appropriate target group is identified consistent with the legislative objectives at Recommendation 3.

With regard to the Committee's concern about "serious harm" covering "harm to reputation" given its view that subjective judgements are made about people with drug and alcohol dependence, this will also be monitored during the Trial for any adverse impacts.

Recommendation 11 Involuntary Care Criteria to exclude personal use or dependency
That the proposed legislation explicitly exclude the use of involuntary care for people who are simply using or dependent on substances.

Response and action
The Government does not consider it to be necessary at this time to include the recommended criterion in the legislation underpinning the Trial given the criteria proposed under Recommendation 9. However, this will be considered during drafting and monitored during the Trial for any adverse and/or inappropriate exclusions from the legislation.

Recommendation 12 **That the proposed legislation provide for the following elements of orders:**

- detention in an appropriate medical facility
- detention may be ordered for an initial period of 7 to 14 days, on the basis of a medical examination of the person, especially with regard to the nature of their substance dependence, other medical needs and the suspected presence of cognitive damage
- in exceptional circumstances, that is, where it is medically determined during the comprehensive assessment process that the person remains at risk of serious harm, a further period of detention for up to 14 days may be ordered, subject to a further legal decision
- treating clinicians are to be empowered to discharge the person before the period of the order has elapsed, where they consider that the person has recovered sufficiently to be released.

Response and action

The Government intends to incorporate provisions in the legislation that will underpin the Trial referred to under Recommendation 1 that are consistent with the above elements. As already foreshadowed under Recommendation 2, compulsory treatment during the Trial will be provided at the Nepean Inpatient Withdrawal Facility at Nepean Hospital.

With regard to the proposed period of short term detention, the Committee has affirmed that there should be a minimum and maximum time for committal under the legislation, another issue raised in the Government's submission to the Inquiry. As recommended above, it is agreed that detention would be for an initial period of 7-14 days, with the option of orders being extended for another 14 days where there is clinical advice that this would benefit the person. This is in line with clinical advice that the recommended time frames should generally be sufficient for managing a person's withdrawal from alcohol and other drugs, undertaking comprehensive assessments and preparing voluntary discharge management plans:

- Alcohol withdrawals (including for those who are severely dependent) take on average 5-7 days, while complicated withdrawals, precipitated by other factors such as concomitant infections or trauma, can last up to 14 days.

- The more acute phase of withdrawal from most drugs takes a maximum of 2-3 weeks although people dependent on other substances such as benzodiazepine will have symptoms for a month or more.

- Comprehensive assessments are best initiated after the withdrawal is managed. A full evaluation and comprehensive discharge management plan would take another 7-10 days. These patients will generally require psychosocial, financial and neuropsychological evaluations in addition to medical screening.

A maximum length of 28 days for involuntary care orders would therefore be a tight timeframe for some people who may take three or more weeks to withdraw from drugs alone. As indicated above, the court will have to be convinced that a compulsory intervention for a particular substance of dependence is appropriate under the prescribed timeframes in the legislation and is likely to benefit the person (see recommendations 4 and 9).

As an involuntary care order is a significant incursion on a person's civil liberties, only one limited additional extension of time is proposed. Based on clinical advice, the Government intends to provide for involuntary care orders to be extended by the courts for up to 3 months in cases where a person may have an alcohol related brain injury (this is to date the only documented injury that would require the longer time frame although this will be monitored during the trial). Such extensions would only be available where there is clinical advice to suggest that a limited additional period may be needed to achieve the aims of involuntary care (see Recommendation 3). This additional time would also help in making arrangements for longer term care and support under guardianship in appropriate cases.

The Government also supports the Committee's proposal to include powers for medical practitioners to discharge people before the expiry of an order in appropriate circumstances as defined under the proposed legislation. This is good clinical practice which is consistent with the United Nations principles (see recommendation 8) and the approach taken under the Mental Health Act 1990 (which is continued in the Mental Health Bill 2006).

Recommendation 13 Post Discharge Treatment Planning
That the Minister for Health ensure that every person subject to involuntary care must, while in care, receive a comprehensive assessment which then forms the basis for a post-discharge treatment plan. On the basis of that plan, the person must then be actively linked to appropriate services and receive assertive follow-up.

Response and action
The Government concurs with this recommendation which is consistent with the Government's submission to the Inquiry which stated: "It is generally recognised that post-institutional care and case management is a critical element in the long term rehabilitation and social reintegration of individuals who have had a chronic alcohol or drug problem."

The Government recognises that people with severe substance dependence ordered into short term involuntary care may face serious health risks should they relapse onto alcohol or drugs soon after withdrawal. A strong component of aftercare will be built into the Trial to help manage those risks.

As recommended by the Committee, patients will be comprehensively assessed and a voluntary discharge management plan will be prepared for them before their orders expire and they leave the facility. These plans will give people the option to undergo voluntary ongoing treatment for their substance dependence and address their other treatment and lifestyle needs (for example, housing, employment and training). Arrangements will be made for the appropriate follow-up of these people. The provision of ongoing co-ordinated support from a range of agencies after discharge will be covered in the proposed interagency agreement (see Recommendation 6).

Recommendation 14 Oppose long term involuntary care and community treatment orders
The Committee recommends against a longer term mechanism to deal with people who are placed under an involuntary care order on a number of occasions, and also against provision for community treatment orders.

Response and action
The Government endorses the recommendation against long term involuntary care orders with one exception which is the proposal to allow involuntary care orders to be

extended to up to 3 months for people who may have an alcohol related brain injury (see recommendation 12).

The trial legislation will leave open the possibility of the use of repeat orders against an individual but this will have to be decided in the individual circumstances of a particular case taking into account the requirement to demonstrate that the intervention is likely to benefit the person. The Committee found that the repeated use of compulsory detoxification is accepted in Victoria, just as it is in the voluntary system, particularly given the chronic relapsing nature of alcoholism.

The Committee's recommendation against longer term involuntary care orders is consistent with its findings against the use of involuntary treatment with the goal of rehabilitation or longer term, behavioural change because of an absence of evidence to support the efficacy of such treatment (see Recommendation 3).

The Government does not support making provision for community treatment orders at this time. These orders may be made by magistrates under section 131 of the Mental Health Act 1990 requiring mentally ill patients to stay at home or in a nominated health care agency and receive medication, therapy, rehabilitation and other services in accordance with a treatment plan submitted with the application for the order. They may apply for up to 6 months at a time and are used as part of the discharge management of patients under that Act.

Inquiry participants suggested to the Committee such orders might precede or replace an inpatient order or be used as an aftercare measure. They would be a less restrictive alternative than detention in an appropriate medical facility.

However the Committee concluded against their use for drug and alcohol for a number of reasons including concerns that given the very significant level of need among the target group of this inquiry such community-based orders could be setting people up to fail. In making this finding, the Committee is suggesting that compulsory treatment should not apply in non-institutional settings (an issue raised in the Government submission to the Inquiry).

The Committee also concluded that while there is a very important role for assertive follow-up of patients, this does not need be reflected in the legislation. This is a matter which will be closely monitored by the Government as part of the proposed trial of the new legislation.

Recommendation 15 Involuntary treatment and care orders – decision making process

That the decision making process in relation to involuntary care includes the following elements:

- detention may commence on the certificate of a medical practitioner, but may only continue subject to further medical examination(s) and review by a magistrate
- where possible, two medical practitioners are to be involved in this process, and as far as possible, at least one of them is to have expertise in addictions medicine
- review by a magistrate is to occur as soon as practicable, preferably within 3 days
- the right to legal representation in magistrates' inquiries
- the right of appeal
- formal proceedings to occur in private.

Response and action
The Government broadly supports this recommendation which is consistent with the findings of the Committee that the decision-making process about whether a person should be subject to involuntary care, and for what period, should be clinically driven but with appropriate legal adjudication and strong safeguards to protect the person's civil liberties. The inadequacy of such safeguards has been a major criticism of the current Act as highlighted in the Government's submission to the Inquiry.

The Government is of the view however, that further consideration is warranted as to the nature of the clinical review, including the level of expertise which is necessary and ensuring appropriately qualified medical practitioners will be available to undertake this function. Further consideration will also be given to the exact nature of the judicial review, including the timing of reviews and whether these should be undertaken by a court or tribunal.

In developing the legislation, the Government will therefore look to the standards set by existing processes for civil commitment under the Mental Health Act 1990, and the Public Health Act 1991.

Care will also be taken to ensure that the decision-making process does not become overly litigious which could delay any proposed intervention and work against the objectives of the legislation to protect the health and safety of the person.

Recommendation 16 Requests for Involuntary Care
That the proposed legislation enable requests for involuntary care orders in respect of a person at risk of harm to be made by a range of parties including a relative or friend, member of the police service, medical practitioner, drug or alcohol professional or magistrate.

Response and action
The Government accepts this recommendation. Allowing for detention of an individual to be requested by a range of parties is in line with the approach taken under the current Act. However, the Government notes that commencing the process for involuntary care orders may in itself entail a significant incursion on a person's civil liberties which should only occur when there is clear medical and other evidence that a person is likely to meet the strict eligibility criteria.

Consequently, it is proposed that the legislation for the Trial will make medical practitioners primarily responsible for formally initiating the process of an order for involuntary treatment. This is in line with the Committee's findings and will not prevent families and other interested parties, including Police and other health care professionals and facilities from requesting involuntary care for a person. Consideration will be given during drafting to similar processes under the Mental Health Act 1990, the Mental Health Bill 2006 and similar legislation.

Recommendation 17 Indigenous Communities
That NSW Health and the Attorney General's Department consult with Indigenous communities to ensure that the decision making process in Recommendation 15 is implemented in a culturally sensitive manner.

Response and action
The Government concurs with this recommendation which is consistent with issues raised in the Government's submission to the inquiry which indicated concern about the implications of the current Inebriates Act for Aboriginal people. The Government will seek advice on this issue from appropriate stakeholder organisations such as the

Aboriginal Justice Advisory Council and the Aboriginal Health and Medical Research Council. This will be done through the proposed new multi agency Taskforce which will include the administrations identified in the recommendation. The evaluation of the Trial will also review its impact on indigenous people.

Recommendation 18 Monitoring of Patient Care
That the Government provide a system of official visitors to monitor service provision and the rights of patients under involuntary care orders. In determining the appropriate mechanism, consideration should be given to the potential to augment an existing official visitors system to fulfil the function in relation to this group.

Response and action
The Government supports this recommendation and the Trial legislation will include a legislative basis for the monitoring of patient care. The Government concurs that, as the proposed Trial is one involving the issuing of orders for involuntary care, it is appropriate and important that there be a source of independent scrutiny and support for people subject to the orders. The effectiveness or otherwise of the adopted approach will be considered as part of the evaluation.

Recommendation 19 Judicial Education and Training
That the Government request that the Judicial Commission develop an education program for magistrates in relation to the proposed legislation.

Response and action
The Attorney General will be requested to ensure that an approach with regard to this issue is made to the Judicial Commission.

Recommendation 20 Health Professionals Education and Training
That as part of an implementation strategy for the proposed legislation, the Government develop an appropriate information and education strategy targeting medical practitioners with addictions expertise, other medical practitioners and drug and alcohol practitioners, in relation to involuntary care orders and the decision making process pertaining to them.

Response and action
The Government concurs with the recommendation. An information and education strategy will be developed in consultation with the Chapter of Addictions Medicine and other relevant professional bodies to ensure that the medical profession is able to participate fully in the Trial as appropriate. Development of the strategy will be co-ordinated by the interagency taskforce referred to at Recommendation 6.

Recommendation 21 Treatment Regulations
That the proposed legislation make provision for regulations to articulate the responsibilities of treating services and staff.

Response and action
The legislation that will underpin the Trial will have a general regulation making power to allow for appropriate regulations including in this area if required. Utilisation will also be made of guidelines and administrative protocols (see Recommendations 6 and 38). This is consistent with the approach taken in relation to the Government's new Compulsory Drug Treatment Correctional Centre.

Recommendation 22 Police Powers
That the proposed legislation empower police to detain a person and deliver them to an appropriate facility where they are to be medically examined regarding their need for involuntary care, and in the event that they abscond from care, to return the person to the facility where they are being detained.

Response and action
The Government's submission to the Inquiry noted that the current Act does not provide police with a power of arrest or with provision to detain a person for the purpose of placing them before a court to be dealt with as an inebriate. The submission also noted NSW Police advice that "if a person is a danger to themselves or other persons, or at risk of causing damage to property or committing an offence, Police should have a role in locating and returning them to the relevant treatment institution." However, there are also concerns that any Police role under the legislation not adversely impact on their capacity to police efficiently and in line with priorities.

In this context, Police will be given clear but limited powers to detain and transport people where this is necessary to help give effect to orders under the Trial legislation. The powers which apply under the Mental Health Act 1990 for police assistance in relation to medical examinations of a person or taking a person to a mental health facility are expected to provide a useful guide in drafting of these provisions in the involuntary care legislation. The Police administration will be closely consulted in the drafting process.

A key objective for the Trial will be that Police will have much more certainty about their role in helping to enforce the new system of involuntary care under the legislation and the inter-agency agreement referred to at Recommendation 6 than under the current Act. Police will only be required to escort a person to the Trial facility if there is a guaranteed place for the person there.

Recommendation 23 Mandatory Outpatient Assessments
That provision for *court ordered outpatient assessment* through which a person may undergo an initial assessment and have a treatment plan developed with a minimal level of coercion be considered, and if appropriate, included in the proposed legislation.

Response and action
The Government accepts this recommendation and will include mandatory outpatient assessments as part of the decision-making process in the Trial legislation. It is anticipated that such assessments will be incorporated into the initial assessment required by a qualified medical practitioner to determine if the person meets the statutory detention criteria. Where they do not, the clinician will be able to refer the person on to other treatment or support programs, on a voluntary basis. This approach is consistent with the UN Principles about interventions being the least restrictive alternative. It is also consistent with existing clinical practice in respect of people with drug and alcohol dependence.

The Mental Health Act 1990 already has a process for court-ordered medical assessments of people who may meet the requirements for involuntary treatment under that legislation but cannot be personally examined because of physical inaccessibility which is also included in the Mental Health Bill 2006. The mandatory assessment provisions in the Trial legislation will draw on that model.

A key concern of the Government will be to avoid significant net-widening in the use of coercion under the Trial legislation. This will be carefully considered in the drafting process and the effectiveness of the mandatory assessment provision will be assessed as part of the evaluation.

Recommendation 24 Advance Care Directives made while competent
That the Government make provision for advanced care directives to be included in the proposed legislation.

Response and action
The Government does not consider it to be necessary to make provision for advance care directives in the Trial legislation. The focus of the legislation will be on people who are unwilling to participate in treatment. There will however be nothing to prevent people with substance dependency issues from expressing in advance to their medical practitioner or others, while they are competent to make a decision, that they would like coercive intervention should the need arise.

Recommendation 25 Data Collection
That the Government establish a system of centralised data collection on use of the proposed legislation for the purpose of monitoring and evaluation.

Response and action
During the Trial, the Health, Attorney General's and other relevant administrations will review existing data collection on this issue, in the context of the Inquiry's findings that there were shortcomings. The aim will be to ensure that data collection for the Trial is comprehensive and integrated to support the evaluation referred to in Recommendation 26. This work will be progressed through the multi-agency taskforce referred to at Recommendation 6.

Recommendation 26 Evaluation
That the Government evaluate the proposed system of involuntary care within five years of commencement of the legislation. The evaluation should consider:

- demographic and social characteristics of people subject to an order
- circumstances precipitating the order
- the parties who sought the order
- length of orders and length of time in care
- outcomes of legal review
- use and outcomes of appeal
- interventions provided while in care
- client outcomes achieved by discharge and upon follow-up
- use of the legislation in respect of Aboriginal people.

Response and action
The Government will arrange a comprehensive independent evaluation of both the legislation that will underpin the Trial and the new system of involuntary care to be tested and concurs that the evaluation components recommended above and in relation to Recommendation 47 will help inform future Government decisions on this issue. However, it is currently intended to require the evaluation to report after 18 months rather than the recommended five years. Clinical advice is that 18 months is a sufficient time to assess the efficacy or otherwise of short term involuntary care orders, the proposed legislation governing them and the proposed new service arrangements underpinning them. The Aboriginal Justice Advisory Council will be consulted during the evaluation. In addition, the evaluation will cover other issues identified throughout the Government's response.

Recommendation 27 **Cross agency taskforce - non coercive policy responses**
That the Attorney General's Department, The Cabinet Office, NSW Police, NSW Health, the Department of Community Services, the Department of Housing and other relevant agencies collaborate in a cross-agency task force to determine the most appropriate non-coercive policy response to address the complex needs and antisocial behaviour associated with some non-offenders who have a serious substance dependence.

In particular, this forum should investigate the feasibility of grafting onto the proposed legislation elements of the *Victorian Human Services (Complex Needs) Act*. Consideration should be given to:

- how the elements might be modified to respond to larger group of people with substance dependence but lower grade needs than those targeted by Victorian legislation
- provision for a regionalised or localised decision making body that holistically assess people's needs and channels them towards involuntary care and/or other services as appropriate to their needs
- provision to enable sharing of client information
- requirement of agencies to deliver what is in a person's care plan
- cross-agency initiatives already under development in New South Wales
- whether a legislative mechanism is required
- how the mechanism should be operationalised in rural areas

Response and action
The Government has an existing cross-agency project which is giving effect to this recommendation through non-legislative means.

In addition to a system catering to people at risk of serious harm, the Committee has raised the need for a non-coercive system to address the complex needs and anti-social behaviour associated with some people who have a serious substance dependence.

The target group identified here by the Committee often have multiple disabilities and diagnoses including developmental disability, mental health disorder, acquired brain injury (including alcohol related brain injury) or dementia. Many members of this group also have an alcohol or drug dependence, are often homeless and may be in contact with the criminal justice system. They represent a small group but the complex nature of their needs presents a significant challenge for human services agencies, as the clients often require intervention from the full range of human services agencies.

Consistent with the Committee's recommendation, an interagency Project on Challenging Behaviours led by NSW Health with representatives from the Department of Ageing, Disability and Home Care and the Department of Housing has developed a new integrated service model for clients with complex needs and challenging behaviour. The *Integrated Services Project for Clients with Challenging Behaviour* is being trialled over a three year period. It began taking clients in September 2005. The Victorian legislation and its underlying principles were taken into account in developing this project.

The *Integrated Services Project* for people with challenging behaviour is targeted to a small group of people for whom all previous attempts to meet their needs has failed. This may include people with acquired brain injury.

The aim of the project is to improve the social links, behaviour, health and well-being of clients and establish a more durable, safe and effective means for services to work

with each individual throughout and upon exist from the program. A range of additional time-limited services are being provided to clients and their support network including comprehensive assessment, behaviour intervention, supervision, case co-ordination and accommodation support.

The lead agency for the project is now the Department of Ageing, Disability and Home Care. The project is being independently evaluated.

Recommendation 28 Review of the Intoxicated Persons Act
That the Government review the legal framework and supported accommodation arrangements existing under the *Intoxicated Persons Act* with a view to reducing the use of police cells for detaining intoxicated persons and exploring more community-based options for intoxicated persons. The review should consider the reasons for, and impact of, the repeal of proclaimed places.

Response and action
This Recommendation is consistent with those made at the Summit on Alcohol Abuse calling for a further review of the Intoxicated Persons Act (page 20 of the Government response to the Alcohol Summit). It would also provide a timely opportunity to review the substantial amendments made to the legislation in 2000, which has now been incorporated into Part 16 of the Law Enforcement (Powers and Responsibilities) Act 2002.

The Government will undertake a review of the current legislation and arrangements for managing intoxicated persons in public places. This will involve a comprehensive examination of the issues raised by both the Standing Committee and the NSW Summit on Alcohol Abuse and progress with the Government commitments following the Summit.

The review will be undertaken by an interagency taskforce co-chaired by NSW Health and the Attorney General's Department given the Minister for Health's responsibilities for whole of government drug and alcohol coordination and the Attorney General's portfolio responsibility for administration of the legislation. The taskforce will include representatives from the Attorney General's Department, Police administration, Department of Community Services and the Office of Liquor, Gaming and Racing. The taskforce will be asked to report to the Government on the outcomes of the review by mid 2007.

Recommendation 29 Intoxicated Persons Services
That the Government urgently expand the number of intoxicated persons services which will take intoxicated persons, particularly in inner-city, rural and remote communities that do not have these facilities.

Response and action
This recommendation will be considered as part of the review referred to in Recommendation 28. It should be noted that since the 2003 Summit on Alcohol Abuse, the Government has brought forward a number of service reforms to help people who fall within that category of vulnerable people who are chronically intoxicated and have related health, social and other problems including homelessness:

- The establishment in January 2006 of the Inner City Homelessness Outreach and Support Service, a joint initiative of the NSW Department of Housing and the City of Sydney with support from the Department of Community Services. The

service includes assistance for homeless people with dependence on alcohol and other drugs.

- Establishment of the *Port Jackson Housing Company* to assist low income people especially those with complex needs including mental health, drug and alcohol and housing problems by providing opportunities for sustainable tenancies and linkages to support services, including drug and alcohol and mental health services.

In addiction, the Government's *Partnership Against Homelessness* network of twelve government agencies led by the Department of Housing has continued to roll out a range of services, assessment and housing initiatives for homeless intoxicated persons.

PART C - A NEW SERVICE FRAMEWORK FOR INVOLUNTARY CARE

Recommendation 30 Resources
That the Government provide additional resources to fund the proposed system of involuntary care for people with severe substance dependence.

Response and action

The Government does not support the recommended action but, as indicated in the response to Recommendation 1, will conduct and resource a Trial to examine the efficacy of short term involuntary treatment orders. Any action subsequent to the Trial will depend on the outcomes of the Trial and its evaluation which will include an economic component.

Recommendation 31 Scoping exercises
That NSW Health immediately undertake:

- a detailed survey of all drug and alcohol services in New South Wales, and facilities where people are currently detained under the *Inebriates Act,* to estimate the likely annual demand for involuntary care;
- a scoping study of all detoxification services in New South Wales to determine where people could be detained and treated, and identify the work necessary to provide for locked environments.

This information should then be used to determine the most appropriate service arrangements for the provision of involuntary care.

Response and action

The Government has taken action on this recommendation. NSW Health has undertaken the further work recommended by the Committee to identify the most appropriate service arrangements for people in involuntary care. This work has informed development of the proposed Trial referred to under Recommendation 1, including the site of the Trial within an inpatient withdrawal unit (see Recommendation 2) and the related compulsory treatment framework. It is intended to undertake further work on these issues during the Trial to inform the evaluation.

Recommendation 32 Local Model of Care
That involuntary care be provided according to a localised model making use of existing medical detoxification facilities.

Response and action

As indicated in the response to Recommendation 1, the Government intends to conduct a Trial with its outcomes and evaluation findings to inform any broader application and issues such as those in Recommendation 32.

Recommendation 33 Inner Sydney Facility
That in light of the information gathered through Recommendation 31, NSW Health should consider the potential for a purpose built facility in the inner city.

Response and action

In making this recommendation, the Committee indicated there may be greater demand for involuntary care in the inner city, given the relatively high concentration of homeless people in that area. The Government has considered this recommendation but does not consider a stand-alone purpose built facility to be necessary at this time. As indicated under Recommendation 2, co-location with an

existing medicated detoxification facility is considered to be the preferred approach to ensure access to required medical treatment for the range of health and other needs these patients may have. However, this issue will be considered during the Trial and in light of new services that have been made available to people with intoxication problems including in the inner city area (see Recommendation 29).

Recommendation 34 Recognition of Needs of Indigenous People
That in implementing the Committee's proposed model of involuntary care, NSW Health recognise and incorporate the needs of Indigenous people, in consultation with Indigenous communities.

Response and action
The Government endorses this recommendation and will work with relevant agencies and bodies to ensure this is taken into account. See also response to Recommendation 17.

Recommendation 35 Recognition of Culturally and Linguistically Diverse Communities
That in implementing the Committee's proposed model of involuntary care, NSW Health recognise and incorporate the needs of culturally and linguistically diverse communities, in consultation with them.

Response and action
The Government has noted the Committee's important findings concerning the personal and cultural trauma associated with detention for some people from culturally and linguistically diverse communities. Government agencies will consult with the appropriate stakeholder organisations including the Community Relations Commission in developing the proposals for the new legislation and system of short term involuntary care. The evaluation of the trial will include consideration of its impact on people from culturally and linguistically diverse communities.

Recommendation 36 Interagency Protocols - covering initial intoxication stage
That NSW Health lead a process of developing interagency protocols at the area health service level about the management of persons for who involuntary care is being determined, during the intoxication phase.

Response and action
For the purposes of the Trial, the recommended protocol will be addressed in the interagency agreement detailed in response to Recommendation 6. The need for area-based interagency protocols in the longer term will be considered following the outcome of the trial.

Recommendation 37 Interagency Agreement to address transport issues
That the interagency agreement on respective roles and responsibilities under the proposed legislation referred to in Recommendation 6 address transport of people under an involuntary care order. In determining this responsibility, consideration should be given to establishing a budget specifically for the purpose of funding such transport.

Response and action
Arrangements for the transportation of people under an involuntary care order will be addressed in the inter-agency agreement proposed at recommendation 6.

The Trial will be confined to people who live near the proposed new involuntary care facility. This will avoid the need to transport people long distances. It is also anticipated that, as far as possible under the proposed Trial legislation, the person will be delivered into care through informal means, for example, with the help of a

drug and alcohol worker or other service provider, or family member. The time involved for police or ambulance officers in admitting offenders to the facility will also be minimised through appropriate arrangements under the interagency agreement.

The resource implications of any transportation arrangements for the proposed new system of involuntary care will be monitored as part of the trial.

Recommendation 38 Treatment and management guidelines for involuntary care patients
That in order to ensure quality of care and optimal outcomes for those subject to the proposed legislation, NSW Health develop and publish guidelines for the treatment of people in involuntary care. The guidelines should address:

- the key elements of involuntary care, that is, comprehensive assessment and the development of a treatment plan, referral to appropriate services, and assertive follow-up
- how families and carers are to be engaged in the process of involuntary care
- the rights and responsibilities of staff.

Response and action
The development of treatment guidelines is consistent with a suggestion in the Government submission to the Inquiry that the implementation of the Act (or any replacement) might benefit from guidelines regarding the nature of treatment provided under compulsory treatment orders.

NSW Health will be responsible for leading the development of procedural aspects of the new system of involuntary care and ensuring co-ordinated care as recommended by the Committee. This includes the development of the new treatment guidelines which NSW Health will prepare in consultation with the interagency taskforce.

Recommendation 39 Interagency Protocols – provision of involuntary care
That interagency protocols be developed in each area health service setting out the roles and responsibilities of government and non government agencies in relation to involuntary care.

Response and action
For the purposes of the trial of the legislation, the Government intends to address this matter in the interagency agreement proposed at Recommendation 6. The need for area-based interagency protocols in the longer term will be considered following the outcome of the trial.

Recommendation 40 Treatment and Management Guidelines to promote interagency collaboration
That the treatment guidelines to be developed by NSW Health in Recommendation 38 also reflect the need for interagency collaboration.

Response and action
This recommendation is consistent with the overall interagency approach that will be taken in implementing the Committee's recommendations and will be adopted.

Recommendation 41 Neuropsychological testing services
That NSW Health develop a strategy to ensure the availability of neuropsychological testing services for people subject to involuntary care.

Response and action
The Government's proposed Trial will include provision for neuropsychological testing of patients, where appropriate in recognition that a diagnosis of brain injury can assist a person's recovery in some cases for people with less severe impairment and also enable services to be tailored to the person's needs.

Recommendations 42-45 Cognitive Impairment/Acquired Brain Injury from substance abuse
That NSW Health re-establish specific treatment and living skills development services for people with significant cognitive impairment arising from their substance use (Rec 42).

That NSW Health and the Department of Ageing, Disability and Home Care establish a consultancy service providing specialist support to mainstream treatment and other service providers to enable them to work more effectively with people with alcohol related brain injury (Rec 43).

That the Department of Ageing, Disability and Home Care acknowledge its responsibility towards people with acquired brain injury, including those with alcohol related brain injury, as part of the target group for the Disability Services Program (Rec 44).

That the Department of Ageing, Disability and Home Care, in collaboration with NSW Health, Treasury and other relevant agencies, develop a funding and policy framework for strategically addressing the needs of people with brain injury, in order to improve their access to the range of disability and mainstream support services, and to brain injury specific services. In particular, this framework should consider living skills and behaviour/ social skills development services; accommodation; respite; case management; and other services (Rec 45).

Response and action
The Government will establish a *Task Force on Services for People with Alcohol Related Brain Injury* to examine the specific recommendations of the Committee in this area. The Task Force will be chaired by the Chief Executive Officer, Department of Ageing, Disability and Home Care in partnership with NSW Health and also include representatives from the Department of Housing and other relevant agencies. It will consult with the community and stakeholders and will provide a comprehensive report to the Government by mid 2007. In addition:

- Under the Government's billion dollar plan for disability services, *Stronger Together*, A New Direction for Disability Services in NSW 2006-2016, people with disabilities and their families will have access to services based on their functional need. This will enable people with acquired brain injury, requiring high levels of on-going assistance, access to services based on the priority needs of individuals.

- The provision of appropriate services for people with alcohol related brain injury is also being examined as part of the *Integrated Services Project for Clients with Challenging Behaviour.* That project will include consideration of sustainable long term options for these people as well as other clients with complex needs.

Recommendation 46 **Support for and Engagement of Families in Treatment**
That the *Drug and Alcohol Treatment Services Development Plan 2006-2015* provide for greater engagement of families in treatment, and enhance provisions specifically aimed at supporting families and carers.

Response and action
The new statewide NSW Drug and Alcohol Plan (2006-2010) that will guide the planning and delivery of drug and alcohol treatment services for the next five years includes specific provision to promote greater engagement of families in treatment and increased support for families and carers. One of the Plan's priority action areas relates to the treatment and extended care for patients with established patterns of harmful or dependent drug use and their families and carers. The principles of service delivery set out in this section of the Plan articulate a clear role for families and carers in planning the treatment and post-treatment support of these patients in appropriate cases.

Recommendation 47 **Evaluation of Proposed Legislation**
That the evaluation of the proposed legislation also consider service coordination and integration, service gaps and the experience of families and carers.

See Government Response to Recommendation 26.

PART D - OFFENDERS

Recommendation 48 Offenders
That no provisions relating to offenders be included in the new legislation that replaces the *Inebriates Act.*

Response and action
Given evidence put to the Inquiry that the Act has not been used with regard to offenders for some time as well as the range of drug and alcohol treatment now available within the NSW corrections system, the Government concurs with Recommendation 48. However, the Government will closely monitor the provision of alternative treatment for offenders in this State.

Recommendation 49 Expansion of the Drug Court Program Across NSW
That the Government assess the feasibility of expanding the Drug Court program with a view to making it accessible throughout New South Wales.

Response and action
The Government notes the Committee's concern to increase the availability of drug diversion programs across NSW to enhance access to treatment for offenders. In this context, it should be noted that:

- the primary diversion program in NSW, the Magistrates Early Referral into Treatment (MERIT) Program is now in 60 local courts across the State representing over 80% of the local court case load. As at 30 September 2006, 6,963 offenders had entered the program with 3,883 successfully graduating;

- the Drug Court is only one of a continuum of diversion programs established by the Government to link to drug treatment a range of offenders from minor to more serious, including MERIT, Cannabis Cautioning Scheme, Youth Drug and Alcohol Court and Young Offenders Act diversions.

State-wide expansion of the Drug Court is not currently under consideration. Instead, the program's focus for the current time is to consolidate its crucial role in the operation of the Government's new Compulsory Drug Treatment Correctional Centre which commenced in September 2006.

Recommendation 50 Extension of MERIT to cover alcohol offenders in the Mid West and Broken Hill
That the Committee support the planned trial extension of MERIT to alcohol in the mid-West and Broken Hill, and recommends that the Government ensure that the programs are adequately resourced.

Response and action
The Committee's support is noted for the trial of a new alcohol diversion scheme in the mid-West at Orange and Bathurst Local Courts and for the extension of the MERIT program to alcohol-related offenders at Broken Hill Local Court.

The Rural Alcohol Diversion Pilot which is based on the MERIT program and targets alcohol-related offenders commenced at Orange Local Court in December 2004 and Bathurst Local Court in April 2005. As at 30 September 2006, over 88 offenders had entered the Pilot with 58 successfully graduating.

The MERIT program was extended to alcohol-related offenders at Broken Hill Local Court in June 2004 and also at Wilcannia Local Court in May 2005.
Both the Rural Alcohol Diversion Pilot and the extension of MERIT to alcohol-related offenders are funded under the joint Commonwealth and New South Wales Agreement relating to the Illicit Drug Diversion Initiative.

Recommendation 51 Extension of the Drug Court program to alcohol related offenders
That a pilot project be developed to trial the inclusion in the Drug Court program of alcohol related offenders who meet the other eligibility criteria. This should include the provision of relevant alcohol-focused interventions.

Response and action
The Government does not endorse this recommendation at this stage. A similar recommendation was made during the NSW Summit on Alcohol Abuse (Recommendation 9.12) but was not supported in the Government's May 2004 Summit response for a range of reasons including:

- The category of offenders dealt with by the Court. Drug Court clients are non-violent illicit drug dependent offenders predominantly convicted of acquisitional crimes. Alcohol related offenders facing custodial sentences are typically persons who have committed violent offences including domestic violence or are repeat drink drivers.
- The existence of appropriate court based intervention programs for two identified groups of alcohol related offenders. Programs such as *Alcohol Interlock Program*, *Sober Driver Program* and the *Traffic Offender Program* are available for drink drivers. The Probation and Parole Service of the Department of Corrective Services also conducts anger management programs for violent offenders.
- The view that non-dependent alcohol related offenders may be better dealt with in pre-sentence programs such as MERIT.

Recommendation 52 Domestic violence and alcohol
That, given the importance of addressing the link between alcohol and family violence, the Attorney General consider, as a matter of priority, interagency task force reports due in 2005 relating to the Domestic Violence Court Intervention Model and the issue of Apprehended Violence Orders and alcohol treatment

Response and action
The Government has already considered the interagency task force reports. In relation to the Domestic Violence Court Intervention Model, the task force report supported implementation of the model.

The Government has now established a $4.1 million two year trial of the Domestic Violence Court Intervention Model. This project is a comprehensive criminal justice and community welfare response to domestic violence. It commenced in Wagga Wagga in August 2005 and in Campbelltown in September 2005 and will be fully evaluated by June 2007. The Model includes:

- increased use of exclusion orders to keep perpetrators away from victims;
- a pro-arrest and charge policy with strict bail conditions;
- streamlined court processes;
- availability of a mandated perpetrator education;
- greater collaboration between legal and welfare agencies;
- increased specialist knowledge and expertise.

With regard to the issue of Apprehended Violence Orders and alcohol treatment, the Attorney General has advised that the Apprehended Violence Legal Issues Coordinating Committee has now considered the issue of empowering courts to order domestic violence defendants to undertake compulsory alcohol treatment and does not support its implementation. Reasons included that this could lead to more defendants contesting such orders and undermine the immediate protection of victims.

Recommendation 53 Post-program support for MERIT Graduates
That the level of need for post-program support for MERIT graduates be assessed and appropriate programs be developed to address the unmet need.

Response and action
Consideration of post program support issues would need to be done within the framework of the Commonwealth and New South Wales Agreement relating to the Illicit Drug Diversion Initiative which funds many key diversion programs in this State. This recommendation has been referred to the State Reference Group on Diversion which is chaired by NSW Health for report to the Commonwealth and NSW Governments on relevant issues. Any broadening of services provided under MERIT such as additional post program support would require approval of and additional resources from the Commonwealth Government.

Recommendation 54 Interventions - Compulsory Drug Treatment Correctional Centre
That the Government ensure that the full range of evidence-based interventions is available at the Compulsory Drug Treatment Correctional Centre.

Response and action
One of the Government's key objectives in establishing the Compulsory Drug Treatment Correctional Centre is to test an abstinence-based treatment approach for recidivist offenders with entrenched drug problems who have previously failed or chosen not to enter treatment. While some pharmacotherapy will initially be provided to some offenders entering the program on the basis of clinical need and on a reduction basis, offenders who are clinically assessed as unsuited to this approach will be excluded from the program. It is not intended to broaden the program's abstinence based approach to other treatment regimes.

Recommendation 55 Extending the Compulsory Drug Treatment Correctional Centre to alcohol
That the Government reconsider the exclusion of offenders with serious alcohol problems from participation in the Compulsory Drug Treatment Correctional Centre.

Response and action
Given the program's important objective in targeting recidivist offenders with entrenched drug problems and the fact that the new Centre commenced operations in September 2006, the Government does not support Recommendation 55 or any change that could undermine or distract the focus of this new program. Implementation of Recommendation 55 would require substantial and fundamental change to the Trial and treatment regime at the Centre. Evidence also suggests that serious alcohol related offenders are more likely to have committed violent crimes which would exclude them from program eligibility.