

Issues Paper

Northern Territory Alcohol Policies and Legislation Review

May 2017

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Message from the Minister for Health, the Hon Natasha Fyles MLA

The Northern Territory is a great place to live. Our Government is focused on delivering for the Territory – supporting jobs, investing in our CBDs and our regions, giving children the best start to life, and building better communities.

This Alcohol Policies and Legislation Review offers the chance to build on the work we have done and the work we are planning to do to combat alcohol-fuelled crime and to reduce alcohol-related harm.

We know that the majority of people within our community drink responsibly most of the time. For many Territorians, alcohol plays an important part in their social and recreational activities and the Territory's bustling hospitality industry employs a great many locals to ensure we can enjoy vibrant entertainment venues and precincts. No one wants to change this.

While we recognise that every Territorian has the right to enjoy a drink responsibly, alcohol abuse is a significant cause of violence and crime in our community. The rates of alcohol consumption in the Territory are the highest in the nation and among the highest in the world.

The impact is evident in our excessive rates of alcohol related road accidents, assaults, injuries, illnesses and deaths. We are also seeing this impact on communities and families through high rates of alcohol related domestic violence and child neglect.

We have listened to concerns from experts across our frontline services that say too many of our critical resources are being diverted to deal with alcohol related harm.

Every Territorian has the right to feel safe and expect their homes and businesses to be secure. Alcohol abuse is the single biggest social issue that we are facing in the Territory and we must address it to build a safer and stronger Territory.

A whole-of-community effort to change is required to reduce the harms associated with the misuse of alcohol. It is necessary for all of us – individuals, community sector organisations, local councils, government agencies and hospitality industry - to work together to combat alcohol fuelled crime and violence.

How we manage and regulate the supply of alcohol is important. The *Liquor Act* needs to remain relevant and meet the needs and expectations of today's community, including measures to create a safer drinking culture.

The Alcohol Policies and Legislation Review forms an important part of the Government's efforts to prevent and reduce the harms associated with alcohol misuse and improve the safety and wellbeing of Territorians.

It will ultimately result in the development of a broader integrated Alcohol Harm Reduction Framework, based on the recommendations of an Expert Advisory Panel. The Review will:

1. Analyse and assess the NT's current alcohol policies, their implementation and effectiveness.
2. Consider best practice alcohol policies from other places and how they would translate to the Northern Territory.
3. Advise the Government on the development of an evidence-based alcohol harm reduction framework for the Territory.
4. Consider best practice liquor and related legislation from other places, and how it would translate to the Northern Territory.
5. Advise the Government on reforms that could be considered in relation to the Northern Territory's *Liquor Act*.

In particular, the Review will report on several Key Matters:

- » evidence based policy initiatives required to reduce alcohol fuelled crime;
- » ensuring safe and vibrant entertainment precincts;
- » alcohol service provision and management in remote communities;
- » decision-making under the *Liquor Act*; and
- » the density of liquor licences and the size of liquor outlets.

This issues paper is designed to generate ideas and guide discussion on actions that could be taken with these Key Matters, to build a safer and healthier community for all to enjoy.

The Alcohol Industry in the Northern Territory

We know that the supply, purchase and consumption of alcohol makes a significant contribution to many sectors of the Territory economy through employment, new and existing business growth and consumption expenditure. These contributions occur in many ways including in the retail/wholesale, tourism and hospitality sectors, and in accommodation and food services. There are also indirect contributions in the transport services sector, as well as in professional, scientific and technical services sectors. Evidence to support this diverse economic impact is demonstrated below:

- » In 2015-16 direct expenditure on takeaway alcoholic beverages in the Territory was \$146 million or about 0.62 per cent of the Territory's \$23.6 billion Gross State Product (GSP). This expenditure has reduced in real terms compared to five years ago.¹
- » Expenditure (as measured in current prices) in 2015-16 on hotels, cafes and restaurants (including alcohol), and recreation and culture services sectors contributed \$1768 million or 9.9 per cent to final consumption expenditure of all sectors.²
- » In 2014-15 the tourism sector in the Territory directly contributed 4.2 per cent (or \$976 million) to GSP and 6.4 per cent (about 8500 people) to total employment. Tourism employment is spread across the Territory economy, covering all regions and including a range of industries³. The largest share of direct tourism employment in the Territory is in cafés, restaurants and takeaway food services; retail trade; accommodation and food services; and air, water, and other transport services.
- » Indirect expenditure from tourism contributed a further \$976 million to the Territory's economy and employed about 7000 people in 2014-15.⁴
- » In February 2017, the retail trade, accommodation and food services, wholesale trade and arts and recreational services sectors employed over 28,000 Territorians or 20 per cent of the labour force. Although the provision of alcohol would be most important to the accommodation and food services sectors, it is likely to contribute to employment growth indirectly in a number of other sectors.⁵

Northern Territory Active Alcohol Licences

Restaurants	106
On Licence	102
Clubs	62
Stores	60
Tavern	43
Private Hotels	36
Public Hotels	36
Roadside Inns	29
Off Licence	15
Liquor Merchant	14
Vessels	12
Total	515

There are currently 515 active liquor licences operating in the Northern Territory. Over half of these licences are issued to restaurants and cafés, accommodation services such as hotels/motels and remote lodges and retreats, and specific tourism ventures. Over time the administrative category titles have been established, however each application is assessed on its merit and a category is nominated. Of these 515 licences, 253 are authorised to sell alcohol for consumption away from the licensed premises.

1 Australian Bureau of Statistics, National Accounts: State Accounts, Cat. No 5220.0
 2 Australian Bureau of Statistics, National Accounts: State Accounts, Cat. No 5220.0 Table 8
 3 ibid
 4 Tourism Research Australia, State Tourism Satellite Accounts 2014-15
 5 Australian Bureau of Statistics, Labour Force Australia: Detailed, Cat No 6291.0.55.003

How much alcohol is being consumed?

It is believed that there has been a downward trend in the estimated per capita consumption of alcohol in the Northern Territory since 2008. The most recent report, released in February 2017 for the years 2008 – 2015, shows this downward trend, with the estimated per capita consumption of alcohol decreasing by 4 per cent, from 12.3 litres per person in 2014 to 11.85 litres per person in 2015.

While this downward trend is encouraging, the Northern Territory continues to have the highest estimated pure alcohol per capita consumption in Australia⁶. In 2011/12, the Northern Territory per capita⁷ alcohol consumption rate was estimated at 13.3 litres, compared with the national per capita consumption estimated at 10.3 litres⁸.

The NT continues to experience a downward trend in respect of per capita consumption of alcohol, and the portion of non-indigenous and indigenous adults who abstain from drinking is below the national average.⁹ The NT had the second highest proportion of non-Indigenous adults at risk of long-term harm from excessive consumption of alcohol in 2011-13 (24.9 per cent). The proportion of Indigenous adults at risk of long term harm from alcohol in the NT has decreased from 14.2 per cent in 2013-14 to 13.3 per cent in 2014-15. This figure is below the national average of 15.8 per cent. This same report also showed that the NT had the highest percentage of Indigenous adults abstaining from alcohol at 50.5 per cent (2011-13). In the same period, 15.4 per cent of non-Indigenous adults abstained which was below the national average of 16.3 per cent.

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Alcohol-related harm in the Northern Territory

The concept of “risky drinking” and the long term health issues that can arise from this behaviour are not well understood or acknowledged by many in the community.

The Australian Guidelines to Reduce Health Risks from Drinking Alcohol, published by the National Health and Medical Research Council in 2009, recommend that for healthy men and women to reduce the lifetime risk of harm from alcohol-related disease or injury, the maximum amount of alcohol taken on any day should be two standard drinks. The Guidelines recommend that in order to reduce the risk of alcohol related injury arising from a single occasion of drinking, no more than four standard drinks should be consumed.

The harms from alcohol misuse have an impact not only on individuals, but also on the families and communities of those who consume at risky levels.

6 https://justice.nt.gov.au/_data/assets/word_doc/0008/396062/NT-wholesale-alcohol-supply_2008-2015.docx

7 per capita refers to the population 15 years and older

8 <https://ndri.curtin.edu.au/research/nasdp.cfm> National Alcohol Sales Data Project Stage 4 Report

9 Australian Government Productivity Commission, Report on Government Services 2017, Volume E, Table EA.23

In 2015/16 there were 9124 alcohol-related presentations to NT hospital Emergency Departments.

This includes health harms such as injury, cancers, cardiovascular disease, liver cirrhosis, mental health problems, road trauma, as well as social harms including violence and other crime. It also includes economic harms, some of which are difficult to measure, from loss of business and tourism, impacts on education and employment opportunities, healthcare, treatment service and law enforcement costs, decreased productivity, absenteeism, associated criminal activity, reinforcement of marginalisation and disadvantage, domestic and family violence and child protection issues. There are also significant social costs such as family and relationship breakdowns and disconnection from culture and land.

Statistics specific to the NT cannot be ignored:

- » In 2015/16 there were 9124 alcohol-related presentations to NT hospital Emergency Departments.
- » In the year to September 2015, there were 1590 admissions to NT public hospitals that were fully attributable to alcohol.
- » A key finding of the 2013 National Drug Strategy Household Survey was that people in the NT were far more likely to consume alcohol in quantities that placed them at risk of harm on a single occasion (at least monthly) than any other jurisdiction (40 per cent compared with 26 per cent for the nation). The NT also recorded the highest pattern of lifetime risky drinkers (30 per cent compared with 18.2 per cent for the nation¹⁰.)
- » Alcohol is second only to tobacco as the leading preventable cause of hospitalisation and premature death in the Northern Territory.¹¹
- » The Territory has the highest proportion of deaths attributable to alcohol in Australia. Alcohol-attributable death rates in non-Aboriginal people are about double the national rate, while they are 9-10 times higher for Aboriginal people. Forty per cent of NT road fatalities involve an illegal blood alcohol concentration (BAC), compared with less than 30 per cent in other jurisdictions.¹²
- » Alcohol is responsible for the majority of presentations to alcohol and other drugs treatment services, with 56 per cent of episodes of treatment being for alcohol in 2014-15 compared to 15 per cent for cannabis, the next highest drug of concern. Over the 5 years from 2010-11, alcohol remained the most common principal drug of concern for clients receiving treatment for their own drug use in the Northern Territory. Even though the proportion of these episodes where alcohol was the principal drug of concern declined (from 64 per cent to 56 per cent), it remained the highest (proportionally) across all states and territories and has been considerably higher than the national average (47 per cent compared with 38 per cent nationally) over the same period.¹³
- » At first antenatal visit, 5 per cent of all NT mothers reported drinking alcohol during pregnancy, although this reduced to 2 per cent reporting drinking at 36 weeks gestation. The prevalence of alcohol consumption was higher in

40 % of NT road fatalities involve an illegal blood alcohol concentration (BAC), compared with less than 30 % in other jurisdictions.

10 Australian Institute of Health and Welfare, National Drug Strategy Household Survey detailed report 2013, Australian Government, 2014

11 Australian Institute of Health and Welfare 2015. Aboriginal and Torres Strait Islander Health Performance Framework 2014 report: Northern Territory

12 Zhao Y, Li SQ, Chikritzhs T. Alcohol-attributable deaths among indigenous and non-indigenous Australians. *OA Alcohol* 2013 Apr 01;1(1):5.

13 Australian Institute of Health and Welfare, Alcohol and other drug treatment services in Australia 2014-15: state and territory summaries, 2016

Indigenous mothers (10 per cent at the first visit and 5 per cent at 36 weeks gestation) than non-Indigenous mothers (3 per cent at the first visit and less than 1 per cent at 36 weeks gestation).¹⁴

- » Feedback from health workers, educators and communities indicates a high incidence of Foetal Alcohol Spectrum Disorder (FASD) in the Northern Territory which is having a devastating effect on the lives of Territorians. FASD is a lifelong condition. Fetal alcohol exposure can result in significant adverse health, behavioural, educational, social and legal outcomes, as well as adverse effects on the families and communities of those affected¹⁵.
- » Alcohol is a significant driver of crime, in particular with respect to offences against the person. Alcohol is associated with a minimum of 53 per cent of all assaults and up to 65 per cent of domestic and family violence incidents reported to police in 2015/16. Northern Territory Police respond to an average of 22,500 domestic and family violence incidents in a year, demonstrating the issue that faces the NT community.
- » In 2004/05, the total social cost of alcohol in the NT was estimated to be \$642 million, or \$4,197 per adult, compared with a national estimate of \$943 per adult¹⁶.

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Tackling alcohol misuse in the Northern Territory

There have been previous attempts to address issues of alcohol misuse and abuse in the Northern Territory as well as in Australia as a whole. Since self-government on 1 July 1978, the Northern Territory has responded to a range of royal commissions and other Inquiries that have made recommendations in relation to alcohol. The most notable initiative was in 1991 with the launch of the Living With Alcohol Program (the LWA Program), which operated until 2000. The LWA Program operated within a public health framework that emphasised a reduction in harmful drinking and behaviours, rather than a prohibition or abstinence approach to alcohol. It combined a targeted levy on alcohol together with the 'care, culture and control' strategies including:

- » changing the entrenched drinking culture by providing education and information to specific target groups and the general population through media campaigns;
- » expanding alcohol assessment, early intervention and treatment options and opportunities; and
- » controlling the availability of alcohol as well as improving policy and practice relating to the supply of alcohol.

In August 1997 the High Court of Australia ruled that it was not legal for the New South Wales Government to impose a particular tobacco licensing fee.¹⁷ It was concluded that many other licensing fees, including the Northern Territory's

14 Hall J, Case A, O'Neil L. Northern Territory Midwives' Collection. Mothers and Babies 2013. Department of Health, Darwin, 2015

15 Legislative Assembly of the Northern Territory Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder February 2015

16 Whetton S, Hancock J, Chandler N, Stephens N, Karmel C. Harms from and Costs of Alcohol Consumption in the Northern Territory. South Australian Centre for Economic Studies, Adelaide, 2009

17 Ha v The State of NSW (1997) 71 ALJR 1080.

Light beer consumption increased to 30 % of the beer market compared with 1 % in 1992.

Living With Alcohol levies, were probably also invalid. Following the decision, the Commonwealth agreed to collect a roughly equivalent amount of funds through beer excise and wholesale taxes and forward these funds to the Northern Territory Government. While the program funding was continued, it was no longer quarantined and the price differentials created by the Northern Territory levies were lost.

It is recognised that the LWA Program resulted in major benefits for the community:

- » alcohol-related fatal accidents reduced by 30 per cent;
- » alcohol-related deaths reduced by 31 per cent;
- » alcohol-related accidents reduced by 29 per cent;
- » arrests for exceeding legal blood alcohol limit reduced by 29 per cent;
- » apparent per capita consumption reduced by 18 per cent; and
- » light beer consumption increased to 30 per cent of the beer market compared with 1 per cent in 1992.¹⁸

In addition to Government wide initiatives, restrictions on the availability of alcohol in regional areas developed out of the success of the Tennant Creek liquor restrictions in 1995–96. Since then a range of restrictions on takeaway sales, opening hours and certain liquor products have been applied in every regional centre in the Northern Territory, although not in Darwin. These restrictions have been made through variations to liquor licence conditions imposed by the former Northern Territory Licensing Commission, and more recently the Director-General of Licensing.

In 2003 the Northern Territory Alcohol Framework Project was undertaken which, similar to this Review, looked at providing a broad structure for government, individual agencies, community groups, licensees and others, in order to reduce alcohol related harm. This project saw the release of a comprehensive Interim report and a Final report, both of which provide extensive information on alcohol related harms and strategies to deal with them in the NT. The reports can be accessed at www.alcoholreview.nt.gov.au.

The Territory Labor Government first introduced the Banned Drinker Register (BDR) in 2011, with the *Enough is Enough* campaign targeting people who commit alcohol-related crime and anti-social behaviour by turning problem drinkers “off tap” and providing pathways to treatment. The BDR was enforced across the Northern Territory preventing problem drinkers from purchasing, possessing and consuming alcohol. The *Enough is Enough* Alcohol Reform was designed as a long term strategy and along with the BDR included treatment orders, Alcohol Court reforms, rehabilitation services and awareness campaigns.

Early statistical information¹⁹ for the first year of operation showed

- » 2,500 people were on the BDR;
- » 6.3 per cent decrease in alcohol-related assaults, excluding domestic violence in the major centres;

¹⁸ NT Alcohol Framework Interim Report 2004

¹⁹ *Enough is Enough*, Alcohol Reform Progress Report Year 1: July 2011 to June 2012, NT Government

- » 16,490 declined alcohol sales to problem drinkers; and
- » 197 licensed takeaway outlets were using the BDR.

With the change of Government in August 2012, the CLP disbanded the BDR with no alternate alcohol management strategy to replace it. Alcohol related harms increased immediately as evidenced in crime and hospital reports.

Territory Labor committed to bring back the BDR with the 2016 election. The new Territory Labor Government is delivering on this commitment with the new BDR commencing across the Northern Territory on 1 September 2017. The BDR model has been streamlined and improved to provide a health focussed approach to reduce the harms of problem drinking for the person, their family and the community. There are enhanced pathways onto the BDR.

Police will issue automatic Banned Drinker Orders with persons who receive repeated alcohol-related infringement notices, protective custodies or alcohol related domestic violence orders; or are charged with an alcohol-related offence including drink driving. Court orders with alcohol prohibition conditions will be recorded on the BDR and can include additional conditions such as clinical assessment and treatment.

The self-referral process has been streamlined to be a more direct path, without the need for a clinical assessment or appearing before a Tribunal. Applications can also be made by others including family members, carers or guardians, as well as by people in authorised positions such as health practitioners, police, or child protection workers. An assessment will be required through these pathways to demonstrate how the person's drinking is causing harm and how a Banned Drinker Order will benefit or protect the person and their community.

From the first contact on the BDR, a banned person will be encouraged to undertake therapeutic interventions to help them reduce their problem drinking. Breaching a Banned Drinker Order, will lead to an extended length of ban and in serious cases, an Income Management Order and case reviews. As an incentive to undertake a recommended treatment program, a banned person can be considered for a reduction of their ban if they successfully complete their treatment.

A Harm Minimisation Approach in the Northern Territory

The Draft National Drug Strategy 2016-2025, developed by the Commonwealth in consultation with all states and territories, describes a nationally agreed harm minimisation approach to reducing the harm arising from alcohol, tobacco and other drug use. The National Alcohol Strategy 2016-2025 sits as a sub-strategy and provides direction and context for issues related specifically to alcohol consumption. It continues the national commitment to harm minimisation through effective demand, supply and harm reduction strategies. Both strategies are informed by current evidence.

Consistent with national and international drug policy, the Northern Territory Government (NTG) is committed to the principles of harm minimisation. This

Early statistical information for the first year of the BDR operation showed

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- 16,490 declined alcohol sales to problem drinkers; and
- 197 licensed takeaway outlets were using the BDR.

Reducing supply strategies focus on controlling and regulating the sale, supply, consumption and promotion of alcohol.

approach is based on the following principles:

- » Alcohol is a legal substance and is a part of our society;
- » Alcohol consumption ranges from no use, through occasional use, to dependent use;
- » A range of harms are associated with different types of consumption and patterns of use; and
- » A range of approaches can be used to respond to these harms.

Three pillars support a harm minimisation approach: demand reduction, harm reduction and supply reduction.

- » *Reducing demand strategies focus on changing attitudes towards drinking in the population, increasing awareness about harms associated with alcohol, and encouraging a more responsible approach to alcohol consumption in the community; delaying the age of first use, preventing patterns of harmful alcohol consumption, enhancing community reintegration and supporting dependence recovery.*
- » *Reducing supply strategies focus on controlling and regulating the sale, supply, consumption and promotion of alcohol.*
- » *Reducing harm strategies focus on reducing the negative outcomes from alcohol.*

Each of these three areas is critical to positively influencing community attitudes and changing the drinking culture. Applying a harm minimisation approach involves a dynamic balance between the three pillars of reducing demand, reducing supply and reducing harm.

In relation to implementing this approach, actions taken by the NTG in recent times include:

- » imposing a moratorium through new Director-General guidelines, other than in exceptional circumstances, on new takeaway liquor licences (October 2016);
- » strengthening legislation to ensure Sunday trading remains limited (November 2016);
- » limiting the floor space for takeaway alcohol stores (December 2016); and
- » guidelines setting out the requirement for public hearings for liquor applications where an objection has been lodged (2 February 2017).

The NTG has a range of strategies and programs already in place, or in the process of being developed and implemented, which aim to reduce demand, supply and harm from alcohol. While many strategies can overlap more than one pillar, they broadly cover the following:

Demand Reduction

- » Expansion of the Nurse Family Partnership Program which will provide additional targeted nurse home visits for vulnerable families with the aim of improving parenting, child health and development, and their home environment;
- » Delivery of the Families as First Teacher program for remote Indigenous families to improve developmental outcomes for remote Indigenous children by working with families and children prior to school entry;
- » Provision of school-based alcohol education programs;
- » Provision of counselling services to NT school students, including counselling for critical incidents which may relate to high-risk alcohol consumption by a student or parent;
- » Development and introduction of a comprehensive Healthy Life Creative Life program that will bring together sports, the arts, and health and education for remote and regional schools across the Northern Territory;
- » Provision of funding to the NGO sector to improve after hours activities, and to develop a program that supports at risk children;
- » Referral of youth and adults in, or at risk of entering, the criminal justice system to alcohol education programs; and
- » Development and implementation of community led initiatives to address social and community amenity, community space activation and anti-social behaviour initiatives through Alcohol Management Plans and Alcohol Action Initiatives programs.

Supply Reduction

- » Implementation of the Banned Drinker Register on 1 September 2017 to prohibit the sale of takeaway alcohol to people on the BDR;
- » Law enforcement operations targeting the unlawful supply of liquor, particularly the importation of liquor into restricted areas;
- » Declaration of restricted areas under the *Liquor Act* which prohibits the supply, possession and consumption of alcohol in such areas, particularly in remote communities;
- » Permit systems which operate in regions such as the Gove Peninsula, Groote Eylandt, Tiwi Islands and Maningrida, and provide for the lawful possession of restricted liquor products in a restricted community to permit holders. Permits are revoked if alcohol-related offending such as drink driving, family and domestic violence, or secondary supply occur;
- » Declaration of designated areas such as the Darwin Central Business District which gives the police the ability to ban persons from that area for up to 48 hours;
- » Licence conditions which impose restrictions to the hours of trade, types of products that can be sold and the quantity that can be purchased apply to all outlets in particular communities to prevent excessive consumption in that particular community;
- » Mandatory training in responsible service and supply of alcohol and Codes of Practice for the responsible promotion of alcohol by licensees;
- » Regulation which limits the floor space of stores licensed to sell alcohol;
- » Development of liquor Accords between liquor licensees within a particular locality to voluntarily impose restrictions or other supply measures; and

- » Adoption of a risk based approach to compliance to reduce non-compliance with liquor regulations.

Harm Reduction

- » Development and implementation of the Banned Drinker Register with a therapeutic pathway to address problem drinking to commence on 1 September 2017;
- » Health funding and support for the operation of Sobering Up Shelters (SUS) which provide a safe and caring place for an intoxicated and vulnerable person to remain during the sobering-up process;
- » Government funding for External Service Providers (ESPs) to provide a range of treatment services including counselling, information and education, rehabilitation, withdrawal and aftercare;
- » Provision of a remote Alcohol and Other Drug (AOD) Workforce program with over 40 workers across 30 communities who are located in primary health care centres and provide treatment and support to those in remote communities;
- » Provision of a range of AOD treatment/rehabilitation programs and support opportunities for youth and adults, including those at high risk of re-offending, at appropriate stages of the criminal justice system;
- » Implementation of the Public Housing Safety strategy which aims to reduce antisocial behaviour in and around public housing premises;
- » Provision of funding to current domestic violence services in the Territory;
- » Provision of funding to refurbish Alice Springs Domestic Violence Court to improve the safety, experience and outcomes for people affected by domestic and family violence;
- » Provision of funding for the replacement of the Alice Springs Women's Shelter, so that women can establish independence and recover from trauma;
- » Provision of funding to establish a remote women's safe house in Galiwinku and additional funding to other safe houses and crisis accommodation to improve services and outcomes; and
- » Development of actions and implementation plans in response to the Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder (FASD) report released in February 2015.

Some Matters for Discussion

What is required to reduce crime?

Alcohol is a significant driver of crime that can result in direct harm to individuals – both to those who have been drinking and to others - for example, through acts of violence or motor vehicle accidents. This is witnessed daily on our streets by police officers and other frontline service providers, including ambulance and emergency department staff.

The reality for many problem drinkers is that their alcohol misuse binds them to the criminal justice system through continued re-offending. In the Northern Territory, where the Indigenous population is significantly over-represented in the criminal justice system, alcohol abuse is often present as a contributing factor.

There is a range of specific alcohol related offences relating to illicit consumption in public, or prohibited areas, and offences associated with illegal secondary supply of alcohol, such as providing alcohol to dry communities by unlicensed sellers. NT Police maintain covert and overt operations targeting these issues.

We know that alcohol-fuelled violence is a big challenge for the Territory. Northern Territory Crime Statistics indicate that approximately 50-60 per cent of assaults in any month are associated with alcohol.²⁰ The Australian Bureau of Statistics' (ABS) 2015–16 national Crime Victimization Survey found that the percentage of physical assaults involving alcohol or other substances in the Northern Territory was 63.5 per cent, compared to 56.3 per cent nationally.²¹

Domestic and family violence is often fuelled by alcohol. Alcohol is involved in 65 per cent of all cases of domestic and family violence reported to NT Police. In 2015 there were 4,076 victims of family and domestic violence-related assault in the Northern Territory, or 1,668 victims per 100,000 people. This is compared with the next highest state; Western Australian which experienced 706 victims per 100,000 people in the same year.²²

Alcohol is also a significant element in many road accidents. Alcohol is involved in at least 49 per cent of crashes leading to the death of a person and this figure does not include accidents where pedestrians who are alcohol impaired have been killed on our roads. This also does not include private property deaths, which in the rural area often occur at night and are typically considered to be alcohol-related.

Other types of crime that are also alcohol-related include property crime such as breaking into commercial premises or dwellings.

Ensuring safe and vibrant entertainment precincts

Entertainment precincts play an important role in the social and economic fabric of the Northern Territory. Entertainment precincts in our CBDs have a concentration

Northern Territory
Crime Statistics indicate
that approximately 50-
60% of assaults in any
month are associated
with alcohol.

20 <http://www.pfes.nt.gov.au/Police/Community-safety/Northern-Territory-Crime-Statistics.aspx>

21 <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4530.0>

22 <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4510.0~2015~Main%20Features~Experimental%20Family%20and%20Domestic%20Violence%20Statistics~6>

NT Police attend on average 22,500 incidents of domestic violence per year. Of these, 11,925 cases are directly alcohol-related.

of licensed premises operating with extended hours. This would include the area around Mitchell Street in Darwin and parts of Alice Springs CBD.

Voluntary liquor accords are in place in our Entertainment precincts. Assessing the effectiveness of the voluntary accords would be valuable. Issues include the availability and advertising of cheap drinks; co-ordination of security along the common (Council owned) areas between venues and between the venues themselves; management of emergencies and crowd control in the areas immediately adjacent to the entrances and exits of licensed premises; and looking at better, safer designs for the built environment. An example of the latter is the recent relocation of the Mitchell Street taxi rank.

Designated Areas to address alcohol related violence in public places in the vicinity of licensed premises

The *Liquor Act* establishes a framework which supports the safe use of public space in both urban areas and remote communities. The framework can, broadly speaking, be split into two categories: creating geographical areas for the purposes of prohibiting the possession and consumption of alcohol entirely or for periods of time, often referred to as restricted areas or 'dry' areas, and; declaring designated areas from which a person can be banned or excluded. A range of offences exist for each of the areas, with varying enforcement powers that can be exercised by authorised inspectors, the police or both. In addition to the declarations discussed here, it is also possible to declare private premises as restricted premises, meaning that alcohol cannot be supplied, possessed and consumed in the home.

In 2010 amendments to the *Liquor Act* enabled the minister to declare an area of land to be a designated area where alcohol related violence has occurred, and the area of land is in a public place in the vicinity of licensed premises.

Designated areas have been declared for the central areas of all major urban areas throughout the Northern Territory including Katherine, Tennant Creek and Alice Springs, as well as the central business districts of Darwin and Palmerston.

Declaring a designated area enables police to issue banning notices to people they reasonably suspect have committed an offence. A notice can ban someone from the designated area for up to 48 hours. The Courts are also able to make an 'exclusion order' where a person found guilty of an offence in a designated area, or on application by the Commissioner of Police, prohibiting that person from the area or licensed premises within the area, at specific times, for up to 12 months.

Public Restricted Areas

Under the *Liquor Act* the Director-General of Licensing can, following extensive community and stakeholder consultation, declare a specific area of land, a Public Restricted Area. This prohibits the possession, consumption, sale, supply or otherwise disposal of alcohol in that area. While the ability to declare restricted areas has existed in the *Liquor Act* for more than two decades, restrictions to particular public areas was introduced in 2006 to address anti-social behaviour. It is possible, however, to obtain a permit to consume alcohol in a Public Restricted Area in certain circumstances such as a wedding, festival or other community event.

A number of areas in Darwin have been declared Public Restricted Areas. However exemptions have been given for particular areas or times, meaning it can be difficult to determine if someone is committing an offence, making it difficult to enforce the restrictions. All public spaces in Katherine, Tennant Creek and Alice Springs have been declared Public Restricted Areas.

Two-Kilometre Law

Since 1983 it has been an offence for a person to drink alcohol in a public place within two kilometres of premises licensed to sell alcohol. Importantly, this restriction is not limited to two kilometres of a premises licensed to sell takeaway alcohol, but all licensed premises. The offence was originally created in the *Summary Offences Act*. However in 2012 it was removed from that Act and inserted into the *Liquor Act* which redefined it as a 'regulated place'. In addition to the existing offence of drinking alcohol in this regulated area, the penalty for which is the forfeiture of alcohol, two new offences were created in 2012. The first was the consumption of alcohol at a regulated place which causes nuisance, and the second related to the consumption of alcohol in a regulated place that is also a designated place.

Different powers and offences are created in respect of the different areas discussed above, which range from search and seizure powers, tipping out alcohol and fines.

Alcohol Service Provision in remote communities

Since the early 1980s The *Liquor Act*²³ has made provision, for the Licensing Commission, and more recently the Director-General of Licensing, to declare an area to be a General Restricted Area (GRA), also known as a 'dry' area. The *Liquor Act* provides that the Director-General of Licensing may issue a permit to a person to take into, possess or drink alcohol in a restricted area. Restricted areas may take a number of forms including those where:

- » possession, supply or consumption of any alcohol is prohibited at all times;
- » alcohol may be brought into the area and consumed by a person who holds a permit to do so under the conditions stated on the permit;
- » takeaway alcohol is available from a local community outlet;
- » alcohol is available at a licensed club for consumption within the boundary of the club's licensed premises, with no takeaway sales allowed; and
- » alcohol is available from licensed premises for consumption on the premises and also available for takeaway if the purchaser has a permit. Permits may specify where takeaway alcohol may be consumed, for example at the residence of a permit holder or other identified locations, and the type of alcohol that may be purchased.

The restricted area provisions were developed largely, although not exclusively, to meet the needs of remote Aboriginal communities whose residents wanted to restrict the consumption of alcohol. Consequently GRAs have generally been made in respect of remote Aboriginal communities and the land that surrounds them. More than 100 communities have been declared GRAs under the *Liquor Act*.

Since 1983 it has been an offence for a person to drink alcohol in a public place within 2 kilometres of premises licensed to sell alcohol.

More than 100 communities have been declared General Restricted Areas under the *Liquor Act*.

23 *Liquor Act* Part 8

In 2007 the Australian Government passed the *Northern Territory Emergency Response Act* which introduced widespread alcohol restrictions on 'prescribed areas' which included all land held under the *Aboriginal Land Rights Act* (NT), all Aboriginal community living areas and all town camps. These restrictions, which included prohibition of the possession, supply and consumption of alcohol, were continued in 2012 with the commencement of the *Stronger Futures in the Northern Territory Act* (Cth) (*SFNT Act*). This created 'Alcohol Protected Areas' which significantly increased the number of communities which are effectively 'dry'.

The *SFNT Act* creates a range of offence provisions that relate to Alcohol Protected Areas and which are to be read into the *Liquor Act*²⁴, and the Alcohol Protected Areas are to be treated as if they were GRAs declared under the *Liquor Act*. Over 500 Aboriginal Communities have been declared Alcohol Protected Areas as a result of this process, and are treated as General Restricted Areas under the *Liquor Act* to the extent that the *Liquor Act* is amended by the *SFNT Act*.

When a community chooses to become dry, it is possible for 'liquor permits' to be granted to approved individuals, allowing them to purchase, import, possess and consume alcohol in their homes where it is otherwise not allowed. While the *Liquor Act* provides for the grant and revocation of 'liquor permits' which permit the possession and consumption of alcohol in GRAs, it is often the case that permit schemes are created by the community. The permit schemes set out the rules that relate to the issue of the permit, such as how much alcohol can be purchased, and the behaviours that will result in the permit being revoked.

Permit schemes have evolved on an ad hoc basis since 1980. Some schemes have developed the foundation of a local alcohol management system with a prime objective of allowing controlled and moderate drinking by approved individuals. Others have evolved in response to the GRA, with no documented principles or rules and effectively restrict permits to staff living and working in the community. Currently 22 communities operate a formal permit system as part of an overarching alcohol management system.

An important perceived benefit associated with permit schemes in these communities was that permits provided a safe alternative to unsupervised drinking in unofficial drinking areas. The addition of communities which are now treated as GRAs has resulted in an increase in unsupervised and unofficial drinking areas, many of which are located in places exposed to vehicle traffic and out of range of support and communication from home communities.

The operation of the *SFNT Act* has also meant that new permit schemes in GRAs have required the support of the Federal Minister for Aboriginal Affairs. Since 2007, and the subsequent commencement of the *SFNT Act*, the Federal Government has had power of veto and no new permit systems have been created in communities that have become GRAs as a consequence of the Federal Intervention.

Alcohol management planning has been a key strategy in dealing with the supply and consumption of alcohol not only in remote communities but also in regional centres for a number of years, with one of the first alcohol management plans (AMP) announced in September 2006 for Alice Springs. The 2006 Alice Springs

24 Specifically Part VIII Division 1AA of the *Liquor Act*

AMP was created under the NT Alcohol Framework which was developed in 2004 and formally adopted by the NTG in 2005. In simple terms, an AMP is developed following community engagement that covers the three pillars of harm reduction, with strategies to reduce demand, supply and harm specific to that community. The 2006 AMP included a Liquor Supply Plan which looked at the sale of takeaway alcohol and the operation of licensed premises, such as restrictions for particular types of alcohol and hours of sale. AMPs continue to operate in Alice Springs, Tennant Creek and Katherine with consultation occurring in many other communities to develop similar plans and specific programs to address the three strategies.

Social Clubs with liquor licences operate in communities that have been declared GRAs. These Social Clubs sell food and alcohol. However following the Intervention in 2007 significant restrictions were imposed on the types of alcohol and the days and hours of trade that these clubs are able to operate, as well as restrictions on takeaway alcohol.

Decision making under the *Liquor Act*

The *Liquor Act* (the Act) regulates the sale, provision, promotion and consumption of alcohol by:

- » Defining liquor, and prohibiting its sale without a licence;
- » Creating a framework for the issue, variation, surrender, cancellation and transfer of a licence;
- » Developing a framework for the control of the conduct of licences; and
- » Creating various obligations and offences related to these matters.

Key elements of the *Liquor Act* include:

- » It is an offence to sell or supply alcohol except as a registered wholesaler or as a holder of a licence permitting the sale of alcohol;
- » Licences are granted by the Director-General of Licensing, with such licences remaining in force until surrendered, suspended or cancelled;
- » There is no requirement to renew a licence;
- » A one off nominal application fee of \$200 is payable at the time an application is made- there is no annual fee payable;
- » When determining whether to issue the licence, the Director General must have regard to the objectives of the Act as well as the criteria set out in the Act relating to the public interest;
- » Specific notice to be given to Local Councils, and the applications are advertised in a manner approved by the Director-General of Licensing, generally in a newspaper;
- » Members of the community are entitled to object to the granting of a licence on specific grounds outlined during a 30 day period;
- » Where objections are received, the Director- General will hold a public hearing into the application to give the applicant and those who have objected an

opportunity to make further submissions in a public hearing²⁵;

- » The Director-General of Licensing may issue a licence with any conditions considered necessary or desirable;
- » The Director-General of Licensing is required to provide written reasons for the decision that has been made and these decisions are published on the Director- General of Licensing website;
- » Licences are issued for consumption of alcohol on the premises (on-premises), or away from the premises (off licence) or both; The Director-General of Licensing can approve the transfer of the licence from one business to another, or substitute alternative premises for those previously licensed;
- » The Director-General of Licensing may, either on application by the licensee or of their own initiative, vary the conditions of a licence;
- » A complaint against a licensee can be made for a variety of reasons, and a range of actions is available to the Director-General of Licensing should the complaint be upheld;
- » An applicant or person who has objected to the grant of a licence, is entitled to seek a review of the Director-General's decision by the Northern Territory Civil and Administrative Appeals Tribunal.

In addition to full liquor licences, the *Liquor Act* allows for special licences to be issued. These licences are administratively broken into two categories: catering for one-off events at premises that are not licensed, such as a park or sporting ground or hall, and; 'Continuing Special Licences' that are for an extended period, generally 12 months and are issued to workplace social groups, sporting groups and not-for-profit associations. The second category of special licences has been created over time, and is not available to applicants wishing to use the licence for commercial purposes, such as events open to the public. In these cases they must apply for a full liquor licence. Special licences are not advertised and are therefore not open to community based objections.

Currently there are over 100 continuing special licences operating throughout the Northern Territory. As with liquor licences generally, over time there has been inconsistency in the way the continuing special licences have been granted, resulting in some businesses operating with these continuing special licences when arguably they should hold a liquor licence.

The Act requires that all applications for the granting of a liquor licence are to be publicly disclosed.

Making an application and public engagement

Once a business has decided that, as part of the business model, it would like to sell alcohol, it must apply for a liquor licence, which is often referred to as "full licences". The application could be for a new licence, or to transfer the licence from an existing business, to substitute the licence from different premises, or where the licensee wishes to make material changes to the premises to which a licence relates.

The process of applying for a liquor licence requires the applicant to provide the Director-General with information that satisfies the requirements of the Act including considerations as to the suitability and public interest for granting the

25 In February 2017 the Director General of Licensing issued a guideline pursuant to section 125A of the *Liquor Act* which outlined the circumstances in which a public hearing would be held https://nt.gov.au/_data/assets/pdf_file/0008/396629/public-hearings-in-certain-circumstances.pdf

licence and the appropriateness of the applicant to be a licensee. An applicant must also disclose all persons who would be in a position to exert influence or derive a benefit from the licence. These people are then subjected to a rigorous probity examination including criminal history checks and fitness to be involved in the sale of alcohol.

The Act also requires that all applications for the granting of a liquor licence are to be publicly advertised. This involves advertisements in the relevant newspapers as well as a notice at the proposed premises which must be displayed for a period of 30 days. The advertisement includes details of the application as well as the type of licence being sought and any relevant conditions. The Northern Territory Police, Fire and Emergency Service, the Department of Health and the relevant local authority or council are also informed of the application.

Public notification of the application allows a person who works or resides in the neighbourhood or who owns or leases land in the neighbourhood as well as agencies that perform functions related to public amenities including health, education and public safety to be aware of the application that has been made. Should any of these persons or organisations have concerns that the granting of the licence will adversely affect the amenity of the neighbourhood or the health, education, public safety or social conditions in the community, they may lodge an objection to the application for the consideration of the Director-General.

Any objections received in relation to an application must then be considered by the Director-General including any responses provided by the applicant to the objection. In considering the application, the Director-General may also require the applicant, or a party to the application to provide any additional information or material considered necessary to make a proper assessment of the application. A similar process exists for the permanent variation of a liquor licence if sought by the licensee.

After considering all information in relation to the application, the Director-General must issue the licence under any conditions determined appropriate or refuse to grant the licence. Once the application is determined a decision notice is issued to all affected persons, this includes the applicant and any person who lodged an objection. Determinations made by the Director-General or a delegate are open to review at the application of an affected person. The process for such a review is included in the decision notice. Decisions made by a delegate may be reviewed in the first instance by the Director-General, while decisions made by the Director-General may be reviewed by the Northern Territory Civil and Administrative Tribunal.

Public hearings

One recent change to the framework created by the *Liquor Act* is an emphasis on conducting public hearings for the purposes of considering applications and objections to applications for licences, and complaints against licensees.

On 3 February 2017 the Director-General issued a Guideline pursuant to section 125A of the Act which provides guidance on when the Director-General has determined that, as part of the inquiry or investigation process for liquor licensing matters, public hearings will be held in relation to certain liquor licensing matters. The Director-General has determined that a public hearing will be held as a

means of considering evidence before the Director-General when deciding certain applications.

Specifically, the Director-General has determined that a public hearing will be conducted where a valid objection to a liquor licensing application has been lodged with the Director-General in relation to the following applications:

- » applications for the grant of a licence;
- » applications for a variation of the conditions of a licence, including:
 - ◊ permanent variation conditions that relate to the trading hours of the licence;
 - ◊ restrictions on the type and quantity of liquor products that can be sold;
 - ◊ the type of authority under which the licence operates which substantially changes the original business model for which the licence was granted;
 - ◊ any other applications the Director-General considers is in the public interest to give notice;
- » applications for the substitution of other premises for the premises specified in a licence;
- » applications for approval to make a material alteration to licensed premises, including:
 - ◊ increases to the area used for the sale and/or consumption of liquor;
 - ◊ any other applications the Director-General of Licensing considers is in the public interest to give notice.

While hearings would be open to the public, persons who would have standing to appear at the hearing and give evidence would include the applicant and any person who has submitted a valid objection, including:

- » a person residing or working in the neighbourhood where the premises the subject of the application are or will be located;
- » a person holding an estate in fee simple in land, or a lease over land, in the neighbourhood where the premises the subject of the application are or will be located;
- » a member or employee of the Police Force acting in that capacity;
- » a member or employee of the Fire and Rescue Service within the meaning of the *Fire and Emergency Act* acting in that capacity;
- » an Agency or public authority that performs functions relating to public amenities, including health, education and public safety;
- » a community-based organisation or group (for example, a local action group or a charity); and
- » any other person that the Director-General requests by written notice to give specified information (noting that this could include representation from Police, health, education, the local authority and/or an industry representative not associated with the applicant or licensee as the case may be).

In addition to hearings in relation to applications, the Director-General guideline advises that a hearing will be held where the Director-General has accepted a complaint made against a licensee. Grounds for a complaint are defined in the Act and include the following:

- » the licensee has contravened a provision of the Act or another law in force in the Territory that regulates the sale, supply or consumption of liquor; or the location, construction or facilities of licensed premises;
- » the licensee has contravened a licence condition or a provision of an enforceable undertaking;
- » the licensee, or if the licensee is a body corporate, a director of the body corporate, has been found guilty by a court of an offence against a law in force in the Territory that is punishable by imprisonment for 5 years or more;
- » the licensee has contravened a direction given to the licensee as disciplinary action;
- » the licensee's licensed premises are no longer being used for the sale or supply of liquor or consistently with the business of the licence;
- » the licensee is not a fit and proper person to hold the licence;
- » the manager of the licensed premises or an employee of the licensee is not a fit and proper person and the licensee should reasonably have known that to be the case;
- » the licensee obtained the licence by fraud or misrepresentation;
- » the licensee holds the licence for the benefit (wholly or partly) of a person to whom the Director-General would not have granted the licence;
- » the way in which the licensed premises has been used has caused annoyance or disturbance to persons residing, working or conducting a business in the neighbourhood of the premises; or has caused disorderly conduct on the premises or in the neighbourhood of the premises;
- » the licensee is otherwise no longer eligible to hold the licence,

A hearing held for these matters would allow the material obtained via the investigation to be disclosed and challenged in a public setting, following which the Director-General would determine what, if any, disciplinary action is to be taken.

It is noted that the requirement for hearings to be held in this manner is likely to increase the costs associated with making and determining an application or complaint, in addition to an increase in the time it will take to determine applications so as to facilitate hearings. It is likely there will be an increase in financial and times costs not only for applicants or licensees, but also valid objectors who may wish to participate in the hearing.

The Director-General model of licensing is relatively new to the Territory. Prior to 1 January 2015, the Northern Territory Licensing Commission existed to make decisions under the *Liquor Act* and a range of other licensing legislation (such as gaming machines and private security).

The desired regulatory framework for *Liquor Act* decision-making should be identified as part of this review. Options include:

1. The **current model** of Director-General decision-making with more public hearings, as described above.

The Director-General model of licensing is relatively new to the Territory.

The *Liquor Act* provides for licences to be issued in respect of the sale of alcohol for consumption at the premises, away from the premises, or for both.

2. A model of decision-making based on a Director-General being advised by a **consultative committee**. The consultative committee would include representatives from key agencies – such as Police, Fire and Emergency Services and the Department of Health – who would make recommendations to the Director-General. The Director-General would retain the role of decision-maker.
3. Broadening the decision-maker to a **Committee model**, to be chaired by the Director-General. Under this option, a Committee would be appointed by the relevant Minister and would consist of at least six community members in addition to the Director-General so as to ensure that a minimum of three members were available to sit for each public hearing required and also to allow for circumstances where a number of members may have a conflict of interest for the matter under consideration. Regional representation would also be encouraged so that a member from the region to which the public hearing relates would be available to participate on the panel hearing the matter.
4. Re-establishing the **Liquor Commission** as it existed prior to 2015. The primary difference between this option and other options is that a Liquor Commission would be established to hear and determine the application or complaint as the case may be, with the Director-General role becoming largely administrative.

In relation to re-establishing a full-scale Liquor Commission, it is considered that the requirement for hearings to be held in this manner, and the costs incurred to support Liquor Commission members, could be substantial. In addition to the costs, this is likely to increase the timeframe in which decisions are made as gaining the availability of Liquor Commission members and the relevant interested parties on a mutually convenient date proved to be problematic. If this option is adopted, significant amendments to the Act would need to be made to establish the Liquor Commission. Strong governance protocols would also be required.

What types of licences exist and what conditions are attached to them?

The *Liquor Act* provides for licences to be issued in respect of the sale of alcohol for consumption at the premises, away from the premises, or for both. The application process asks for a description of the type of business to which the licence will relate. However the Act does not define what categories of licences exist or what type of business relates to those categories. Over time a number of *de facto* categories or classifications have been developed for administrative convenience, including: Restaurants; On Licences; Clubs; Stores; Taverns; Private Hotels; Public Hotels; Roadside Inns; Off Licences; Liquor Merchants and Vessels. With the exception of conditions relating to the days and hours of trade for “store and liquor merchants” discussed below, these categories do not have any formal relevance – they do not, for example, dictate the particular conditions that the Director-General of Licensing would attach to the licence.

The category applied depends on the nature of the business as described in the application, and while improvements have been made to consistency, there is no clear guidance for the public as to how the categories are determined and what conditions are applied to the licence. This can result in similar businesses being granted different licence categories with different conditions, or the same

'category' being issued with very different conditions. This potentially creates uncertainty about what is being proposed when applications are advertised.

In 2015 the *Liquor Act* was amended to create a definition of a 'store licence' which linked specifically to regulations that limited the days and hours within which a store licence is able to trade. The definition captures licences that relate to the sale of alcohol for consumption away from the premises, and has certain words contained within the licence. This definition does not capture all takeaway licences that are issued.

Adding to the difficulties with the development of categories of licences over time, is the fact that the *Gaming Machine Act* only permits a gaming machine licence to be issued to a business that holds either a Club Liquor Licence or a Hotel liquor Licence under the *Liquor Act*. The *Gaming Machine Act* creates a definition for which there is no corresponding definition in the *Liquor Act*.

The fee currently prescribed for an application for an alcohol licence is \$200, with no annual fee payable by the licensee.

Trading Hours and licence conditions

The Liquor Regulations provide for the days and times at which takeaway alcohol can be sold being:

- » Monday to Friday (inclusive) - between 10 am and 10 pm;
- » Saturday and public holidays, other than Christmas and Good Friday, between 9am and 10pm; and
- » Sundays from 10am to 10pm other than stores and liquor merchants who are prohibited from trading on this day.

The Director-General of Licensing is able to vary the hours and days of sale, and impose any other conditions for any particular licence as considered necessary and where it is in the public interest to do so. This has been done in a number of regional centres as part of broader supply restriction measures. Some examples of the licence conditions imposed to restrict supply in regional communities include:

Tennant Creek

Between August 1995 and February 1996 conditions were trialled which closed front bars and hotels, and prohibited takeaway sales on Thursdays. Additional product restrictions were imposed prohibiting the sale of wine in containers larger than 2 litres and fortified wine in containers larger than 1.25 litres. This trial led to permanent restrictions being put in place in 1996 in respect of not only the hours of takeaway sales but also the types of products sold.

Alice Springs

In May 2002 the Licensing Commission introduced a 12 month trial of restrictions in Alice Springs which included a ban on the sale of wine in casks larger than 2 litres, takeaway sales not to commence before 2pm and only light beer to be served prior to 11:30 am on weekdays. These restrictions were trialled along with a number of other complementary measures. An evaluation in 2003 found that the reduced trading hours resulted in some changes to drinking patterns. The

The *Gaming Machine Act* creates a definition for which there is no corresponding definition in the *Liquor Act*.

restrictions on the hours of takeaway sales and restrictions on some products remain in place today.

The hours of venues who are licensed for consumption of alcohol on premises varies considerably and depends on the business being operated. In terms of late night venues that are authorised to operate until 4am, the majority of which operate in the Darwin Central Business District, all have conditions which require a lockout to be imposed from 3am.

Density and size of alcohol outlets

Alcohol retailer density has been linked to increased alcohol related harm and heavy consumption.

Alcohol retailer density has been linked to increased alcohol related harm and heavy consumption. Two Australian studies examining the relationship between outlet density and consumption, found significant associations between off-premise outlet densities and heavy episodic drinking in adults.²⁶ Currently the *Liquor Act* does not specifically include density as a key consideration in the decision making process, however it may be relevant in the context of the public interest.

In late 2016, the Government limited the floor area in which the public can browse for and purchase liquor to 400m² for all store licences in the Territory (**public area**). The public areas of the biggest store licences in the Territory are around 350m². The average size of the public area of a Territory bottleshop is estimated to be about 200m².

A particular concern was, and continues to be, that large warehouse style outlets would lead to greater levels of alcohol abuse and alcohol-related harm in the Territory. Concerns, particularly from local communities, relating to the introduction of big box or warehouse style liquor outlets are common across Australia. These concerns are not unique or limited to the Territory.

Some experts have asserted that there is a growing body of well-researched evidence indicating a strong connection between the density of takeaway liquor outlets, the size of the outlets, the availability and affordability of alcohol and increased consumption, and issues such as violent assaults.²⁷ Some Australian studies have recommended that strategies to reduce alcohol related violence should include limiting floor space,²⁸ and also noted that the use of licence conditions that limit the size and capacity of off-premise outlets (rather than just limiting the number of such outlets) may be important for regulating retail prices and economic availability.²⁹ Some research also suggests that chain outlets, which appeared to be larger and sell alcohol at cheaper prices, had a stronger relationship with alcohol-related harm than independent outlets.³⁰

26 Associations between alcohol outlet densities and adolescent alcohol consumption: A study in Australian students, *Addictive Behaviors* 39 (2014) 282-288 http://www.communitiesthatcare.org.au/sites/default/files/associations_between_alcohol_outlet_densities_and_adolescent_alcohol_consumption_-_a_study_in_australian_students.pdf

27 Howat P, Binns C and Jancey J, Booze barns: fuelling hazardous drinking in Australia?, *Health Promotion Journal of Australia* 24 (2013) , 85-86

28 Liang, W. & Chikritzhs, T., Revealing the link between licensed outlets and violence: counting venues versus measuring alcohol availability, *Drug and Alcohol Review* 130: 524-534, 533

29 Hobday M, Chikritzhs T, Wenbin L, Meuleners L, The effect of alcohol outlets, sales and trading hours on alcohol-related injuries presenting at emergency departments in Perth, Australia, from 2002 to 2010, *Addiction* 110: 1901-1909

30 Morrison, C., Smith, K., Gruenewald, P.J., Ponicki, W.R., Lee, J.P. & Cameron, P. (2015). Relating off-premises alcohol outlet density to intentional and unintentional injuries. *Addiction* 111: 56-64

Some of this research has also been referenced in recent liquor licensing decisions in other jurisdictions. A submission by the Western Australian Executive Director of Public Health to a Western Australian Liquor Commission matter asserted that a significant body of research established a relationship between the availability of alcohol and associated harm and ill-health in support of the proposition that a significant increase in the physical availability of liquor in a locality due to the size of a warehouse style outlet store (when compared to a smaller existing outlet) would increase the likelihood of harm and ill-health occurring.³¹

Complaints and disciplinary action under the *Liquor Act*

The *Liquor Act* establishes a range of mechanisms for the enforcement of provisions relating to a licence. There is a range of grounds upon which a complaint or disciplinary action can be taken against a licensee, including where they have contravened a provision of the *Liquor Act*, or a condition of their licence. Following an investigation into any of the grounds of complaint, and a finding that such grounds have been proven, the Director-General has a number of enforcement actions that may be taken including issuing a formal warning, an infringement notice, a monetary penalty; or suspending or cancelling the licence.

The *Liquor Act* establishes a range of mechanisms for the enforcement of provisions relating to a licence.

Complaints Received and Action Taken	2013-14	2014-15	2015-16
Complaints investigated, but no further action warranted	0	3	11
Complaints investigated, formal warning issued	0	1	5
Licences cancelled following complaint	0	0	0
Licences suspended due to breaches of licence conditions	0	0	1
Complaint investigated and monetary penalty or infringement notice imposed	3	1	3
Total	3	5	20

³¹ See *Australian Leisure Hospitality Group Pty Ltd v Commissioner of Police & Others* (Redacted Majority Decision), 25 February 2016 (LC 03/2016) at [62], available at <http://www.liquorcommission.wa.gov.au/docs/default-source/default-document-library/lc03-redacted-majority-decision.pdf?sfvrsn=0>

We want to hear from you

This issues paper has raised a variety of topics relating to alcohol use in the NT, as well as the effects of misuse in our community. The Expert Panel is keen to hear your views on any topic relevant to the terms of reference you may wish to raise. Your comments and opinions will be carefully considered by the Expert Panel and will inform their work in preparing a report with recommendations to Government. Please include the reasons for your views and any supporting evidence, if available. You are invited to provide a written submission, in addition to registering your interest to present your views at one of the public forums that will be held throughout the Northern Territory.

All submissions, unless specifically requested otherwise by the author, will be published on the website (www.alcoholreview.nt.gov.au) with the author identified.

The following suggestions are not intended to limit, but rather generate discussion about general and specific matters for consideration by the Expert Panel.

General Matters

- » What do you think of the current approaches to reducing harms from alcohol, and what other strategies could be considered?
- » What do you think of the current approaches to reducing demand for alcohol, and what other strategies could be considered?
- » What strategies and approaches can be taken to promote cultural change in relation to drinking behaviours to influence community norms to more responsible drinking; and to develop community support and commitment for such a change?
- » What strategies have been effective, and/or could be considered to reduce alcohol fuelled crime and anti-social behaviour, not only in public spaces but also in family and domestic environments?
- » Should there be a distinction between demand, supply and harm reduction strategies that target 'at risk' groups such as young people, or is a general community approach more appropriate?
- » What range of treatment services are available in the Northern Territory and what level of success have they had?
- » Should treatment services be regularly reviewed and if so how frequently and what matters should be considered?
- » What changes can be made or strategies introduced to increase the ability of people with alcohol problems to access therapeutic support more easily? What kinds of support is needed and what services should make such assistance available?
- » How do the criminal justice and health systems intersect and what success has been experienced from court mandated treatment programs as an alternative to criminal sanctions?

Reducing Alcohol Fuelled Crime with evidence based policies

- » How can we reduce alcohol fuelled crime?
- » What strategies are required to reduce alcohol-fuelled domestic and family violence?

- » What are the best approaches to reducing alcohol-fuelled violence at and around on-premise venues?
- » What additional strategies are required to reduce drink-driving?

Safe and Vibrant Entertainment precincts

- » Are the current voluntary accords working? Should the accords be mandated?
- » What should be in the accords?
- » How can the key stakeholders – Government, Police, Councils and Businesses – work together more effectively?
- » Are current security arrangements – including the legislative provisions governing venues, employees and contractors – effective?

Alcohol service provision and management in remote Aboriginal communities

- » What impacts have the restrictions of alcohol in communities and town camps had on improving community safety?
- » Has there been an increase in secondary supply of alcohol to remote communities, and is it possible to establish an evidence based link to what may have caused any identifiable increase?
- » Have the development of permit systems contributed to responsible drinking on communities?
- » Has there been an increase in community member displacement arising from the permit system?
- » Are the liquor licence restrictions imposed at venues that are in or close to remote communities sufficient in reducing alcohol related harms in communities?
- » Is there a continuing role for local and regional alcohol management plans?
- » What is the best way to foster community participation in regional planning to reduce alcohol-related harm?
- » What could be the role of the Director-General of Licensing and other agencies in facilitating or approving local or regional plans?

Density and size

- » Are there too many liquor licences in the Territory? If so, how should they be reduced in number?
- » Are there areas where there are too many outlets or venues? If so, how can this be changed?
- » Should the existing number of outlets and their hours of trading in the area be a relevant consideration when deciding an application?
- » Should the *Liquor Act* prescribe density as a key matter to be considered and if so how would that work?
- » Should the Territory permit new big-box or warehouse style takeaway liquor outlets?
- » Should the size of any or all liquor outlets be restricted? And if so what should the size be and who should the restriction apply to?
- » Should further limitations be placed on venues licensed to sell takeaway alcohol?

Liquor Licensing, supply of alcohol and the *Liquor Act*

- » Does the current process for advertising licence applications provide sufficient information to enable the public to respond?
- » Does the current process ensure that the decision maker has sufficient information to make a decision that is in the public interest?
- » Should there be public hearings for applications and complaints and if so in what circumstances?
- » Do members of the public who seek to make an objection against a liquor licence application feel it necessary to obtain legal representation to appear before the Director-General of Licensing? If so, is that desirable, and how should it be addressed?
- » Does the lack of defined categories of license inhibit the ability of members of the public or organisations to submit meaningful objections to applications?
- » Should standard conditions apply to clearly defined licence categories?
- » Should licences continue to be issued in perpetuity or should they be issued for a defined period? If so what period?
- » Should there be a system of annual or periodic license fees?
- » Should licence fees be calculated on a risk based model or some other model?
- » Should the NTG maintain its position in support of the introduction of a volumetric tax by the Commonwealth to decrease the price of low alcohol beer and increase the price of low cost high alcohol products?
- » Should other pricing strategies be adopted such as restrictions on products below a particular price per measure of alcohol? If so are there ways to avoid price imposts on customers who are not problem drinkers?
- » Are the current span of hours during which takeaway outlets operate appropriate or should they be reduced?
- » How should the promotion of alcohol be managed and what restrictions, if any, should be put in place?
- » Are the offences and penalties that can be imposed on a licensee for a breach of the *Liquor Act* or conditions of licence sufficient to encourage greater levels of compliance?
- » Are the enforcement processes now in place adequate?
- » Are the offences and penalties that relate to the illegal supply of alcohol in remote communities, often referred to as grog running or sly grog, sufficient to deter such activity? What other methods directed at reducing that type of offending can be considered?
- » Does the Director-General of Licensing have sufficient resources, powers and options to enforce provisions of the *Liquor Act*?
- » Are there any other means of reducing supply in general?

Have your say

Attend a community forum – dates on www.alcoholreview.nt.gov.au

Have your say online at www.alcoholreview.nt.gov.au

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By mail: Alcohol Policies and Legislation Review
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