



29 June 2017

Alcohol Policies and Legislation Review
C/- Department of Health
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Thank you for the opportunity to make a submission in relation to the Review Panel's considerations into alcohol policies and legislation in the Northern Territory.

The Australian Hotels Association (Northern Territory Branch) has considered the Issues Paper prepared and distributed by the Panel, and wishes to make the attached submission.

We would be pleased to meet with the Panel to expand on any of the matters raised, should it be required.

Please do not hesitate to contact me should you require clarification or expansion of the issues raised.

Yours faithfully,

Des Crowe
Chief Executive Officer
Australian Hotels Association NT Branch

Enclosed: AHANT Submission to the Alcohol Policies and Legislation Review 2017



NORTHERN TERRITORY ALCOHOL POLICIES AND LEGISLATION REVIEW 2017

AHA NORTHERN TERRITORY SUBMISSION

Reference: A. NT Government Issues Paper – NT Alcohol Policies and Legislation Review May 2017

Introduction

Licensed businesses make an important and enduring contribution to the social fabric and economic wellbeing of the Northern Territory through a wide range of activities including job creation, providing entertainment, training and development for young people, support for tourism, taxation, support for charities, property investment and development, and indirect job and wealth creation through spin-off businesses such as security, training, advertising, broking, legal, accounting and advertising businesses.

There are approximately 720 licensed businesses in the NT ranging from large multi-national owned casinos and tourism facilities to small stand-alone businesses such as restaurants and licensed roadhouses. Licensed businesses and sales are demand-driven, that is, licensed businesses will only be established and remain open when they are profitable from a whole-of-business perspective. AHANT is of the view that the community service obligations of the Northern Territory (NT) population are being satisfactorily met from an availability and competition perspective and that there currently exists excess capacity in the supply side. Consequently, it is the view of AHANT members that there is little need or pressure for the granting of more liquor licenses or additional service capacity in the NT at the current time.

AHANT

The Australian Hotels Association (Northern Territory) (AHANT) is the local Branch of the Australian Hotels Association which has more than 5,000 members nationally. In the Territory, the AHANT acts as the peak industry and representative body for 160 licensed hotels, taverns, takeaway outlets, nightclubs, licensed restaurants, casinos, licensed roadhouses, licensed clubs and some remote community clubs. In addition to its advocacy work, the AHANT also provides a range of advisory and training services to its members, and delivers industry and government sponsored programs focusing on developing the workforce and compliance education.

Our NT Community and alcohol

Alcohol and drinking enjoy special significance and acceptance in Australian society with around 80% of the adult population consuming some form of liquor on a regular basis. The vast majority of people consume alcohol products legally, in moderation, enjoyably and responsibly. Consuming and offering alcoholic beverages is universally accepted in Australian culture where it is

acceptable, and in some cases expected, that alcohol will be available and consumed in social, sporting, celebratory and official event settings. The Northern Territory has the highest per-capita consumption of alcohol of any jurisdiction in Australia by virtue of its warmer climate, a lower average population age than elsewhere, a high proportion of problem consumers, a large tourism and backpacker sector, and a higher ratio of males to females than other jurisdictions.

Alcohol consumption is declining

Notwithstanding our liking for and acceptance of alcoholic beverages, Australians and Territorians are drinking less alcohol per capita over time. Australia-wide, per-capita alcohol consumption has reduced by more than 20% since the mid-1980s from more than 12.5 litres of pure alcohol per adult in 1986 to less than 10 litres per head in 2015 (Australian Bureau of Statistics, 2015 is most recent data available). In addition, national trend data including the NT shows that more people are deciding not to drink at all, that the age of 'first alcoholic drink' is steadily rising, and that rates of harmful drinking amongst young drinkers is declining – all positive and encouraging trends resulting from a range of inputs including increased emphasis on healthy lifestyles, improved education of school children and youth, and targeted interventions and practices by regulators and industry.

In the NT, per-capita consumption of alcohol is continuing to decline from a higher base. This means that some of the regulatory and industry measures introduced in recent years are having a positive effect and that there is scope to reinforce this trend and the community education messaging. For example, the adoption of universal Responsible Service of Alcohol (RSA) training and qualification for all sellers of liquor products has improved the knowledge, confidence and ability to refuse service and exercise patron care by licensed venues, and resulted in a decrease in risky levels of consumption on-premise. The following recent harm minimisation initiatives have and will continue to apply downward pressure on alcohol consumption in the NT and should continue to be supported:

- Introduction of universal RSA qualification;
- Licensing and training for crowd controllers;
- CCTV and security standards for late night trading;
- The Commonwealth intervention bringing restrictions on takeaway purchases;
- Permit system in regional areas;
- Expansion of the Liquor Accord network;
- Accord measures expanded to include reporting of suspicious activity to the Police Force;
- Introduction of the Commonwealth Basics Card to deter purchase of alcohol from welfare payments;
- Development of the *Sober Bob* program as an initiative of the Department of Transport, the Police Force and the licensed industry;
- Industry promotion of mid-strength beer in draught and packaged form has been a 'game-changer' in many areas;
- Greater focus on detecting minors on licensed premises such that this is now a very rare occurrence;
- Expansion of local, targeted programs aimed at reducing supply of multiple daily purchases of liquor to known at-risk patrons and groups;
- Sourcing and use of plastic wine bottles as a patron safety and litter risk reduction initiative; and

- The successful introduction of a range of targeted interventions aimed at reducing supply to at risk patrons, including: TBLs, BDRs, local supply plans, Restricted Areas, AMPs, and a revitalised township permit system.

As the social and physical reasons associated with the mis-use of alcohol are complex, so are the measures required to mitigate and reduce the adverse impacts of such mis-use. Therefore, it is axiomatic that measures that are known to work should continue to be reviewed, improved and, if required, expanded. Further, in pursuit of the elusive 'cultural change' around alcohol consumption, such change takes time, sustained effort and investment. Sometimes cultural change only takes place when a younger generation moves forward to adulthood bringing with it the 'new' attitude that has come about through youth education in school or peer environments, as has been the case with drink-driving and smoking.

It should be understood that cultural and procedural changes applicable to harm minimisation are part of a continuous, ongoing process where a range of laws, guidelines, operational practices and intervention programs all play a part. We should recognise that this process is a continuum, and that much has already been achieved. Research shows that many of the key statistics are trending in the right direction as a result of changing community attitudes, sensible policy intervention, licensed industry initiatives, or generational change. Many harm minimisation measures such as those outlined above continue to be effective in bringing about change, and the Review Panel will be aware that their work and recommendations are not starting from 'scratch'. The key to successful further development of our licensing structure and harm minimisation efforts is to recognise what works, what doesn't work, and where our efforts might be further improved. Simply recommending more and more rules and red tape for licensees has the counter-productive effect of weakening industry's support for such measures and generating uncertainty.

Evidence-based policy development

The licensed industry understands the need for sensible regulation of its products and services and will generally support regulation or legislative interventions where the evidence shows the proposal to be in the interests of the community. For example, indoor smoking restrictions. The NT licensed industry will fully support any reasonable harm reduction measures which are supported by appropriate research and evidence. It is an accepted principle of public policy development in Australia that (regulatory) measures should be introduced or repealed only where there is clear evidence or broad stakeholder consensus that the measure is respectively effective or ineffective in achieving its objectives.

Unfortunately, evidence-based harm minimisation measures tend to be the exception rather than the rule in Territory public policy. It is the view of AHANT that the Panel's consideration and any recommendations should build on and complement the *National Alcohol Strategy* and must take account of the wide range of Territory, industry and local (e.g. Accord) interventions, regulations, programs and trends which are already in place and which aim to address identified community and industry problems, including violence.

There are no easy solutions or silver bullets any longer. Alcohol (and drugs) and their community impacts involve complex and inter-related social issues, developed around a deep and well-entrenched national drinking culture, and will not be easily remedied by short-term, transient or low-cost solutions. To achieve long-term and enduring cultural change we need to agree, resource

and implement targeted interventions for the high-priority problems which are identified through credible research, and for which there is community support.

Licensed industry regulation

The licensed industry is the third most regulated industry in Australia after medicine and pharmaceuticals. This is understandable given that alcoholic products are potentially harmful if mis-used, and are not suitable for consumption by minors. Consequently, licensed businesses and their staff understand the need for regulation and external supervision, and appreciate that each licensed business has a role to play in the safe and responsible conduct of that business. Most licensed businesses rely upon repeat and return business for their long-term viability and understand that anti-social activity and all forms of violence are bad for business and should be discouraged.

NT Regulation, resources and operations

The licensed industry has been and remains disappointed at the absence of leadership from Licensing NT in recent years. Whether through lack of experience and knowledge in licensing operations, or through a lack of confidence in licensing policy development, there has been a high degree of inertia in any meaningful response to industry concerns, the ability of Licensing to engage constructively with industry stakeholders, and the responsiveness of Liquor Licensing across a range of priority programs and issues.

The oversight and regulation of liquor laws is a complex challenge and is best undertaken by experienced, knowledgeable and confident officers, who understand the complex social and economic inter-actions in the NT licensing 'world'. Unfortunately, and to the detriment of effective administration of the Territory's licensing policies, we have not had that capability in recent years. It seems to industry that there has been a general reluctance within Licensing NT to fully engage with the key stakeholders in the community and industry, including in the development and expansion of a range of policy and operational issues, many of which are now the subject of this Review. Four examples include the putting on 'hold' of the Darwin CBD Liquor Accord, lack of progress in reviewing and establishing important Codes of Practice, the cessation of the formal testing of Licensee nominees, and a general failure to enforce compliance in the liquor store sector with regards ancillary supply.

Industry sees Licensing NT as being apart from the process of policy development, relatively isolated from the industry it oversees, slow in administering applications and routine decisions, lacking transparency in process and decision-making and, on some issues, disproportionately influenced by political considerations rather than sticking with long-term programs and policies.

Industry sees merit in the establishment of a form of standing liquor advisory body able to provide experienced, diverse and pragmatic input and advice to Government and the policy development process. Such a collaborative measure would also improve stakeholder access and engagement, and increase transparency and accountability across the board.

Northern Territory approach to alcohol policy development

Traditionally, NT alcohol policy has been developed in isolation (by 'experts') rather than as the result of ongoing and respectful cooperation between the licensing regulator, the Police Force, and the liquor industry leadership.

In recent times many harm reduction measures have either been proposed by, and/or have had across-the-board support from industry, regulators, police, health advocates and community representatives. We are confident that the Panel understands that industry stakeholders have an important role to play in proposing workable solutions for the identified problems. We won't always agree on detail, but general movement towards improved practice and standards is supported by industry across the board.

Traditionally, the Darwin CBD traders have been difficult to fully engage in order to find consensus on measures to further improve coordination and safety in the CBD precinct. The difficulty is caused partly by commercial sensitivities and partly by a natural scepticism about potentially workable restrictions that are commercially acceptable. However, in recent years the Darwin Accord has made concerted efforts to overcome these difficulties. When the initial voluntary CBD Accord measures introduced in 2010 were no longer widely being applied, a majority of late night traders agreed to a fresh range of restrictive measures providing that they were mandatory conditions applicable to all late night traders. In February 2015, a majority of Accord members agreed to a new range of measures to bolster the Accord conditions. In fact the traders met with the then Minister for Licensing in April 2015 and it was agreed to introduce such a code dealing with such measures as excessive discounting, no external price promotions, the alcohol content of shots not to be above 51% ABV, monitoring and preventing stockpiling of drinks, and happy hour guidelines. From that date in April 2015, the proposed accord measures have stagnated in limbo, and have not been universally applied in the CBD Accord precinct, as the regulator has failed to officially embrace and support the proposed measures. Whilst the late night traders continued to meet regularly with NT Police and Licensing NT, it has not been under the umbrella of an Accord. It has been disturbing for both the licensees and the NT Police that the regulator has failed to action what most stakeholders would see as an urgent priority. It is also disappointing, and disheartening for industry stakeholders, to see a genuine, industry-led effort fail to proceed because the regulator was not sufficiently interested in establishing a CBD Code of Practice and working with industry stakeholders to adopt workable accord measures. This is a clear example where the regulator has failed to work with other stakeholders to implement proposed solutions to minimise harm in the CBD, and represents an opportunity lost.

We have also seen extended delays in approving basic Liquor Accord documents by Licensing NT. It sends a negative message to all stakeholders trying to create and administer accords when the principal regulator does not see it as a priority to support and administer the registration of the accords in a timely manner.

A further example of an opportunity lost was the efforts to develop and implement non-accredited cultural training for staff selling and supplying alcohol. As a result of industry and accord considerations, the AHANT commenced discussions with training providers, NT Police and licensees on the development of a cultural training program for appropriate service delivery by front-line staff. At the time, the AHANT was funded by the NT Government to work on a range of alcohol policy issues. However, through the process of also consulting with Licensing NT over this initiative, the AHANT was directed by Licensing NT to cease working on the training module, as

this had now become an internal agency action. The agency then contracted development and implementation of this non-accredited the training out to a RTO. Subsequent to the RTO meeting with the AHANT to discuss progress of the work that the AHANT had undertaken, the RTO was directed, by Alcohol Policy, not to liaise further with the AHANT. Consequently, the cultural training for hospitality industry staff was developed, promoted and delivered without liaison with the peak industry body which is in contact with licensees on the ground (on a daily basis), which is engaged in training and workforce development for the hospitality industry and staff, and which regularly promotes (on a weekly basis) a range of other and government training available to its members and associates. To date the NT Government has not maximised its efforts in developing and promoting this important training. In our view, this outcome represents another opportunity lost in relation to advancing cultural awareness and change around alcohol mis-use at the industry coalface.

The cultural training example illustrates some of the roadblocks that industry confronts with health policy officers generally in developing and contributing to alcohol policy. When the NT Government commissioned an expert to help develop a drug and alcohol strategy for the NT in 2015, the AHANT was not advised of the initiative nor was it invited to contribute. Contributions were only sought from the health and concerned sector.

One positive example of appropriate collaboration is the City of Darwin led *Public Places Service Collaborative Group* which includes membership from Federal, Local and Northern Territory agencies, industry, and key community service providers.

The AHANT continues to be at odds with some health policy personnel and advocates who maintain that participants in the alcohol industry should not be at the table when discussing alcohol policy. We fundamentally disagree with this stance and suggest that, as with any complex social or community challenge, it is self-evident that all relevant factors can be best addressed if all those who have a stake in the outcome are involved from the outset. For the record, the AHANT Executive and its members are committed to making constructive submissions initially and ongoing in the conduct of the Panel's Review. By way of analogy, it is inconceivable that a policy development forum for the motor industry would not involve the major vehicle brands and sellers of cars. Likewise, and as occurs in every other jurisdiction in Australia, it is both desirable and vital that the licensed industry stakeholders are included in consultation and input based on experience, if workable policy solutions are to be found. It may be that health advocates and professionals are surprised by the degree to which there is consensus on a range of potentially workable measures. We need and will benefit from a new approach to policy and practice development in the licensed space where all key stakeholders are involved in the consultation, prioritisation, resourcing and development of regulatory and industry policy. After all, the safety and needs of our own customers and staff are the highest priority for every licensed business owner, the success of whose business revolves around repeat patronage and sound reputation.

Where is consumption of liquor taking place?

A cursory analysis of the Territory's liquor sales data clearly shows that more than 70% of liquor by volume is sold for consumption in places other than in a licenses premises. This involves the purchase in bulk of takeaway liquor products for consumption in homes, sporting venues, public areas such as parks and campsites and for general taking to social events.

A clear disconnect in our approach to licensing regulation and compliance is that a majority of the policing and regulatory effort, including this Review, focus mainly on on-premise sale and supply, rather than off-premise (takeaway) supply which represents more than 70% of the sales and, consequently, contributes in similar proportion to the social problems which we are seeking to address.

Consumption and patron inter-action that takes place on a licensed footprint is done under supervision, using controlled portion service, within a responsible service environment, during limited hours, and under the pressures of peer standards of behaviour. Consumption of alcohol that takes place away from a licensed footprint involves none of these constraints, but still accounts for around three-quarters of all consumption. It stands to reason, therefore, that ongoing attempts to bring about a more responsible drinking culture must focus on drinking that takes place across the whole of the community, rather than simply apply more and more restrictions on the on-premise sales environment.

Patron obligation and individual accountability

Patron behaviour and attitudes within licensed premises and when drinking is reflective of the standards of behaviour that apply in the wider community. Behaviours such as personal discipline, use of illegal drugs, inter-personal manners, respect for the law and authority, attitude to over-consumption and undue intoxication, and the visitation of violence on other people, are reflective of community standards at large. It is quite apparent to even a casual observer of community trends that community standards have deteriorated significantly in recent decades in outcomes like higher rates of serious assault, assault on police and emergency service personnel, behaviour influenced by illegal drugs, road rage, physical and on-line bullying and domestic violence. Entertainment, hospitality and licensed businesses are not isolated from this trend as their customers are, of course, drawn from the general community. It is therefore somewhat naive for us to expect a different and higher standard of behaviour to be applied by consumers when they are drinking, to the behaviour that they exhibit when not drinking. Therefore, whilst specific measures and policies have been and are implemented in licensed businesses to deter and mitigate the effects of bad behaviour and violence, the wider issue of cultural change around violence in the community must be addressed holistically if a universal and enduring improvement is to be found for this problem.

Members of the public do not fundamentally change their attitudes or basic behaviour when they visit licensed venues, and it is unreasonable to expect licensed business operators and their staff to somehow, as a collective group, impose a higher standard of behaviour and accountability on members of the public than is evident and accepted in the community at large – therein lies a key challenge for licensees and those in authority, particularly police officers. Changing community attitudes to lower standards and increased violence is made harder by the tendency for governments, the police and the mass media to consistently tell the community that the phenomenon of increased violence in licensed precincts and domestic environments is a direct result of the mis-use of alcohol, rather than a logical extension of the general deterioration of community standards and a lower threshold at which some people visit violence on others. This disconnect can often lead to conflict in a social or licensed venue environment when a different, higher, standard of behaviour is imposed on a group or an individual compared to the standard that they have come to expect from themselves.

Our society needs to establish a re-connection between cause and effect, such that individuals are once again held responsible for their own actions, behaviours and poor decisions. Those who commit crimes, including the crime of assault, must be held to account through the imposition of suitable punishments for violent offences such that it serves as a clear example and peer-driven deterrent to violent and anti-social acts.

Whilst violence does occur in and near licensed premises and precincts and sometimes as a consequence of the mis-use of liquor, the widespread and increasing violence in the general community, related or unrelated to liquor and illegal drugs, means that violence in and around licensed activities cannot be assessed in isolation of the society in which it exists. To re-iterate, more than 70% of alcohol consumption in the Territory takes place away from a licensed premises. The global solution to this problem lies therefore in global and targeted measures aimed at improving the overall standard of public behaviour, responsibility and accountability, and in enforcing higher standards on those who continue to re-offend through deterrence and appropriate punishment.

The Territory has a particular problem, not common elsewhere in Australia, of people drinking heavily and habitually in public places. In this circumstance, the alcohol consumed is always in packaged form and purchased either from an approved takeaway outlet or from a non-licensed secondary supplier (more later). Observations and possible remedies will be discussed later in this submission.

In town and entertainment environments, one of the most effective ways in which to deter anti-social and criminal behaviour is to remove the protection of anonymity which shields the behaviour of offenders. This is particularly the case for repeat offenders whose previous poor behaviour has gone undetected. If the veil of anonymity can be lifted from the anti-social and criminal behaviour on-premise, then this will help to re-establish a level of accountability and deterrence that has been over time diluted for this group of offenders. A basic approach to establishing such a system might include:

- Adopting a Code of Practice for patrons of NT licensed venues to be publicly displayed with similar policies and which would be the subject of government and industry advertising. e.g. “our obligation is to and your obligation is to”;
- Increased use of CCTV cameras and monitoring in the public spaces of entertainment precincts;
- Encouragement for late-night trading venues to install CCTV and digital recording equipment as a best practice measure;
- Improved police and liquor licensing patron data collection and analysis, especially in relation to repeat and violent offenders to reinforce accountability;
- Consider the linkage of patron databases and sharing of offender and banned patron information in entertainment precincts;
- Consider approving the use of identity scanning technology with real-time photograph capability in late night venues as a voluntary, best-practice measure;
- Official support for and effective use of police and venue-initiated barring and banning orders; and
- Consideration of higher or set penalties for serious and repeat offenders who commit offences in a licensed venue or within a designated Entertainment Precinct.

Changing our drinking culture

In any community, business, social or inter-personal endeavour, bringing about change is hard, and bringing about a change in the culture of the organisation or entrenched behaviours is very hard – that's just human nature. Given the longevity and depth of Australia's relationship with alcohol, changing the nation's drinking culture remains a significant challenge. Notwithstanding, Australia has achieved some major successes in changing entrenched views and practices within our community, most notably in smoking, sun exposure and, to a lesser but still successful extent, drink driving. The common factor in the success of each of these achievements has been the ability to convince the community that changed practices are warranted by credible and clear research, and the application of simple, sustained, well-resourced public health campaigns conducted over an extended period. Indeed, each of the above-listed public health areas have been the subject of major health campaigns for more than 30 years and ongoing. However, it is only in the last 10 years of these campaigns that we have seen dramatic reductions in the number of people smoking, getting sunburned, and drink driving, and changing their behaviour, and the behaviour and attitudes of following generations, to the target adverse practices.

In the liquor licensed environment, it is fair to say that, in relation to drinking culture, the supply side of the industry has moved ahead of the consumption side of the industry with regards to responsible practice. A majority of licensees understand and acknowledge that alcohol is a potentially harmful drug that, if mis-used, it can result in adverse outcomes including anti-social behaviour and health impairment. The licensed industry acknowledges the need for sensible regulation of liquor service and products and is supportive of a wide range of responsible practice measures, often at their own cost, provided that the relevant policies are based on sound evidence.

However, Territory licensees and many in the community are now firmly of the view that there exists a clear imbalance between the responsibilities, rights and obligations of the licensed industry on the one hand, and those of the consumers on the other side. Almost all new and additional reform and intervention action in recent years has been on the supply side (licensed businesses) and almost none has been on the consumption side (patrons). This imbalance is also evident in the Review Discussion Paper which barely mentions the accountabilities of patrons to obey the law and consumption guidelines (if any).

Unfortunately, this imbalance in accountability is reinforced by the operations of police and liquor licensing officers who, imperceptibly or otherwise, generally take a much harsher view of discrepancies and behaviours on the supply side than the consumer side. The end result of this situation is that most patrons think that they will not be held to account for poor or anti-social behaviour in or near licensed premises, including within private parties and public areas where drinking occurs. Although the Act provides for penalties for poor patron behaviour, penalties are not commonly applied, and the expectation amongst patrons generally is that it is the exclusive obligation of the licensee to maintain good order and safety in and around licensed premises.

It is the Association's strong view that a sound start-point to changing this situation is to adopt a NT Code of Practice for Patrons which has the support of the regulator and the industry. This code would mirror a similar code of practice for licensees and stress the shared nature of the mutual obligation to safe practices. For example, the licensee code might include the fact that the venue does not permit the sale or use of illegal drugs on the premises, whilst the patron code might say that the patron will not purchase or use illegal drugs, and so on. Various accords have

developed draft codes of practice for licensees and patrons aimed at promoting responsible and safe behaviour. It is our view that the widespread adoption and use of such codes would be a tangible and positive measure aimed at improving patron and venue interaction towards higher standards of behaviour and accountability.

Economic contribution of licensed industries

The Review Discussion Paper contains a summary of the size, scope and breakup of the economic contribution of the tourism industry and the subordinate liquor licensed industry in the Northern Territory. Put simply, the sector contributes around \$2 billion annually to Territory consumption expenditure, and employs around 16,000 people both directly and indirectly, noteworthy contributions within an economy that is both narrowly based and heavily reliant on public sector financing. It is fair to say that the licensed component of the tourism industry underpins that sector, and provides the impetus and capital for much of the investment and growth that is ongoing. The following areas of economic or social endeavour are of noteworthy in terms of the community contribution made by the sector:

- Jobs for the low-skilled, young people and backpackers: licensed venues provide unique job opportunities for the low-skilled, the young who may be in transition to other careers (e.g. university students), and transient tourists such as backpackers who then spend their wages in other parts of the Territory economy. In an economy with very narrow employment profiles, these types of jobs have a higher value than might otherwise be the case.
- Indigenous employment and training: there are more than 850 indigenous Territorians employed in the licensed tourism and business sector providing training, satisfaction, wages and hope. We expect this level of employment to grow over time.
- Jobs and investment in supporting industries: the licensed industries provide spin-off business and opportunities for myriad professional and trade services including but not limited to: legal, accounting, banking, training, IT, signwriting, beverage, electrical, broking, transport, air conditioning, audio visual, music, swimming pool, gaming, cleaning and security providers.
- Territory taxation: licensed businesses make a disproportionate contribution to Territory-raised taxes including: stamp duty, payroll tax, gaming tax, property transaction taxes, GST (rebated to NT), and local government rates, fees and charges.
- Construction, refurbishment and renewal: licensed businesses operate in a competitive environment which requires business premises to be modern, clean, well presented and which incorporate the latest in technology and equipment. The contribution made by the licensed industry in construction, modernisation and refurbishment annually is conservatively valued at \$65 million per annum (excluding land cost).

REDUCING DEMAND

General: The Discussion Paper seeks input into suggested measures aimed at reducing demand for alcohol products. The following measures are supported by industry and may have the effect, over time, of reducing per-capita demand for alcohol:

Code of Practice for Consumption (Patron Code of Practice): Territory licensees are firmly of the view that there exists major imbalance between the responsibilities, accountabilities and penalties applicable to the supply side, compared to the same obligations that apply to the consumption (consumer) side. This is understandable given that it is much easier to regulate, supervise and apply penalties to the licensed supplier, but this imbalance represents a significant weakness in our desire to bring about a more responsible drinking culture. It is not the licensees that are doing the drinking. For true and enduring social and behavioural change to occur, there must be a change to the approach and attitude to the consumption of liquor by individual patrons. In short, we must take steps to unwind the nexus that has developed between bad behaviour and alcohol. *“I behaved badly because I was drunk”* is the modern version of *“the dog ate my homework”*. It is the Association’s view that the responsibility of consumers extends to the responsible consumption of alcohol, including the responsibility to know when to stop. To this end, we should remove the legal crutch provided through the excuse of the consumption of alcohol being a mitigating factor in consideration of guilt for crimes or the level of sentencing. Just as we expect kids to wear sunhats in the playground, and mums to apply sunscreen to babies at the beach, so we might reasonably expect consumers to obey the laws and the guidelines around behaviour and responsible practice in hospitality environments. This will require effort to wind back some of the current attitudes and expectations that assume that it is the sole obligation of licensees, the police and security providers to provide and maintain good order and safety in and around licensed premises and public spaces where liquor is consumed. We expect drivers to obey the road rules, so should we be able to expect drinkers to obey the ‘drinking rules’.

What are these ‘drinking rules’: Evidence shows that young males between the age of 17 and 24 years are our main offenders in society, including anti-social and criminal behaviour related to the mis-use of alcohol and illegal drugs. They are bullet proof, they are show-offs, they are peer driven, they want to impress, they have no limits, they will live forever, they don’t back down, they can hold their grog, they are legend Unfortunately, these attitudes mean that these same young men are up to 230% more likely to be killed or seriously injured compared to the wider population when it comes to road use, industrial accidents, suicide, drug overdose and risky behaviour such as jumping into water and train surfing.

In days gone by men, when drinking and when some had judgement impaired though alcohol, would discipline their own behaviour through use of the peer group. If Bill was behaving badly, his mates would pull him into line. Today, if Billy is behaving badly, his mates will pull out their phone cameras and egg him on. There is an expectation that enforcing the (known) standard of behaviour is someone else’s responsibility, whether that be the venue staff, security, other patrons or the police. Unfortunately, and often, such external intervention to a young man is a direct challenge, and the intervention to enforce reasonable standards of behaviour becomes the source of conflict from which violence can result. Somehow, we need to progressively change the attitude of our young men to one where being a macho dickhead is no longer cool.

A sound first step in starting this change in attitude, and behaviour, is to consider adopting a NT Code of Practice for Patrons which has the support of the government, the regulator and the licensed industry. This code would mirror a similar code of practice for licensees and stress the shared nature of the mutual obligation to safe practices. For example, the licensee code might include the fact that the venue does not permit the sale or use of illegal drugs on the premises, whilst the patron code might say that the patron will not purchase or use illegal drugs, and so on. Various accords have developed draft codes of practice for licensees and patrons aimed at promoting responsible and safe behaviour. It is our view that the widespread adoption and use of

such codes would be a tangible and positive measure aimed at improving patron and venue interaction towards higher standards of behaviour and accountability. The AHANT has developed a pair of complementary Codes of Practice for licensed venues and the patrons of licensed venues which it is happy to offer to the Panel for consideration should this be sought.

Unfortunately, bringing changed behaviour to the consumers who consume the more than 70% of total alcohol sales which is consumed away from a licensed footprint is more problematic. Consumption which occurs in public spaces, in domestic dwellings, on sports grounds and riverbanks is unsupervised and subject to little external control. This type of consumption, which accounts for more than 70% of total alcohol consumption, is only regulated by the attitude and behaviour of the individual consumer. Consequently, any long-term change in behaviour will only come from long-term community messaging across all channels – media, social media, the public education systems, supplier messaging and all forms of advertising. On a more positive note, this messaging has already commenced with measures including responsible consumption messages in branding, labels and television advertising, banner signs at sports stadiums, personality advertising such as RADD Australia (recording artists, actors and athletes against drink driving), in-venue house policies and signage, and a range of responsible drinking programs sponsored by Federal, State and local government authorities. Not-for-profit entities such as alcohol help services and charities such as the *Salvation Army* also have a role to play in providing researched and suitably targeted messaging and concepts.

We encourage the Territory Government to continue to support public health and advertising campaigns which include a responsible drinking message, and to support the widespread adoption of a Code of Practice for the patrons on licensed venues and products.

Youth, community and patron education: Many commentators point to the need for “cultural change” to help bring about a more responsible drinking culture in Australia. Cultural change is possible, even with long-established practices, as evidenced by Australia’s success with sun exposure, drink driving, and smoking of cigarettes. The common feature of all successful campaigns of this nature is the conduct of a long, sustained, credible and well-funded community education campaign aimed at changing community attitudes, which leads directly to changed behaviour.

We therefore strongly support the continuation and expansion of all forms of youth-oriented educational and information campaigns, including public advertising campaigns aimed at bringing about more healthy and responsible attitudes to the consumption of alcohol. Such campaigns should be based around the same, simple messages and themes as the Code of Practice for the Responsible Consumption of Liquor (Patron Code).

Public health campaigns: It is self-evident that taxpayer-funded public health campaigns have been and are a successful element of community campaigns to change the behaviour and attitudes of groups and individuals in relation to specific issues. The ‘Slip, slop, slap’ campaign is probably our most notable, but there are several others. The Association and the licensed trade supports the use of ongoing health, healthy lifestyle, road safety, domestic violence, drink driving, safe drinking, water safety and other themed community focused programs and messages which reinforce community standards and expectations Australia-wide.

An holistic approach to social messaging – social, behavioural and attitudinal problems flowing in part from the mis-use of alcohol in our society involve many inter-connected inputs and

represent a complex problem. Actual and prospective solutions will also be complex, and will require long-term commitment and resourcing. It is our view that all forms of community education around alcohol should be based on simple, clear, and credible messages which are derived from the evidence around the highest priority areas of concern. e.g. “drink drive, bloody idiot”. We have started this process but, as with other areas of public change, our commitment must last for decades not days.

Entertainment precinct policies: Over the last 20 years the Territory has seen the emergence of entertainment precincts in Darwin and Alice Springs, and as the population grows it is logical that other entertainment precincts will develop elsewhere in the Territory. These precincts involve a higher than usual number of co-located licences and other businesses, catering mainly but not exclusively to young patrons, tourists and late-night entertainment and recreation activities, generally on Friday and Saturday nights.

Formal recognition of these precincts is not a bad thing, as it permits relatively scarce community resources, such as police, ambulance service and health workers, to concentrate their efforts in a defined area.

Also, industry and Government efforts in recent years including measures such as enhanced liquor Accord conditions, the ‘*Darwin Safe*’ program, and a range of other regulatory and industry-based measures have resulted in significant and obvious improvements in patron care and business performance in the Darwin entertainment precinct.

Further improvements are impeded by the voluntary nature of Accords and it would be appropriate to codify such enhanced measures in a Code of Practice for entertainment precincts. Such measures include, advertising restrictions, RSA Marshalls, minimum pricing and other best practice measures.

Density of licensed outlets: A key and obvious problem in the entertainment precincts is that new licensed businesses are drawn to set up by the reality that this is where high number of patrons and business opportunities exist on Friday and Saturday nights. Consequently, the licensing authorities have received and generally approved a disproportionately high number of new licence applications in these areas.

This results in a significant licensed business density, with different types of licensed businesses operating close together, not all of which demonstrate the same level of commitment to operation and compliance with the Accord conditions and other best practice measures.

By way of example, it is industry’s view that the licensed business density in the Mitchell Street precinct is too high and unsustainable from a longer-term business perspective. Despite this highly competitive and high licence density situation being well known to all stakeholders, including the licensing regulator, new liquor licenses continue to be approved seemingly without opposition or resistance from the licensing authority.

When economic conditions turn down, as is currently the case, competition between these co-located businesses becomes fierce and can result in practices which undermine our commitment to fully resourcing harm reduction through measures such as price discounting, reduced staffing levels, less investment in technology and so on. For example, local Viva La Vida Wine and Tapas

bar closed its doors on the Darwin Mall in June 2017 due to competitive pressure. It's almost certain that a new operator will apply to re-activate this business and, faced with the same business conditions over time, will also go broke doing the same thing as the previous business. Such outcomes are bad for the people directly involved, but also impact negatively on other licensed businesses in the precinct by drawing revenue away from the more viable businesses.

Finally, the current administration process for assessing new license application does not provide for robust testing of the proposed business model, with the result that many new small licence businesses are not commercially viable.

Frankly, these types of businesses are therefore not profitable enough to invest in even basic responsible practice measures, such as staff training, development of house policies, decent amenity facilities such as toilets and liquor accord measures, CCTV and security staff. These short comings could be remedied through effective application of Code of Practice conditions and more robust assessment of licensed categories against more clearly defined liquor licence categories.

Industry Codes of Practice: Industry and venue codes of practice are suitable mechanisms to promote higher standards of responsible promotion, service and consumption of liquor. Codes of practice are simple, easily understood statements relating to common standards and behaviours, and act as guiding principles for stakeholders. Codes of Practice are not simply extracts of the relevant legislation or regulations, but embrace and articulate specific standards, processes and/or behaviours which contribute directly to the outcome sought on the ground. They incorporate clear statements of intent as to what is acceptable practice and give examples of what is not acceptable. Effective codes of practice serve as the link between regulatory obligations and practical behaviours at the venue level. Previously, the Northern Territory has gazetted and adopted a Code of Practice for the Responsible Promotion of Alcohol which has served as a suitable template for industry. Codes of Practice can also serve as cornerstone guidelines for Liquor Accord groups and multi-venue areas meaning that Liquor Accords and similar can use the codes as the standard, rather than needing to develop their own standards in isolation. It is industry's view that the development and application of further effective codes of practice in the following areas would represent a major step forward in responsible practice:

- Code of Practice for the Responsible Promotion and Service of Liquor for on-premise consumption (On-premise Code);
- Code of Practice for the Responsible Promotion and Service of Takeaway Liquor (Takeaway Code);
- Code of Practice for Entertainment Precincts (precinct specific); and
- Code of Practice for the Responsible Consumption of Liquor (Patron Code).

It is envisaged that industry peak bodies and key stakeholders would cooperate with the licensing regulator in the development and promulgation of new codes.

Responsible practice and RSA: Responsible practice and policies at the venue level underpin regulatory obligations and encourage safer drinking and behaviours. At the point of sale, Responsible Service of Alcohol (RSA) knowledge and qualifications empowers venue staff to monitor, assess and intervene in relation to service obligations. Experience in the Northern Territory and other Australian jurisdictions clearly demonstrates direct linkage between universal RSA and positive cultural change.

Our position is that we strongly support universal RSA qualifications for all sellers of alcoholic products in accordance with the current standards. RSA is seen as the first line of defence for any licensee or individual staff member confronted with a belligerent or demanding patron, and has been and continues to be a very effective tool in reducing the incidences of drunken and disorderly behaviour in and around licensed premises.

Liquor pricing and discounting: Industry supports an object in all Codes of Practice which discourages irresponsible behaviour through excessive discounting of alcohol. This can be actioned by defining 'excessive discounting of alcohol' through the Codes relating to on-premise and takeaway supply. It would be appropriate to consider excessive discounting in two areas, one relating to pricing and the other relating to advertising.

The industry generally supports venues using price points as a marketing tool to promote and attract markets provided the pricing being promoted is not regarded as excessive discounting. This applies to both on premise and takeaway sales. An appropriate Guideline on excessive discounting would set parameters for which venues can develop their promotions and would provide certainty as to whether the discounted prices were regarded as excessive discounting likely to contribute to harm.

Whilst the *Act* provides for local liquor Accords to charge a particular price for liquor, this only applies to the (voluntary) participants of the Accord in that area. The weakness in this approach is that such minimum pricing is not applicable to all licensed businesses in that area.

Traditionally, minimum or specified pricing has been considered as a mechanism to prevent 'bar wars' involving low price competition for on-premise trade in the night-time economy. However, in the Territory measures have been attempted to be introduced to specify minimum pricing for cask and bulk wine to counter excessive consumption and mis-use. Minimum pricing became an issue of interest to the Australian Competition and Consumer Commission (ACCC), with the result that well-intentioned licensees were breached and fined for anti-competitive practices. This issue has been partially corrected through the passage of Section 120C(1)(b)(v) which authorises or requires any licensee who is a party to a particular Accord to charge a particular price for liquor.

AHANT submits that a form of this power should be incorporated in the *Act* for general application as required, and that the relevant minimum price should be determined from time to time by Licensing NT, in consultation with licensees and suppliers. For example, in the Darwin CBD Entertainment Precinct it could be required that a minimum price of \$5 be applied for each full nip of spirits on-premise. Another example would be that for takeaway sales, two litre wine casks could not be sold for less than \$16.

External advertising for on-premise sales: The AHANT would support an approach where similar restrictions on price advertising were extended to include public or external advertising for the price of on-premise products, such as on-line, in newspapers or in television advertisements. The objective of any such restrictions is to prevent the strategy of a business trying to attract patrons to the venue by simply advertising heavily discounted drinks. We know from past experience that where this strategy is adopted by several venues in the same area, a race to the bottom occurs involving progressively lower prices which, in turn, results in patrons consuming more alcohol for less cost.

This pricing race to the bottom also occurs in takeaway pricing and advertising. A simple mechanism to reduce the price attraction of packaged liquor is to place restrictions on external and public advertising of takeaway products at heavily discounted prices. This is particularly applicable to liquor advertising by licensed businesses that operate under an ‘ancillary’ licence category. How can a business which purports to sell a product as a minor part of its business model be permitted to undertake advertising, both physical and via mass media, which portrays the business as a mainstream and stand-alone liquor retail venue?

Venue barring: Industry supports the continued availability of venue-initiated barring of patrons, and supports retention of status-quo arrangements for barring, patron exclusions and refusals. However, more work needs to be done in relation to multi-venue barring.

Racial discrimination: Many of the policies and practices mandated for licensees in the sale and supply of liquor are racially discriminatory. For example, the Accords process is a voluntary agreement between licensees, but is often pressured by Police and local councils to develop, adopt, implement and enforce measures which are, by their nature, racially discriminatory. In addition, licensees and their staff are frequently requested by Police and others in authority to refuse service and supply to indigenous people in a racially discriminatory manner, whether this is direct or indirect. We need to give the indigenous communities the tools to help licensees to meet their compliance obligations without penalty under Territory or National racial discrimination legislation.

Illegal drugs: The widespread consumption of illegal and so-called ‘recreational’ drugs continues to be a contributor to anti-social, criminal and violent behaviour in and around licensed premises and in the community more generally. The Northern Territory has historically high rates of illicit drug use in its adult and youth populations. Further, Territory Governments have identified a specific problem in relation to crystal methamphetamines (‘ice’) and the associated harm and offending in the community. It is our view that any official consideration of the regulatory environment related to the mis-use of alcohol should implicitly acknowledge the complementary harms associated with the widespread consumption of illicit drugs by Territorians.

Venue managers have advised liquor industry leaders that illicit drugs, in particular ‘ice’ is affecting more people in and around licensed premises particularly in the late night entertainment areas. At the same time, Territory Police have advised industry that the number of incidents in and around licensed premises has decreased in recent years. This means that licensees are being required to divert resources and effort that might otherwise be employed on patron care and responsible practice obligations related to liquor, to dealing with behaviours and harms related to the use of illegal drugs.

In the night-time economy, illegal drugs can be a substitute for legal products, especially amongst young consumers. For those on a limited entertainment budget, it can be an attractive alternative to consume one \$25 ecstasy tablet compared to five \$10 mixed drinks – less carbs, less hangover, more energy, trendy, and money left over for food and transport. This is reality.

Whilst the widespread use of illegal drugs in the Territory does not excuse the social harms attributed to the mis-use of alcohol, it is however clear that the harmful impact of illegal drugs in our communities is somewhat masked by the tendency to focus on alcohol as the root cause of problems, and the tendency of the police and the licensing inspectorate to focus on the regulation of legal drugs such as alcohol, and level the illegal drugs in the basket marked ‘Too Hard’.

Notwithstanding, it would be irresponsible for the Panel not to include the contribution made by illegal drugs to many of the Territory's social and behavioural problems, amongst its considerations.

REDUCING SUPPLY

General: The discussion paper seeks input into suggested measures aimed at reducing supply of alcohol products. The following measures are supported by industry and may have the effect, over time, of reducing per-capita supply of alcohol:

Retail sales data collection and analysis: The AHANT and the wider licensed industry have consistently supported efforts to develop safer drinking practices and policies in recent years. Our primary request to government has been that the development of public policy, including licensing regulations and laws, should be evidence-based. Unfortunately, much of the Territory's regulator environment is derived by copying others, not by studying our own back yard. We have become driven by factors such as revenue raising, following overseas or inter-state trends, or adopting conflicting objectives such as encouraging competition whilst trying to reduce supply.

Fundamental to any structured consideration of licensing laws is knowledge, and consideration of the relevant facts, data, and evidence that informs considered judgements and recommendations. In relation to harm minimisation and concerns with the mis-use of alcohol, the availability of reliable data and industry information is a pre-requisite to identifying and grading the key problems, and assessing and identifying targeted solutions to the key problems. As with other jurisdictions in Australia, the Territory's ability to collect, filter, assess and analyse a range of data relevant to licensing matters is poor to non-existent. Consequently, because we have no real ability to analyse data and statistics relevant to alcohol-related violence or social disruption, much of the Territory's liquor reform and policy agenda has resulted from subjective and unscientific intervention in the hope that some of the measures will work. Additionally, and as with other states, there has been little research or analysis conducted to ascertain what measures work most effectively, and what measures should be modified or discarded. The end result is a patchwork of regulatory requirements, most aimed at addressing a specific issue or social challenge, and waiting for a new patch to be applied following the next review or major incident.

Packaged liquor sales and data: We have a specific and high-order problem in the Territory related to packaged liquor sales and which, in our opinion, the Panel might focus significant attention. Packaged liquor sales are higher proportionally and per-capita in the Territory compared to every other part of Australia. This is because more is purchased for consumption away from a licensed footprint, packaged liquor is easier to transport to remote areas, we have a greater proportion of tourists, transients and indigenous residents than other states, and because packaged liquor is cheaper than on-premise drinks.

The industry has been expressing concerns about the integrity and accuracy of the NT's alcohol wholesale sales and consumption data to the NT Government for a several years. We assess that the actual sales and consumption of packaged liquor is significantly higher than the official data shows.

As the Panel would be aware, having access to high quality and accurate data on the volume of alcohol consumed by Territorians is vital to assist Government agencies and stakeholders in the development of appropriate alcohol policies. More importantly, having accurate data on volume of alcohol consumed would enable the Government to evaluate the effectiveness of ongoing and future alcohol policies and harm minimisation measures by establishing a baseline from which progress or failure may be measured and assessed across a range of parameters, e.g. supply restrictions and the re-establishment of the Banned Drinker Register (BDR).

The industry also believes that alcohol volume data should be considered by the Director-General of Licensing and their Delegate, when considering liquor licence matters, as was the case in the past with the previous Licensing Commission deliberations. The decision maker needs access to a reliable information on the volume of alcohol that is currently being sold, and the likely volume that would be introduced to a community by the issuing of a new licence. This is centrally relevant where the issue of a new licence not only cannibalise the existing market, but also increases the supply of alcohol to a particular community thereby encouraging discounting, and possibly increasing the per capita alcohol consumption in that community. In our view, the ability of the licensing regulator to access timely and accurate liquor sales data is a key factor in its ability to understand, assess and make appropriate decisions about trends and decisions central to the availability and supply of liquor products across the whole of the Territory, including consideration of the wisdom of approving new liquor licenses in particular or sensitive locations.

Are the NT wholesale sales figures accurate?: Currently under the provisions of the *Liquor Act*, registered wholesalers must lodge quarterly returns to the Director-General of Licensing that specify details of all purchases and sales of liquor made by the merchant during that quarter, including a breakdown of sales by product type (cask wine, bottled wine, fortified wine, cider, standard spirits, pre-mixed spirits, full strength beer, mid-strength beer, and low-strength beer).

Over the past several years the traditional alcohol supply chain has shifted from a practice where NT liquor licensed businesses purchased their alcohol directly from NT wholesalers, to a completely different model in which Territory licensees are purchasing directly online from interstate retailers, interstate wholesalers and merchants. A similar shift has taken place amongst individual consumers who now increasingly purchasing their alcohol online directly from interstate retailers, interstate wholesalers or interstate merchants, for example, wine clubs. For these reasons, the AHANT believes the amount of alcohol sold and consumed in the Territory is currently being significantly under-reported.

In order to improve the accuracy of the NT's alcohol data and analysis, taking into account the current supply chains, the AHA (NT) proposes that in addition to NT wholesalers reporting their alcohol sales data to the NT Government, that all NT licensees should provide an annual declaration of all alcohol purchased from 'interstate wholesalers'. This would include purchases that licensees make directly with other retail licensees ordered interstate, overseas or online. Such reporting would also need to exclude sales between licensees so as to ensure that such sales are not double counted.

Finally, the collection and availability of high quality sales data will provide clear evidence of both where liquor is sold and the type of licensed outlet in which liquor is sold. Anecdotally, the community and the licensed industry is very concerned about the very high percentage of takeaway liquor currently being sold through stand-alone takeaway stores and in supermarket liquor outlets which have grown into substantial liquor businesses (more later). Sales data from these types of outlets will provide a welcome opportunity for analysis of the impact that sales from

these types of liquor outlets can be assessed, in terms of harms and potential harms in their community, and inform the regulator's decision on new applications.

A secondary and minor consideration for the collection of this data is that improved data would also help to track any issues relating to non-compliance with the Container Deposit Legislation.

Off-premise liquor sales: It is clear to liquor industry leaders that the Territory has an over-supply of packaged liquor outlets. This over-supply increases takeaway licence density, weakens the commercial model of such businesses, places downward pressure on price and encourages discounting, and limits the potential for capital gains and future growth. The AHANT believes that there is clear potential for rationalisation and improved community outcomes through sensible changes to takeaway liquor policy. The first problem is that there are too many takeaway outlets per head of population. In the Northern Territory there are around 250 separate takeaway sites, including hotel drive-thrus but excluding licensed club shops restricted to members and guests. This equates to one (1) takeaway outlet per 1,000 head of population (all ages). Compare this to the State of Queensland where the sale of takeaway liquor is limited to the holders of a commercial hotel liquor licence and where there are currently around 1,500 takeaway sites (excluding community clubs). In Queensland, the comparable ratio equates to one (1) takeaway outlet per 3,240 head of population (all ages). Of course, this is a rather simplistic comparison but, nonetheless, it does illustrate that the Northern Territory 'enjoys' approximately three times the convenience, availability and supply of takeaway liquor, compared to the citizens of Queensland, a state which is similarly decentralised to the Territory.

Liquor stores licensed ancillary to the operations of a supermarket or general store: There is a specific problem with the operation and supervision of businesses which operate under a store liquor category of liquor, where the sale of liquor is ancillary to the sale of food and grocery items (store licence). Firstly, there are currently 83 such outlets in the NT, with the number rapidly growing. Second, many stores have ignored or stretched the guidelines related to advertising and signage to the point that they are viewed by their customers and the community as principally liquor stores where one has the convenience of picking up the odd grocery item. Put simply, this category of business has evolved into a proxy takeaway liquor store where the central conditions of the liquor licence are honoured in the breach. Third, the general oversight, level of compliance visitation, and sales and advertising audit effort from the licensing regulator appears to be light and cursory at best. This means that, in some cases, lip service is paid to the conditions under which many store licenses were approved and that investment in responsible supply practices receives similar attention in some cases. Finally, new applications. It is the Association's view that the widespread neglect of the liquor licence conditions of businesses operating under this licence type is well known and is, potentially, a significant contributor to the high volume of sales and mis-use of liquor sold in the off-premise environment. It is recommended that a much higher compliance focus be applied to the 'ancillary' stores sector, including deriving a specific and easy-to-understand definition of the 'ancillary store' category, and more frequent and thorough audit of the sale, advertising, promotional activity, business presentation, and signage of such businesses. This could extend to requiring such businesses to report to the licensing regulator the percentage of liquor sales (compared to grocery or other sales) on a regular basis, perhaps bi-annually (every six months).

Moratorium and Takeaway Guidelines: The Moratorium on applications for takeaway licences was introduced due to the failure of the *Liquor Act* relating to the proliferation of takeaway liquor licenses in the Darwin area. The Moratorium now applies to the whole of the Northern Territory.

Industry supports the intent of the Moratorium and recommends the following changes in the interests of curbing supply:

- The Moratorium measures should be enshrined through regulation;
- New takeaway licence applications should be limited to new residential greenfield sites and any commercial hub connected to, and integral to that greenfield site, as outlined in the current Moratorium policy framework; and
- *Takeaway Guidelines* should apply to applications for substitution involving takeaway licences.

Whilst it could be argued that the extension of the Moratorium on takeaway applications might, over time, rectify the over-supply situation in relation to liquor stores outlined above, the Association feels that there currently exists both a need and an opportunity to rationalise this part of the sector through tighter oversight, a possible buy-back of such licence types, a licence redemption program, or other forms of regulatory intervention aimed at forcing improved adherence to the approved liquor licence conditions.

Other packaged liquor matters: The following other matters are relevant to the packaged liquor supply and policy area:

- **Takeaway outlet density** - Density or concentration of licensed businesses, based on rational review of the existing takeaway sites within the assessed customer 'catchment' of the proposed site, should be a significant factor considered by the licensing authority in considering each new application for any form of takeaway liquor licence (except for an attached drive-thru application);
- **Size of takeaway areas** - Industry supports the NT Government's current position of limiting the public floor area of takeaway outlets to 400^{m²} as a measure to deter the trend towards steadily increasing the size and commercial impact existing takeaway sites.
- **Liquor 'barns'** – given the already over-supplied nature of the takeaway sector, it is clear that the approval or advent of large Bunnings-style liquor barns would impact negatively on the Territory's relationship with liquor. The buying power of these types of businesses, and their history of operation in other jurisdictions, demonstrate that it is clear that such businesses generate downward pressure on prices and the ability for consumers to purchase greater volume of alcohol for the same dollar cost. Given that one of the pillars of the NT's licensing policy is limiting the availability of liquor products, it seems obvious that the time for liquor barns has not yet arrived in the NT. Large liquor barn outlets represent a direct contradiction of the Territory's three pillars harm minimisation approach, in that their business models aim to increase demand, increase supply, and, by extension, increase potential harm;
- **Existing guidelines for takeaway sites** - We submit that the existing Guidelines applicable to the operation and size of takeaway liquor outlets in the NT are not adequate in terms of the definition of "greenfield site". Whilst the new 2016 Guidelines specify that the new licensed business must be "located in a new residential or commercial land development in a greenfield site", there remains uncertainty as to the meaning of the term "greenfield site". AHANT supports the obvious intention of the Guidelines to permit applications in new land developments which have both residential and commercial components, such as Bakewell, Bellamack and the proposed Berrimah Farm development site. However, it is unclear whether the new Guidelines are intended to also apply to all previously approved but undeveloped blocks located in established areas of commercial,

residential or mixed-use developments, essentially, the ‘back-fill’ approach. Consequently, and to remove any ambiguity to the new Guidelines, the term “greenfield site” be carefully defined to inform the correct application of the Guidelines. In addition to being reviewed and expanded to cover this shortcoming, we recommend that the same Guidelines apply to takeaway outlets operated by licensed clubs, taverns and hotels; and

- **Substitution of premises:** Substitution of premises refers to the process of moving a licensed business from one place to another. Generally, this involves takeaway licenses. The current policy is being abused in one of three ways. First, premises are being relocated extraordinary distances away from the original business location thus accessing more limited consideration by the decision-maker. Second, the substitution process represents a loophole in the takeaway Moratorium in that the *Takeaway Guidelines* do not apply to premises which are the subject of substitution. Third, there is no limitation on any change of character or business model under substitution, meaning that small takeaway businesses can and do morph into larger businesses. In effect, this process provides a potential pathway around the current Moratorium, in that larger takeaway stores will sell larger quantities of liquor, all things being equal. Our solution is that *Takeaway Guidelines* should apply to substitution applications, and if there is a material change to the nature of the trading operation, then a new application for takeaway licence will be required.

Liquor licence fees and risk-based licensing fees: The three large Eastern states of Australia have introduced varied forms of annual liquor licence fees since 2009. Some of these annual fees involve a base liquor licence fee, supplemented with so-called ‘elevated risk’ levies. These annual fees are in effect state taxes, and are claimed to deter higher risk licence operations through the imposition of risk levies attached to practices such as off-premise sales, late night trading and availability of food. This is official camouflage, these so-called ‘risk fees’ are simply state taxes in disguise, and their imposition has had no discernible impact on licensing and consumer behaviour. None of the three jurisdictions in which risk-based licensing fees have been introduced have bothered to conduct any form of audit or research since the introduction of the fee regime aimed at assessing the impact, or otherwise, of the introduction of fees and the outcomes in terms of compliance, behaviour, patron care, violence, patronage, profitability, substitution with drugs, anti-social consequences, or any of the other measures of community and industry concern.

The average size of these annual licence fees across the jurisdictions where they are imposed is around \$2,500 per annum per venue, and the fees are calculated, collected and administrated by the liquor licensing authority.

Over the period since 2012 some of the smaller states including Tasmania, South Australia and Western Australia have examined the feasibility of adopting some form of risk-based annual licensing fees, but have concluded that such an approach is not appropriate in their jurisdiction and that the amount of fees/revenue collected does not justify the administrative effort required and the negative impact on licensed businesses.

The considered view of AHANT is that the introduction of annual liquor licence fees, whether they be risk-based or otherwise are not justified by the size, nature and risk profile of the Territory’s licensed environment. Historically, licensees paid an annual liquor licence fee based on their wholesale purchases of liquor products, including a ‘Living with Alcohol’ levy. Following a High Court decision, the collection of liquor licensing fees was handed over to the Commonwealth. With the advent of revised taxation arrangements, including the introduction of a Goods and Services Tax in 2000 (GST), the wholesale tax arrangements on liquor were rolled into the GST

taxation formula, with the GST proceeds collected on all retail sales of liquor in the NT being rebated to the NT Government. So, in affect every holder of a NT liquor licence continues to pay a higher rate of annual taxation directly related to their ability to pay through sales turnover. Also, Commonwealth excise on alcohol products continues to apply in addition to GST.

On a more practical note, it is axiomatic that for a business to invest in its future it must first be profitable. This is particularly the case when it comes to important but nevertheless optional parts of the business that often involve responsible practice and patron care measures. Measures such as staff compliance and training, provision of courtesy transport, installation and maintenance of CCTV, quality signage, installation and maintenance of high quality ablution facilities, and a range of OH&S measures all require the host business to be profitable if they are to be implemented and maintained. Therefore, any imposition of a new form of annual licence fee, whether it be risk-assessed or otherwise, will serve as a counter-productive disincentive for all licensed businesses in the NT to invest back in themselves, including in a range of desirable and best-practice patron and staff care measures.

The panel should be of no doubt that these fees are despised in the jurisdictions where they have been introduced, and complex and costly to administer, and are seen for what they are, a state tax in (shallow) disguise. Industry strongly opposes any move to introduce an annual liquor licence fee.

Finally, and in this regard, the NT licensed business community is and will remain a significant contributor to Gross State Product, including territory-based taxation and fee raising to support the programs of the NTG. Current levies and taxes paid by licensed businesses include: Goods and Services tax on all retail sales, Payroll Tax, Transfer payments on property transactions including stamp duty, local council rates, water rates, toilet pedestal fees, SGC superannuation charges for staff, and many other non-discretionary costs.

Duration of liquor licence: The Review Discussion Paper asks if there should be a system of annual or periodic licence fees. The answer is “no”. Currently, NT liquor licenses are granted in perpetuity or until cancelled or surrendered. There is a small application fee, but no other licence fees are payable while the licence is in place. This situation acknowledges the major contribution that licensed businesses make to the economic life of the state, the large amount of taxes, fees and public charges that derive from these businesses, the absence of any ongoing administrative cost to maintain the liquor licence, and the relatively small population base that would require annual or periodic licence renewal processing.

What is not sometimes well understood is that the liquor licence is the cornerstone of the financial obligations and accountabilities of many licensed businesses. In medium to larger business, the stability and certainty associated with an enduring licence provides certainty to financial and other institutions about the future viability and security of that business. Any change to a system of annual renewal of liquor licenses would threaten that linkage and assumed stability in relation to bank debt and lending practices, and could even trigger or contribute to the calling-in of loan instruments. In short, any form of temporary or non-continuous liquor licensing system is a threat to the financial stability of the major licensed businesses of the Territory. The same circumstances apply to the stability of long term business leases, which is relevant to the majority of large businesses in Darwin and elsewhere in the Territory, which operate under leasehold conditions. This is a clear case of “*it ain’t broke*”, and there exists no compelling case for change.

Liquor licence buy-back scheme: A further option available to government to address the over-supply of takeaway liquor outlets is to support an industry-based buy-back scheme for specific categories of liquor licence. Under such a scheme, a dedicated buy-back pool of funds could be used to buy-back liquor licences from the licensee at a set (or reverse auction) price in categories of licence where the numbers previously approved are too high.

An initial pool of funds might be established through a joint contribution of seed funds from industry and government. Whilst policy and funding arrangements for these types of schemes can be problematic, industry funds might be sourced from the imposition of a new and substantial liquor licence approval fee applied to each new liquor licence issued, and paid into the pool by the successful applicant on initial approval of the new liquor licence. This fee would be quarantined into the buy-back pool which would build over time, to then be used to buy-back the 'target' liquor licences, or liquor licenses surrendered under the terms of the buy-back scheme, such terms to be established in direct consultation with industry stakeholders.

Depending on the level of support for and the success of such a scheme, this process could be extended to other types of liquor licence located in areas of over-supply in the NT over time.

It must be stressed that this is an indication of support-in-principle for such a scheme were it to be considered by government to have merit, but that the terms, funding, qualifying standards, and duration applicable to any such a scheme would by its nature require careful, detailed and open consultation with industry.

Liquor licence application processes: The Review Discussion Paper offers a number of options for the process of considering liquor licence applications. AHANT supports a variation of Option 3, wherein an expert panel or committee makes licence application and determinations, in other than routine applications, where the Director-General may be a Member of that Committee/Panel but may not be the Chair.

In addition, we request that measures be considered to ensure that there be much better coordination between the liquor licence application process and the relevant site planning application. Put simply, the site and development application should take place before the liquor licence application is considered, saving everyone time, money and misplaced effort.

Liquor licence categories: It is essential for the orderly economic development of the licensed industry and the effective regulatory compliance of the industry that the various types of liquor licence are clearly, accurately and comprehensively defined, and that licensed venues subsequently operate within the envelope of their approved licence category and conditions of trade. In particular, in relation to the official assessment and consideration of new licence applications, and the potential for such new licensed businesses to either distort the local market or contribute disproportionately to community harm, it is essential that the type of licensed business being proposed is fully disclosed and examined at the point of application, if necessary, supported by a Business Plan.

In the last decade, there has been a small but growing trend for some liquor licensees to push the boundaries of their entitlements under a licence type, such that the business that they operate evolves away from the licence conditions that they applied for and now hold, towards a more active, more liquor-focused, and assumedly profitable business model. There are essentially two current liquor licence types which are being abused in this manner, these being:

- **On Licence** – this licence type was established to permit restaurants to sell alcoholic beverages in conjunction with a meal. However, it is increasingly common for some of these business types to present themselves and operate as a bar, where food is sometimes available. In effect, the ‘restaurant’ component of the business runs to, say, 10.00 PM, after which time the kitchen closes and then the location trades as a bar/nightclub until its later closing time of up to 2.00 AM. This type of abuse has three obvious deficiencies: first, in suburban areas the late-trading business is disruptive to neighbours through noise and traffic, second, the ‘bar’ business provides under-capitalised competition to other licensed businesses operating on the correct licence type and, third, the ‘bar’ business usually does not have the range of facilities and amenities required for high-level licensed trade such as toilets, security, house policies, and management expertise.
- **Store licence** – this licence type was established to permit suburban and remote grocery stores to sell packaged alcoholic products (takeaway) to customers as a convenience measure. The advent of this licence type dates from a time when the Territory was less well developed than it is now, and where many general stores and town stores were a place where ‘everything’ was available. Although those times have changed, the store licence has not. However, it is increasingly common for some of these business types to present themselves as a takeaway liquor outlet first and a grocery store second. Many of these store licensees have concluded that they can make more money out of grog than groceries, and have structured and marketed their businesses accordingly. There are also examples of store licences where there are separate corporate entities running the ancillary liquor store from the parent entity operating the supermarket - this is a clear breach of the licence conditions. Weak compliance has served to encourage these trends. One only has to drive past any suburban commercial hub in Darwin or Alice Springs to see the manner in which these store licence types have evolved and the reality that they are now quite blatantly present and market themselves as liquor outlets. This type of abuse has three obvious deficiencies, first, availability and supply of liquor is increased across the board, second, such availability is accessible by minors who are permitted to access the store thereby normalising their attitude to alcohol, and third, the ancillary nature of the liquor supply means that the responsible service, house policies, level of staff and management training around responsible practice is less than best practice.

A large majority of Territory industry licensees continue to be concerned about this ongoing trend for some licensed businesses to progressively evolve into a style of business which is significantly removed from the category of liquor licence for which they applied, and which they are approved to operate. This ‘bracket creep’ is distorting the market, not being effectively policed, and contributing significantly to the easy availability of alcohol in the community. Put simply because the existing licensed categories are not specific enough or defined enough and policed enough by the regulator, in terms of the entitlements and obligations relevant to specific licensed types, some licensees are able to expand the scope and nature of their businesses without regulatory involvement and appropriate licensing oversight.

It is timely that this unsatisfactory trend is stopped by the simple mechanism of creating a specific and detailed categorisation for each of the liquor licence types currently available in the Territory. By better defining the rights, conditions and limits of each liquor licence category, both licence holders and the licencing regulator will be in no doubt as to where the boundaries of a particular business lie, and what the commercial rights and limits of each business are. Creating accurate definitions for each licence category will ensure that all current and future liquor licenses will be consistently categorised, ensuring improved transparency for all stakeholders, easier and more

effective consideration of new licence applications, and investment and regulatory certainty for licensed businesses. It is recommended that a more specific classification system incorporating improved and more accurately defined and stricter liquor licence categories be developed and incorporated into the *Act*.

Whilst the AHANT has made formal and substantial representations on this issue since 2014, the issue has not been taken up by the government or the regulator. Those representations include recommended (draft) licence category descriptions and conditions, and cover the following additional areas:

- **Existing use provision** – in transitioning to a future system of better designated licence categories, and where necessary, all existing liquor licences could access ‘existing use provisions’ when applying the licence category that best fits their current licence operations;
- **Enforceable undertakings** – Section 72A of the *Liquor Act NT* empowers the Director-General of Licensing to enter into enforceable undertakings with a licensee to address and rectify specific problems and conditions associated with a licence. For example noise management. In this way, compliance conditions could be tailored to the needs and requirements of individual businesses rather than specified in the licence document. Enforceable Undertakings could include operational areas such as noise management, security provisions, CCTV, and special event arrangements, and non-compliance by a licensee would represent a breach subject to disciplinary or other enforcement action;
- **Legislation other than the *Liquor Act NT*** - licensees must comply with a wide range of Territory and local government regulations in the conduct of their business. However, the AHANT believes that a liquor licence should only be concerned about the licensee’s legal obligations under the *Liquor Act NT*;
- **Entertainment** – Entertainment is currently approved through use of licence conditions. AHANT submits that the provision of entertainment should be a venue management decision rather than limited by regulation. Should complaints be received and investigated, any adverse findings could be subject to specific-to-venue conditions imposed through the Enforceable Undertaking tool.
- **Liquor licence variations** – the existing provision for variations to be requested to licence trading conditions should be retained. However, applications for variation available under Sections 119 and 32A of the *Liquor Act NT* involve arduous administration from both the applicant and the regulator. There is scope to make the process of applying for licence variation more efficient and faster to decision, whilst maintaining the integrity of the licence category system.
- **Liquor licensing at major events** – currently, event organisers can apply for and be granted a ‘one-off’ liquor licence for a major event such as a festival or music act, involving a small fee. Industry is concerned that these types of one-off licences include little incentive or potential for disciplinary action and are vulnerable to breaches of responsible practice, mainly RSA. For reasons of administrative efficiency and access to services and support other than liquor products, it has become the usual practice in the Territory to use existing licensees to supply and often manage the alcoholic products for major events. It is the view of the AHANT that in order to provide a more regulated and responsible trading framework around major event liquor management, the practice of using an existing licensee to provide, supervise and manage the sale of liquor products at major events should be formalised through regulation or guideline.

- **Compliance operations** – concern is expressed about the apparent ‘light touch’ approach to liquor licence conditions which has served to further encourage abuse of the ‘on licence’ and ‘store categories’ of liquor licence. Whilst this abuse and ‘bracket creep’ may have been constrained if the existing licence conditions had been more strictly policed by the regulator, action now to better define licence types will help solve the problem in future;
- **A single liquor licence** – industry strongly supports the concept of a single licence only being required for each business. Each licence type would specify the rights and limits of the operation, and the types of licensed activities that that licence was entitled to operate (e.g. on-premise liquor sales, off-premise liquor sales, drive-thru, gaming, food, entertainment, adult entertainment and so on). If a business is conducting activities which are not listed in its licence category, then it is in breach of its licence conditions;
- **Transitional rectification** – once the revised licence categorisation exercise was complete, those businesses currently operating outside the scope of the respective licence type would be provided with a set amount of time to either revert their business activities to fit the defined category envelope, or apply for a new liquor licence which fits the type of business that they have become. Thus, a new start point for compliance and investment could be established relatively quickly and efficiently; and
- **Definition of ‘ancillary’** – it is fundamental that the term ‘ancillary’ must be clearly and unambiguously defined. In commercial terms we would normally use gross sales as the benchmark factor for assessing whether the relevant product category made a major or minor contribution to business activity. With regards takeaway businesses where the sale of liquor is ancillary (subordinate) to other parts of the business, such status might be determined by a fixed percentage of gross sales figure which was subject to regular audit of disclosure (e.g. ancillary means that liquor sales may only contribute xx% to gross sales in any one trading period [FY], and/or only yy% of public floor space may be used for the licensed liquor trade).

The Panel is referred to Annex A, which outlines a draft set of liquor licence categories, adds an example table to the recommended liquor licence categorisation proposals, and gives greater insight into the changes offered and sought. Of course, any further development of this theme would benefit from wider community, industry and government consultation.

Finally, in cases where a business has been established under a particular liquor licence type (typically a restaurant on licence) and subsequently evolves into a different kind of business operation (such as a bar/nightclub) there must be scope for the local community to provide and have investigated by Licensing NT a review of the liquor licence operating conditions. The logic behind this is that the community’s response to the original restaurant liquor licence might have been somewhat different if community members realised that there was to be a nightclub at the local end of the street rather than the benign, friendly, family-oriented restaurant that was proposed under the original liquor licence application.

Liquor licence application fees: The current liquor licence application fee of \$200 applies to all liquor licence types. It is the view of the AHANT that this fee is significantly too low, and fails to act as deterrent against frivolous or under-resourced licence applications or business concepts. A liquor licence is the cornerstone of a liquor business, and its approval brings with it a wide range of opportunities, responsibilities, regulatory compliance obligations and legal and financial vulnerabilities. In short, a liquor licence is a valuable and serious asset, the granting of which should not be undertaken lightly or cheaply. Raising the new liquor licence application fee to a

significant level will serve to deter frivolous, shallow and potentially transient licence holders and raise the standard of licensee and licensed business operations over time. We understand that the licencing panel was previously discontinued for budgetary reasons. It may be appropriate that the sitting fees for the panel should be incorporated into any revised application fee for a liquor licence.

It is the view of AHANT that the Territory currently has an over-supply of licensed outlets and, in particular, takeaway outlets across the NT. One way to address this over-supply is to slow the rate at which new licenses are approved including taking simple measures to help determine if a licensed business which is subject to new licence application is suitably resourced and thought through. To this end, the following recommendations are made:

- Increase the application fee (non-refundable) for all categories of new liquor licence in the NT to a much higher fee, a figure of several thousands of dollars is offered, perhaps up to \$10,000;
- For new applications in the categories of Club, On licence, Public Hotel, Store and Tavern, all new applications to be supported by a business plan which outlines the concept of the business (principal purpose), the declared community need, the resourcing (finance) plan for the business, and other key factors relevant to the future success of the business; and
- For new applications where the intended expenditure on land and structures is above a threshold to be determined, or where elevated community or regulator concern around liquor abuse is evident, applications are to include a Community Impact Statement (CIS) on a case-by-case basis. Such CISs should be prepared prior to any advertising of the application taking place, so that potential objectors can consider the full scope of the application and its possible impact. Public transparency would be enhanced by ensuring such CISs and licensing applications were readily available on a NT Licensing website, and any advertising of the application should also provide details of that website. A similar process has been developed for electronic gaming applications in NT which could serve as a model for licencing applications.
- Any new applications or material substitution applications should include estimates of the volume of alcohol intended to be sold to the community under that licence.

The core objective of this range of recommendations is to assist in ensuring that all applicants for new liquor licenses in the NT have a serious and long-term commitment to the success and durability of their new liquor licensed business, and that appropriate business plans have been developed to support the start-up business before approval of the liquor licence is considered.

Licensed trading hours: The current trading hour regime in the Territory has been derived from extensive government, community and industry consultation over a long period of time. As with any commercial business, licensed businesses can only win revenue from customers when their doors are open in accordance with approved trading hours. In addition, as with other forms of entertainment and public recreation, there is a reasonable expectation amongst NT residents that licensed businesses will be open and available for access outside of normal retail and working hours, including on weekends and Public Holidays, thus permitting community access to the services and products provided by licensed businesses during the times of day that community demand exists. These services typically including prepared meals and food, alcoholic and non-alcoholic beverages, packaged liquor, commercial accommodation, and all forms of entertainment. On the other hand, the location of many licensed businesses in proximity to residential areas, and the reality that some patrons are susceptible to mis-using alcohol, means that the approved

trading hours regime must strike a balance between the hours that businesses need to access to remain viable, and the trading hours regime that the 'reasonable man' sees as being in the interests of the community as a whole.

Territory licensees are generally of the view that the current trading hours regime in the NT meets such a balance, and the AHANT and its members are strongly supportive of retention of the status quo. In addition, the existing tighter retail (off-premise) trading hours on Sundays and Public Holidays are considered to represent a reasonable compromise between community need and responsible practice, and there is no movement to expand the existing conditions, outside of a small sectional interest group.

Banned Drinkers Register (BDR): BDRs are strongly supported as positive, reasonable and effective measures which successfully reduce the supply and availability of alcohol to problem drinkers. BDRs fit the definition of 'targeted measures' which act to identify a problem, derive effective counter-measures for the problem, and then target the relevant demographic or area with a working solution. BDR procedures should be streamlined using state-of-the-art technology to make the scanning of customers efficient, particularly in the drive-thru sales environment. The incoming BDR processes (post 1 September 2017) should be quicker, and should be designed to overcome the identified operational deficiencies in the old BDR system. AHANT has been informed by the NT Government that work is continuing on the development and deployment of a mobile BDR device which can be used in drive-thru bottleshops, and we welcome the imminent introduction of this capability.

There is a specific issue with the residents of the Tiwi Islands which we wish to raise in relation to identity documentation. Many residents of the islands do not have or carry any form of official identity, but still wish to purchase takeaway liquor. NTG, Australia Post and the Motor Vehicle Registry will need to work with this community with a view to making available services to obtain appropriate forms of identity documentation prior to the re-establishment of the BDR on 1 September 2017.

Temporary Beat Locations (TBL) and Point of Sale Interventions (POSI): If TBLs/POSIs are to continue to be used, then they need to be underpinned by appropriate legislation. Currently, the TBLs/ plucks various powers under the Liquor Act and Police Administration Act and merges them into a legally questionable operational procedure. Such discriminatory operational procedure should be underpinned in one legislative section to ensure that Police are using a valid legal power which does not offend the established discrimination laws. TBLs/POSIs are also problematic because they are racially discriminatory, operationally intimidatory, disproportionately impact drive-thru businesses and, in the end, serve to simply geographically relocate the 'problem'. AHANT supports the Police Association view that TBL operations represent a waste of Police resources. Further, it is our view that an updated BDR system, as proposed from 1 September 2017, will render the existing TBL and POSI systems redundant.

Permits: In the Northern Territory, a permit system has been developed in some remote 'dry' communities and townships located in Restricted Areas to permit the sale of alcoholic beverages to those who reside there, and are authorised to purchase take way liquor. Our view is that the permit system represents an effective control measure taken by communities to deal with local issues, and this system should be retained in its present form.

Secondary Supply of liquor: Primary supply compliance is high (minors, BDR etc). However, we have a problem with the secondary supply of liquor, particularly in remote and regional areas and in the public spaces of our major townships, including Darwin. Secondary supply refers to the supply of liquor to a second party after it having been first purchased by an initial purchaser, the purpose normally being to avoid restrictions which might apply to the legal supply of liquor to the end user. The mechanisms around secondary supply are fairly straightforward and including use of mobile phones, purchase by taxi drivers, home delivery by on-line purchasing, and direct purchasing from a retail outlet by one person which is then transferred to another consumer. In the Territory, the main market for secondary supply are itinerant displaced indigenous people (typically, town camps), and young people below the legal drinking age. Currently, the Police Force's ability to interrupt this problem relates to problems associated with the evidentiary burden of proving the offence of secondary supply, and the very low penalty regime for this offence. This means that the lack of successful investigations for secondary supply is an ongoing source of frustration and disappointment for the Police and leads directly to a lack of resources being directed to this problem. In a related matter, although industry is supportive of the intended reintroduction of the BDR process from 1 September 2017, we know that this will lead directly to an increase in secondary supply incidents.

Possible solutions to this problem involve the reversing of the burden of proof in relation to the possession of alcohol (similar to drug offences) such that a suspicious person is required to provide a bona fide reason for being in possession of the relevant product. Higher penalties are required (especially for the supplier), expansion of the Code of Conduct for Takeaway to include a requirement for licensees to report suspicious purchasing behaviour, and the development of a clear definition or appropriate guideline for 'suspicious behaviour'.

A major weakness in secondary supply enforcement is that the NT Government has a limited jurisdiction in this area, specifically the matter of cross-border supply issues. Currently, NT residents can be supplied liquor by licensees or third parties from outside the NT, using Australia Post, commercial couriers, or other means. Therefore, ongoing close cooperation is required with a view to bringing about changes to Commonwealth regulation which will curb the harmful cross-border trade of alcohol. This could include postal and courier services being required to comply with NT BDR requirements and to report suspicious deliveries, requiring all Australian licensees to comply with the NT BDR when supplying alcohol to the NT, using the corporations powers to specify that deliveries of alcohol products into the NT can only be made in person to consumers over the age of 18 years (who are not drunk, and who are not registered on the BDR), or requiring inter-state licensees to provide sales data evidence for prosecution purposes.

REDUCING HARM

What is harm minimisation? Harm minimisation is a philosophy which underpins many health promotion programs, particularly those focusing on the mis-use of alcohol and illegal drugs. Harm minimisation programs aim to reduce the harmful effects of behaviours, while recognising that not all people who engage in risky behaviour will stop completely. Many government health programs which address alcohol use apply harm minimisation principles.

Harm minimisation accepts that alcohol use occurs, and does not aim to eliminate the use of alcohol but rather to reduce harm that may result from its mis-use. Harm minimisation encompasses a range of strategies, involving a range of media and technologies. The World

Health Organisation and the Australian *National Drug Strategy*, as well as almost all community and industry education programs, recognise harm minimisation as a most appropriate framework for school and youth education about alcohol. Harm minimisation neither condones nor condemns the use of alcohol as, for the foreseeable future, alcohol consumption will remain a legal, legitimate, attractive activity within Australian society. A harm minimisation approach has been shown in a large number of studies and evaluations to contribute to reducing the harmful effects of alcohol mis-use.

Harm minimisation has both a theoretical and practical basis. On the theory side, it is about educating, informing and explaining the benefits and risks associated with alcohol use and mis-use so that consumers can be aware of the physical, physiological, and emotional effects of alcohol consumption, and make informed decisions about their own consumption. On the practical side, harm minimisation refers to those practices, policies and activities on both the supply and consumption side that practically limit and reduce the potential harm associated with the mis-use of alcohol. A wide range of industry-developed harm minimisation measures have been introduced in recent times to mitigate the negative impacts of alcohol mis-use, examples of which include: free service of water and non-alcoholic beverages at venues, product labelling and the advent of health warnings, mid and low-strength alcoholic beverages, voluntary RSA codes and practices, serving containers and glasses marked with measured quantities, service of free food with alcohol service, promotion of the standard drink concept, and action and policies aimed at banning or discouraging rapid or excessive consumption of liquor.

Additional information on harm minimisation and the Australian Government's policy framework for reducing harms associated with alcohol and illegal drugs consumption may be found at www.nationaldrugstrategy.gov.au

Liquor Accords: At the local level, Liquor Accords play an increasingly important role in identifying and addressing issues which are negatively impacting that local community, including the use and mis-use of alcohol. Local, voluntary, aim to develop and action local solutions to local problems. Accords serve to link licensees, local authorities, community leaders and other local businesses together so that practical solutions can be found and strong communications applied. Accord groups can deal with a range of problems and concerns including business practices, personal behaviour, noise, pedestrian and general safety, lighting, traffic or similar social and community issues. The beauty of Accords is that people want to be involved and that locals are empowered by the Accord process to find practical and enduring solutions to local problems. This stems from their voluntary status, and the fact that solutions are adopted, not imposed from outside. Our industry supports the retention of Liquor Accords in their current role as supplements to the regulatory regime, and does not support Accord participation being made mandatory.

Liquor Accords are of particular value and effectiveness in late night entertainment precincts where specific factors such as high patron numbers, youth orientation, higher rates of drugs usage, higher venue density, and strong demand for facilities such as taxis and toilets can generate specific problems and operational challenges. In our view, it is not necessary to legislate the function or obligations around NT Liquor Accords, this being consistent with the approach in other Australian jurisdictions. It is recommended that the relevant industry Code of Practice should include a requirement that licensees exercise their best endeavours to attend and participate in voluntary local liquor Accords.

Compliance jurisdiction and dispute resolution: Currently, some Territory licensees are subject to a different compliance regime compared to other licensees by virtue of whether they are subject to Police compliance and enforcement action, or action by liquor licensing officers. This is particularly the case in regional townships such as Nhulunbuy and Tennant Creek. The practical outcome of this situation is different administrative processes and different penalties, one involving a court-based system whilst the other involves an administrative justice system. In the interests of fairness and equity, we should aim to progress to a uniform system of adjudication and penalties, related to liquor. The inequity is amplified by the fact that defence of court-based justice imposes significant costs on the licensee, whilst the administrative approach generally involves self-representation.

Police officers play an important and integral part in community safety and law and order issues in all regional areas, including in and in support of licensed premises. Licensees welcome the support of and in turn support the efforts of police officers and the Police Force in its involvement with the licensed industry.

However, on occasions, the priorities and views of Police officers and individual licensees will differ, sometimes resulting in dispute, and a negative impact on the licensee's trade and business reputation. The nature of the power imbalance, and the convoluted nature of the Police complaints investigation process, means that speedy resolution of any complaint by a licensee is not possible. This means that complaints made by licensees are frequently bogged down in administrative processes, and the issue at the root of the complaint continues to fester, with the result that any working relationship between the venue and local Police is disrupted and may continue to deteriorate further. In some cases, venue trade is disrupted, and patrons and staff are intimidated to the point of avoiding the venue. It is our view that, given that the complaints almost always relate to licensing matters, it is appropriate that such complaints be referred to and resolved within the liquor licensing jurisdiction through the appointment of a licensing officer with relevant experience to mediate or resolve the complaint.

Transport Services: Due to its large size and small population, the Northern Territory suffers from inadequate public transport and general passenger services in most areas. This contributes that a higher than average dependence on the use of private vehicle and public roads for personal and passenger transportation. In particular, the absence of reliable public bus and taxi services in many parts of the Territory, including Katherine and the rural residential areas around Darwin, increases to temptation for, and incidents of, driving under the influence of alcohol. Some licensed businesses operate a part-time or full-time courtesy bus service as a means of promoting customer loyalty and as a patron care measure, particularly in remote areas. However, the wider use of such services is limited by the reality that they are not commercially attractive, and that sourcing reliable, suitably qualified, irregular hours drivers is an ongoing challenge. There are a number of longer term but high investment solutions to this situation which include:

- Amendments to existing Commercial Passenger Vehicle regulations aimed to increase the carrying capacity of taxis, mini-buses and ride sharing businesses such as Uber;
- Improve the capacity and frequency of services of public transport systems such as buses and subsidised taxi services;
- Extend the operating hours of public transport (buses) where they are available, particularly during major events and peak periods such as the peak of the tourist season; and

- Incorporate longer-term planning for public and commuter transport into development planning around major population centres and, specifically, the expansion corridors of Darwin.

In relation to Darwin, a specific problem exists in relation to the availability of all forms of public and commercial passenger services during peak periods, including the dispersal of late-night patrons from the CBD Entertainment Precinct, dispersal from major sporting and entertainment events, and travel to and from the airport, where flights are often concentrated together for reasons of economy at the airport end. During peak tourist season, this lack of public transport, general passenger carrying capacity, and limited numbers of hire vehicles impacts on negatively on tourism, and has the potential for reputational damage if not addressed over time.

It is understood that the points raised above are well known and that their resolution will involve public investment over time. However, transport availability and cost remains a relevant factor in any consideration of the licensed and entertainment industries in the NT, and consideration of factors with the potential to reduce community harm.

City of Darwin safety patrols: In conjunction with the Darwin CBD Liquor Accord group, it is recommended that the City of Darwin Council assess the feasibility of establishing and trialling a form of public safety patrol within the CBD to operate on weekend nights and during major events such as Darwin Cup and Territory Supercars to monitor and visit hot spots, to act as a conduit for emergency services support, to provide immediate assistance to any patron in distress, and to generally add depth and coordination to the existing venue security operations. Such services operate effectively in Townsville, Airlie Beach and on the Sunshine Coast using civilian volunteers.

Security at fast food outlets: As with other Australian jurisdictions, the NT is experiencing an increase in assaults and other anti-social offences in and around fast food outlets, particularly in the peak trading periods on weekends after 10.00 PM. These food outlets are popular with young people and are a natural gathering point for many of those who are out late at night and looking for entertainment, toilets and sustenance. It would be helpful and in the interests of public safety if the Police Force could undertake, on request, a risk assessment of fast food outlets in major towns in the NT aimed at assessing the risk and history of patron violence, and advise of the options for increasing security and improving customer safety at specific locations.

SUMMARY

Oversight and progressive improvement of the Northern Territory's relationship with alcohol throws up some unique challenges for the Government, the licensing regulator and all of those involved in the licensed and hospitality businesses. Alcohol is a social lubricant, the use of which is deeply embedded in Australian culture and it is wishful thinking to say that we can ignore its role and influence in Australian society.

Whilst the large majority of Australians consume their alcohol in a responsible and healthy manner, just like other aspects of human endeavour, some of us overdo it and mis-use alcohol which sometimes results in negative, anti-social, criminal or fatal outcomes.

The licensed industries play an important role in the NT's economic life, generating major investment, underpinning tens of thousands of real jobs, providing a social outlet for families and

individuals, assisting tourism, and paying high rates of tax and public charges which benefit all Territorians.

In considering alcohol mis-use, and its potential and real impacts on Territory families and individuals, we should recognise that this process is a continuum, and that much has already been achieved. Research shows that many of the key statistics are trending in the right direction as a result of changing community attitudes, sensible policy intervention, licensed industry initiatives, or generational change. For example, rates of drink-driving are in steady decline across all Australian jurisdictions, per-capita alcohol consumption has been trending downwards for more than 30 years including in the NT, age of 'first alcoholic drink' is continuing to increase, and the percentage of the population who record as 'never drink' is steadily increasing.

It must also be recognised and appreciated that almost three quarters of alcohol consumption by volume occurs at other than a licensed footprint, general in domestic homes or public spaces. It follows, therefore, that our ongoing attempts to minimise the adverse outcomes of alcohol mis-use must address the whole of community opportunities for attitude and cultural change as well as the lower hanging opportunities. Consequently, whilst specific measures have been and can be implemented in and around licensed businesses to deter, prevent and mitigate the direct effects of alcohol mis-use, the wider issue of cultural change around mis-use and violence in the community must be addressed if a universal and enduring remedy is to be found over time.

If there is one single area of greater concern in relation to alcohol in the Territory, it is availability. We currently have an over-supply of takeaway liquor outlets and options and this circumstance does not apply in any other Australian jurisdiction. This submission expands on that problem, and offers some basic suggestions for remedy.

The nature of the challenges that confront those involved in the regulation and supply of liquor are complex and multi-faceted. As a community, we need to continue down the path of promoting and living a responsible drinking culture, where the obligations of our licensees are complemented by the responsibilities of the individual, within a responsible practice framework. Reform measures which simply add more rules and costs for industry, whilst raising taxes and ignoring patron accountability, will simply invite a sceptical response.

AHANT and its members looks forward to continuing to contribute to the ongoing development of a more responsible drinking culture in the Northern Territory, where the rights and responsibilities of licensed businesses and their patrons are in appropriate balance.

ANNEXES:

A: Draft NT Liquor Licence Category Table

B: AHANT responses to specific questions raised in the Discussion Paper

Possible Licence Categories

Restaurant/Café Licence

Principal Purpose: A premise where the sale and supply of food to the public for consumption on the premises is the principal purpose of the business.

Trading Hours: 7 days a week – **10.00am to 2:00am**

A restaurant may opt to limit trading hours (e.g. cease the service of food by 10.00pm)

Trading Good Friday and Christmas Day.

Conditions: Liquor is only available in conjunction with the consumption of a meal.

1 ½ hours after the kitchen closes no new patrons are allowed to enter into the premise.

Breakfast trade is authorised without the sale of liquor.

Seating is to be provided for all patrons.

There is no facility for take-away alcohol.

Tavern/Hotel Licence

Principal Purpose: A premises where the sale and supply of liquor to the public is permitted for consumption on or off the premise.

CLASS 1

<p>Class 1 (A) Trading Hours: 7 days a week - 10am to midnight No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted There is no facility for take-away alcohol</p>	<p>Class 1 (B) Trading Hours: 7 days a week - 10am to midnight No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director-General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted Take away alcohol is permitted – trading hours for bottleshops is 10am to 10pm – Sunday to Friday and 9am to 10pm on Saturday & Public Holidays (Excluding Good Friday & Christmas Day).</p>
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CLASS 2

<p>Class 2 (A) Trading Hours: 7 days a week - 10am to 2am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions:</p>	<p>Class 2 (B) Trading Hours: 7 days a week - 10am to 2am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted</p>
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Gaming is permitted There is no facility for take-away alcohol	Take away alcohol is permitted – trading hours for bottleshops is 10am to 10pm – Sunday to Friday and 9am to 10pm on Saturday & Public Holidays (Excluding Good Friday & Christmas Day).
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CLASS 3

<p>Class 3 (A) Trading Hours: 7 days a week - 10am to 4am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted There is no facility for take-away alcohol</p>	<p>Class (B) Trading Hours: 7 days a week - 10am to 4am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director of General Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted Take away alcohol is permitted – trading hours for bottleshops is 10am to 10pm – Sunday to Friday and 9am to 10pm on Saturday & Public Holidays (Excluding Good Friday & Christmas Day).</p>
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Club Licence

Principal Purpose: A premises where the sale of liquor is available to members and bona fide guests of an incorporated clubs that participates in or promotes sport and recreational activity. The sale of liquor is for consumption on or off the premises.

CLASS 1

<p>Class 1 (A) Trading Hours: 7 days a week - 10am to midnight No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted There is no facility for take-away alcohol Members register and visitors sign in book must be kept and maintained.</p>	<p>Class 1 (B) Trading Hours: 7 days a week - 10am to midnight No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted Take away alcohol is permitted – trading hours for bottleshops is 10am to 10pm – Sunday to Friday and 9am to 10pm on Saturday & Public Holidays (Excluding Good Friday & Christmas Day). Members register and visitors sign in book must be kept and maintained.</p>
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CLASS 2

Class 2 (A) Trading Hours:	Class 2 (B) Trading Hours:
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<p>7 days a week - 10am to 2am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted There is no facility for take-away alcohol Members register and visitors sign in book must be kept and maintained.</p>	<p>7 days a week - 10am to 2am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted Take away alcohol is permitted – trading hours for bottleshops is 10am to 10pm – Sunday to Friday and 9am to 10pm on Saturday & Public Holidays (Excluding Good Friday & Christmas Day). Members register and visitors sign in book must be kept and maintained.</p>
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CLASS 3

<p>Class 3 (A) Trading Hours: 7 days a week - 10am to 4am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted There is no facility for take-away alcohol Members register and visitors sign in book must be kept and maintained.</p>	<p>Class (B) Trading Hours: 7 days a week - 10am to 4am No Trading Good Friday and Christmas Day unless accompanying a substantial meal. There is the ability for licensees to advise the Director General of Licensing for a 2 hour extension on the Eve Public Holiday's. Conditions: Gaming is permitted Take away alcohol is permitted – trading hours for bottleshops is 10am to 10pm – Sunday to Friday and 9am to 10pm on Saturday & Public Holidays (Excluding Good Friday & Christmas Day). Members register and visitors sign in book must be kept and maintained.</p>
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Limited Club Licence

Principal Purpose: A premises where the sale of liquor is available to members and bona fide guests of an incorporated clubs that participates in or promotes sport and recreational activity. The sale of liquor is for consumption on or at the licensed premises.

Trading Hours: 7 days a week 10am to midnight – with a maximum of 10 hours trading per week.

Conditions: No gaming

There is no facility for take-away alcohol

Members' register and visitors sign in book must be kept and maintained.

Off-Premise Supermarket Licence

Principal Purpose: The supply of liquor for take away is ancillary to the supply of general grocery store items. The off premise liquor outlet must be physically joined to the general grocery store, with the predominate activity being the sale of general grocery items. The total floor space of the supermarket must be predominately used for the sale of general grocery items, therefore liquor shall be no more than 15% of the total floor area or 25% of total turnover.

Trading Hours: Monday to Friday – 10.00am to 10.00pm, Saturday and Public Holidays -9.00am to 10.00pm.

No trading Sundays

No trading Good Friday or Christmas Day.

Conditions: Tasting is allowed.

Off-Premise Liquor Merchant Licence

Principal Purpose: A premise that provides for the sale of packaged liquor to the public for consumption off or away from the licensed premise.

Trading Hours: Monday to Friday – 10.00am to 10.00pm. Saturday and Public Holidays -9.00am to 10.00pm. No trading Sundays, Good Friday or Christmas Day.

Conditions: Tasting is allowed.

Off-Premise Limited Retail Licence

Principal Purpose: The sale and supply of liquor shall be ancillary to the sale or supply of other goods and services, normally associated with rural and pastoral industries. The licence shall remain in force for only as long as the business conducted at the licensed premise shall be predominately that of a supplier of goods and services.

Trading Hours: Monday to Saturday (including Public Holidays) – 12.00 to 9.00pm. No trading on Sunday, Good Friday or Christmas Day. A limited retailer licensee can apply for extended trading hours in order to load their trucks for deliveries. This can be assessed on a case by case basis with the Director General of Licensing, through entering an Enforceable Undertaking.

Conditions: The licence does not allow the licensed premises to have stock on public display or act or operate as a Retail outlet i.e. with either a showroom or internet sales. Liquor sales are ancillary to the sale of other goods and services and sold only to bona fide account customers.

Off-Premise Producer Licence

Principal Purpose: A licensed premises that brews or produces their own liquor for sale directly to the public via cellar door. This licence also allows the brewer/producer to sell their product for wholesale to other licensed businesses.

Trading Hours: Monday to Friday – 10.00am to 10.00pm, Saturday and Public Holidays – 9.00am to 10.00pm. No trading Sundays, Good Friday or Christmas Day.

Conditions: Trading is not permitted in liquor product other than that produced by the licensee. Tasting is allowed.

Event Licence – (Via Temporary Variation of Tavern / Hotel Class 1(A) 1(B) 2(A) 2(B) 3(A) 3(B) & Club Class 1(A) 1(B) 2(A) 2(B) 3(A) 3(B) Licence Categories Only)

Principal Purpose: The sale and supply of liquor to the public for consumption at an event.

Trading Hours: Dependent on the type of event.

Conditions: There is no facility for take away alcohol from the location of the event. Dependent on the type of event, other conditions may apply.

Ancillary/Subsidiary Licence

Principal Purpose: A venue or facility where the sale of liquor for consumption at the venue or on the facility is ancillary or subsidiary to the business's primary purpose and only available to bona fide guests. This type of liquor licence cannot be sold; it applies solely for a specific purpose or use.

This type of licence would apply for venues such as function or convention centres, where the guests of a convention are considered the bona fide guests and vessels, where the guests on the vessel are considered the bona fide guests.

Trading Hours: 7 days a week – opening types may vary greatly and are determined on a case by case basis.

There is no facility for take away liquor.

Private Hotel Licence

Principal Purpose: Where the sale and supply of alcohol is for bona fide lodgers and their guests at commercial accommodation properties.

Trading Hours: standard restaurant and bar areas are 10am to 2am.

Special Conditions:

Bona Fide Lodgers: Liquor may be sold at any time to bona fide lodgers of the premises or invited guests of the lodger (in the presence of the lodger) by way of Mini Bar.

Room Service: Liquor may be sold to bona fide lodgers of the premises or invited guests of the lodger (in the presence of the lodger) by way of Room Service between the hours of 10:00 to 22:00 (subject to variation).

Public Hotel Licence

Principal Purpose: Where the sale and supply of alcohol is for bona fide lodgers and their guests at commercial accommodation properties.

Trading Hours: standard restaurant and bar areas are 10am to 2am.

Conditions:

Bona Fide Lodgers: Liquor may be sold at any time to bona fide lodgers of the premises or invited guests of the lodger (in the presence of the lodger) by way of Mini Bar.

Room Service: Liquor may be sold to bona fide lodgers of the premises or invited guests of the lodger (in the presence of the lodger) by way of Room Service between the hours of 10:00 to 22:00 (subject to variation).

Outside catering: For the purposes of catering for outside functions, liquor shall be sold for removal and consumption away from the premises during the takeaway hours ancillary to a substantial meal, provided notification is given to the Director-General at least 72 hours prior.

Banquet/Conference

Rooms: On any day between the hours of 10:00 and 02:00 (the following day) when required by users of the facilities. For special functions trading may be extended until 04:00 hours (the following day) provided notification is given to the Director-General at least 72 hours prior.

Bona Fide Lodgers

Takeaway Hours: Liquor shall be sold only for consumption away from at the premises to bona fide lodgers during the following hours:

- (i) Monday to Friday inclusive between the hours of 10:00 and 22:00; and
- (ii) Saturday and Public Holidays between the hours of 09:00 and 22:00.
- (iii) No trading on Good Friday or Christmas Day.

Roadside Inn Service and Unserviced Licence

Principal Purpose: A premises where the sale of alcohol for consumption on, at or away from the licensed premise and to bona fide lodgers. The premise must maintain reasonable stocks of motor fuels and oils available to the travelling public 24 hours per day. Traditionally called a Wayside Inn.

Trading hours: 7am to 11pm (on-premise)

Takeaway Hours:

Liquor shall be sold only for consumption away from the premises during the following hours:

- (i) Sunday to Friday inclusive between the hours of 10:00 and 22:00;
- (ii) Saturday and Public Holidays between the hours of 09:00 and 22:00; &
- (iii) No trading on Good Friday or Christmas Day.

Conditions:

Premises May Remain Open: The premises may remain open for the sale of liquor after 23:00 hours provided that the other main services of the premises (fuel, food and accommodation) are also made available to the travelling public upon request.

Bona Fide Lodgers: Liquor may be sold at any time to bona fide lodgers of the premises or invited guests of the lodger (in the presence of the lodger) for consumption on the premises (subject to variation).

Meals to be provided: At all times during which the licensed premises are open for trade, the Licensee shall provide, upon request, meals or snacks.

RESPONSES TO SPECIFIC QUESTIONS FROM THE DISCUSSION PAPER

The Review Discussion Paper poses a number of specific questions on pages 27, 28 and 29 of the Paper. This section provides a basic, 'short form' response to a number of relevant questions from an AHANT perspective to provide submission readers with a quick reference to the AHANT and wider industry position on these specific matters. Additional information in relation to these specific questions is included in the attached AHANT submission, and additional input can also be provided to the Review Panel on request, or through verbal submission by AHANT staff.

GENERAL MATTERS:

Q: 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 ?

A: Yes, there should be a distinction in the approach and strategies to focus remedies and interventions on identified 'at risk' groups. In most areas, we have enough knowledge to gather data and evidence aimed at finding and executing workable solutions. For example, and by way of (obvious) example. There are a number of obvious problems related to the relationship between remote Aboriginal communities and alcohol. In attempting to minimise harms in such communities, we should examine the evidence to find specific, targeted, solutions and policies to address the issues relevant to remote, Aboriginal communities. This philosophy also applies to specific areas of interest such as: youth education (about alcohol), packaged liquor policy, late night trading, the 'overlap' between alcohol and drugs, and other areas.

SAFE AND VIBRANT ENTERTAINMENT PRECINCTS:

Q: Are the current voluntary Accords working ? Should the Accords be mandated ?

A: The Accord system and guidelines are working, Accords as a voluntary measure have the support of industry, and the Accord process is working satisfactorily, as conceived. Accords are designed as forums in which to derive and implement local solutions for local problems, and are not a policy incubator. There is a specific problem with the Darwin CBD Accord in that, despite the Police and the industry stakeholders agreeing a range of measures aimed at renewing and re-invigorating the CBD Accord, Licensing NT seems most reluctant to become engaged in the process and endorse the Accord proposals. This important Accord needs to be supported across all stakeholders, including the licensing regulator, as a matter of urgency. Accord development and participation should remain voluntary, but should be considered as being a best practice measure both licensees and the regulator.

DENSITY AND SIZE:

Q: Are there too many liquor licenses in the Territory ? If so, how should they be reduced in size ?

A: There is a clear over-supply of takeaway outlets and licenses, and there are too many approved liquor licenses in the Darwin CBD. It has become too easy to obtain a liquor licence in the Territory, and the compliance regime is not sufficiently assertive to ensure that licensed businesses remain trading within the trading conditions envelope for which the licence was originally approved. For example, restaurant businesses (on licence) evolving their business

model over time and morphing into bar and nightclub style businesses. We should take sensible measures aimed at reducing the number and retarding the growth in licence numbers until such times as the Territory meets ratios of takeaway outlets more in line with other jurisdictions, especially in regards to takeaway stores.

Q: Are there areas where there are too many outlets ? If so, how can the numbers be reduced?

A: There are too many takeaway outlets in the Territory, with the market in an over-supply situation. For illustration, there are almost three times as many retail liquor outlets per capita in the NT, compared to Queensland which has reasonably similar demographics and population distribution. The number of takeaway outlets should be reduced over time by:

- Slowing the rate of approval of new takeaway outlets, compared to population growth;
- Applying tighter audit and compliance checking to existing takeaway stores, including checking the ratio of liquor to grocery sales more carefully to ensure that such stores are meeting their licence conditions and that their business model is viable;
- The current Moratorium measures should be retained, and enshrined through regulation;
- Increase the application fee (non-refundable) for all categories of new liquor licence in the NT to a much higher fee, suggested up to \$10,000;
- New takeaway licence applications should be limited to new residential greenfield sites and any commercial hub connected to, and integral to that greenfield site, as outlined in the current Moratorium policy framework; and
- *Takeaway Guidelines* should apply to applications for substitution involving takeaway licences.
- There should be no approval or relaxation of policy to enable the establishment of 'big box' retail liquor outlets.
- Possible consideration of a licence buy-back scheme.

Q: Should the existing number of outlets and their hours of trading in the area be a relevant consideration when deciding a licence application ?

A: Yes, research shows a clear link between licence density, competition forces, and potential mis-use of alcohol. In a small market such as the NT, industry, regulator and local knowledge allows the luxury of being able to assess in advance the likely social and economic impact of the approval of a new licensed business in a particular area. One way of bringing improved discipline into the licence application process is to request a basic Community Impact Statement and/or Business Plan to be submitted with each liquor licence application. Detailed CISs would enable the public to assess the likely impact upon the amenity of the neighbourhood before a liquor licence was approved. It should deal with:

- Planning approval;
- Traffic considerations;
- Noise risk management;
- Volume of alcohol proposed to be sold;
- Distances from other licensed premises;
- Proximity to schools, childcare centres and places of worship;
- Local employment opportunities;
- Alcohol marketing plan and alcohol media promotions; and
- Proposed alcohol signage.

This measure would permit the decision maker to better assess the likely impact of the proposed licensed business on the local community and the other businesses already in place. This comment applies particularly to businesses located in entertainment precincts, and to the takeaway market in general.

Q: Should the Territory permit new big-box or warehouse style takeaway liquor outlets ?

A: No, given the already over-supplied nature of the takeaway sector, it is clear that the approval or advent of large Bunnings-style liquor barns would impact negatively on the Territory's relationship with liquor. The buying power of these types of business, and their history of operation in other jurisdictions, demonstrate that it is clear that such businesses generate downward pressure on prices and the ability for consumers to purchase greater volume of alcohol for the same dollar cost. Given that one of the pillars of the NT's licensing policy is limiting the availability of liquor products, it seems obvious that the time for liquor barns has not yet arrived in the NT. Large liquor barn outlets represent a direct contradiction of the Territory's three pillars harm minimisation approach, in that their business models aim to increase demand, increase supply, and, by extension, increase potential harm. The NT Government has previously indicated policy support for a maximum size of 400 square metres for all takeaway stores. This policy should be retained and the size limits extended to licensed hotels and clubs.

Q: 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 ?

A: The NT Government has previously indicated policy support for a maximum size of 400 square metres for all takeaway outlets. This policy should be retained.

Q: Should further restrictions be placed on venues licensed to sell takeaway alcohol ?

A: The current conditions and restrictions are satisfactory. However, some takeaway outlets, mainly in the liquor store category, continue to flagrantly abuse the conditions set for the licensed operation including in relation to advertising, store branding, floor space allocation, and ratio of liquor sales to other product sales. In many cases, lip service only is paid to the condition that liquor sales be undertaken 'ancillary' to the main purpose of the store business. This sector needs to be the subject of direct and ongoing audit, compliance visitation and, if necessary, penalty action.

LIQUOR LICENSING, SUPPLY OF ALCOHOL AND THE *LIQUOR ACT*

Q: Should there be public hearings for applications and complaints and if so in what circumstances ?

A: In relation to licence applications for new liquor licenses and substantial substitution licence applications, we support transparent public hearings with robust examination.

Traditionally, many complaint processes have been resolved through initial mediation. It would be appropriate for unresolved complaint processes to proceed to a public hearing.

Q: Does the lack of defined categories of licence inhibit the ability of members of the public to submit meaningful objections to applications ?

A: Yes, members of the general public are, understandably, not at all knowledgeable about the intricacies of a liquor licensing regulatory framework or its procedures. Generally, people only get 'engaged' with such issues because they are directly affected by geography,

business competition, or a potential social such as a school or a childcare centre. Notwithstanding, requiring liquor licence applicators to spell out the full nature of licensed services, including the scale of the proposed business, would provide greater transparency and public benefit, and would help to prevent misleading, stealthy and camouflaged applications from negatively impacting community rights (see below).

If the CIS contains sufficient information about the category of licence proposed, and the likely impact on the amenity of the neighbourhood, as a consequence of the proposed business operations, then potential objectors are better informed as to the real potential impact of such a licence.

Of more concern to the average citizen is the now common practice of liquor licensees progressively evolving their business after it is established, into a type of licensed business that is significantly removed, and more assertive, compared to the original liquor licence application. The main culprits in this regard are businesses which commence as a restaurant, and then evolve over time to become a bar or a nightclub business where food is a secondary consideration and profit centre. The main problem with this type of evolution is that the bar/nightclub brings with it a large range of new side-effects that were not envisaged when the original restaurant licence application was considered. Noise, parking, later trading hours, patron egress activity, drink containers left in the street, public urination, amplified music, possible drugs use, and bright lighting, to name a few. However, once the liquor licence has been granted, it is much more difficult for the local community to enforce its original conditions that it might have been from the outset.

Q: Should standard conditions apply to clearly defined licence categories ?

A: Yes, it is essential for the orderly economic development of the licensed industry and the effective regulatory compliance of the industry that the various types of liquor licence are clearly, accurately and comprehensively defined, and that licensed venues subsequently operate within the envelope of their approved licence category and conditions of trade. In particular, in relation to the official assessment and consideration of new licence applications, and the potential for such new licensed businesses to either distort the local market or contribute disproportionately to community harm, it is essential that the type of licensed business being proposed is fully disclosed and examined at the point of application.

A large majority of Territory industry licensees continue to be concerned about this ongoing trend for some licensed businesses to progressively evolve into a style of business which is significantly removed from the category of liquor licence for which they applied, and which they are approved to operate. This 'bracket creep' is distorting the market, not being effectively policed, and contributing significantly to the easy availability of alcohol in the community. Put simply because the existing licensed categories are not specific enough or defined enough and policed enough by the regulator, in terms of the entitlements and obligations relevant to specific licensed types, some licensees are able to expand the scope and nature of their businesses without regulatory involvement and appropriate licensing oversight, and avoid community and regulator scrutiny as intended under the *Liquor Act*.

Such abuse can be stopped by the simple mechanism of creating a specific and detailed categorisation for each of the liquor licence types currently available in the Territory. By better defining the rights, conditions and limits of each liquor licence category, both licence

holders and the licencing regulator will be in no doubt as to where the boundaries of a particular business lie, and what the commercial rights and limits of each business are. Creating accurate definitions for each licence category will ensure that all current and future liquor licenses will be consistently categorised, ensuring improved transparency for all stakeholders, easier and more effective consideration of new licence applications, and investment and regulatory certainty for licensed businesses. It is recommended that a more specific classification system incorporating improved and more accurately defined and stricter liquor licence categories be developed and incorporated into the *Act*.

Whilst the AHANT has made formal and substantial representations on this issue since 2014, the issue has not been taken up by the government or the regulator. Please see Annexe A of this paper (attached) for a simple guide to licence categories suggested by the AHANT – a document such as this might be used as the basis for future stakeholder-wide consultation.

Q: Should licences continue to be issued in perpetuity or a defined period. If so, what period ?

A: Yes, currently, NT liquor licenses are granted in perpetuity or until cancelled or surrendered. There is a small application fee, but no other licence fees are payable while the licence is in place. This situation acknowledges the major contribution that licensed businesses make to the economic life of the Territory, the large amount of taxes, fees and public charges that derive from these businesses, the absence of any ongoing administrative cost to maintain the liquor licence, and the relatively small population base that would require annual or periodic licence renewal processing. This is a clear case of “it ain’t broke”, and there exists no compelling case for change.

Q: Should there be a system of annual or periodic licence fee ?

A: No, in the large Eastern states where annual fees have been introduced, the average size of these annual licence fees across the jurisdictions where they are imposed is around \$2,500 per annum per venue, and the fees are calculated, collected and administered by the liquor licensing authority. Over the period since 2012 some of the smaller states including Tasmania, South Australia and Western Australia have examined the feasibility of adopting some form of risk-based annual licensing fees, but have concluded that such an approach is not appropriate in their jurisdiction and that the amount of fees/revenue collected does not justify the administrative effort required and the negative impact on licensed businesses.

The considered view of AHANT is that the introduction of annual liquor licence fees, whether they be risk-based or otherwise are not justified by the size, nature and risk profile of the Territory’s licensed environment. In times gone by, licensed businesses paid an annual ‘licence tax’ based on wholesale sales data. With the advent of revised taxation arrangements, including the introduction of a Goods and Services Tax in 2000 (GST), the wholesale tax arrangements on liquor were rolled into the GST taxation formula, with the GST proceeds collected on all retail sales of liquor in the NT being rebated to the NT Government. So, in affect every holder of a NT liquor licence continues to pay a higher rate of annual taxation directly related to their ability to pay through sales turnover. Also, Commonwealth excise on alcohol products continues to apply in addition to GST.

On a more practical note, it is axiomatic that for a business to invest in its future it must first be profitable. This is particularly the case when it comes to important but nevertheless optional parts of the business that often involve responsible practice and patron care measures. Measures such as staff compliance and training, provision of courtesy transport, installation and maintenance of CCTV, quality signage, installation and maintenance of high quality ablution facilities, and a range of OH&S measures all require the host business to be profitable if they are to be implemented and maintained. Therefore, any imposition of a new form of annual licence fee, whether it be risk-assessed or otherwise, will serve as a counter-productive disincentive for all licensed businesses in the NT to invest back in themselves, including in a range of desirable and best-practice patron and staff care measures.

What is not sometimes well understood is that the liquor licence is the cornerstone of the financial obligations and accountabilities of many licensed businesses. In medium to larger business, the stability and certainty associated with an enduring licence provides certainty to financial and other institutions about the future viability and security of that business. Any change to a system of annual renewal of liquor licenses would threaten that linkage and assumed stability in relation to bank debt and lending practices, and could even trigger or contribute to the calling-in of loan instruments. In short, any form of temporary or non-continuous liquor licensing system is a threat to the financial stability of the major licensed businesses of the Territory. The same circumstances apply to the stability of long term business leases, which applies to the majority of large businesses in Darwin and elsewhere in the Territory.

Q: Should licence fees be calculated on a risk-based model or some other model ?

A: No, there should be no annual liquor licence fee, risk-based or otherwise. The panel should be of no doubt that these fees are despised in the jurisdictions where they have been introduced, are complex and costly to administer, and are seen for what they are, simply a state tax in (shallow) disguise. There should be no new annual licence 'fee' in the NT, and no justification has been offered for such a proposal.

Q: Should the NTG support the Commonwealth in investigating a volumetric tax system ?

A: Whilst it is agreed that there is some advantage inherent in a volumetric taxation system for alcohol sale, particularly as it applies to the anomaly in relation to wine and low-price alcoholic beverages, and notwithstanding the recommendations of the Henry Review into national taxation arrangements, there is currently no political appetite for change in the current taxation system. Accordingly the AHANT sees this measure best addressed through minimum pricing until the Federal approach changes.

Q: Should other pricing mechanisms be adopted such as restrictions below a particular price ?

A: Not for general application, but perhaps in some circumstances. Industry supports an object in all *Codes of Practice* which discourages irresponsible behaviour through excessive discounting of alcohol. This can be actioned by defining 'excessive discounting of alcohol' through the Codes relating to on-premise and takeaway supply. It would be appropriate to consider excessive discounting in two areas, one relating to pricing and the other relating to advertising.

The industry generally supports venues using price points as a marketing tool to promote and attract markets provided the pricing being promoted is not regarded as excessive discounting. This applies to both on premise and takeaway sales. An appropriate Guideline on excessive discounting would set parameters for which venues can develop their promotions and would provide certainty as to whether the discounted prices were regarded as excessive discounting likely to contribute to harm.

Whilst the Act provides for local liquor Accords to charge a particular price for liquor, this only applies to the (voluntary) participants of the Accord in that area. The weakness in this approach is that such minimum pricing is not applicable to all licensed businesses in that area.

Traditionally, minimum or specified pricing has been seen as a mechanism to prevent 'bar wars' involving low price competition for on-premise trade in the night-time economy. However, in the Territory measures have been attempted to be introduced to specify minimum pricing for cask and bulk wine to counter excessive consumption and mis-use by a specific category of patron.

Minimum pricing became an issue of interest to the Australian Competition and Consumer Commission (ACCC), with the result that well-intentioned licensees were breached and fined for anti-competitive practices. This issue has been partially corrected through the passage of Section 120C(1)(b)(v) which authorises or requires any licensee who is a party to a particular Accord to charge a particular price for liquor.

AHANT submits that a form of this power should be incorporated in the *Act* for general application as required, and that a relevant minimum price should be determined from time to time by Licensing NT for the relevant product, in consultation with licensees and suppliers. For example, in the Darwin CBD Entertainment Precinct it could be required that a minimum price of \$5 be applied for each full nip of spirits on-premise. Minimum pricing would simply be another weapon in the regulator's quiver to be used in a targeted manner to address and rectify excessive discounting for competition or other reasons,

Q: Are the offences and penalties related to sly grogging sufficient to deter such activity ?

A: No. The penalties regime should be increased significantly to underline the degree of commitment that the NTG and its community has to maintaining the safety and integrity of dry communities and areas. The real problem with sly grogging is not necessarily the scale of the penalties regime, but to evidential test required to attain a conviction. Given the modus operandi of sly groggers, it is almost impossible for the police or licensing officers to catch the actual transaction in progress, 'in the act' so to speak. Consequently, the enthusiasm of the law enforcement community on the ground to undertake enforcement activities is low, and the perpetrators of these acts and crimes continue to snub their noses at the laws.

- End -