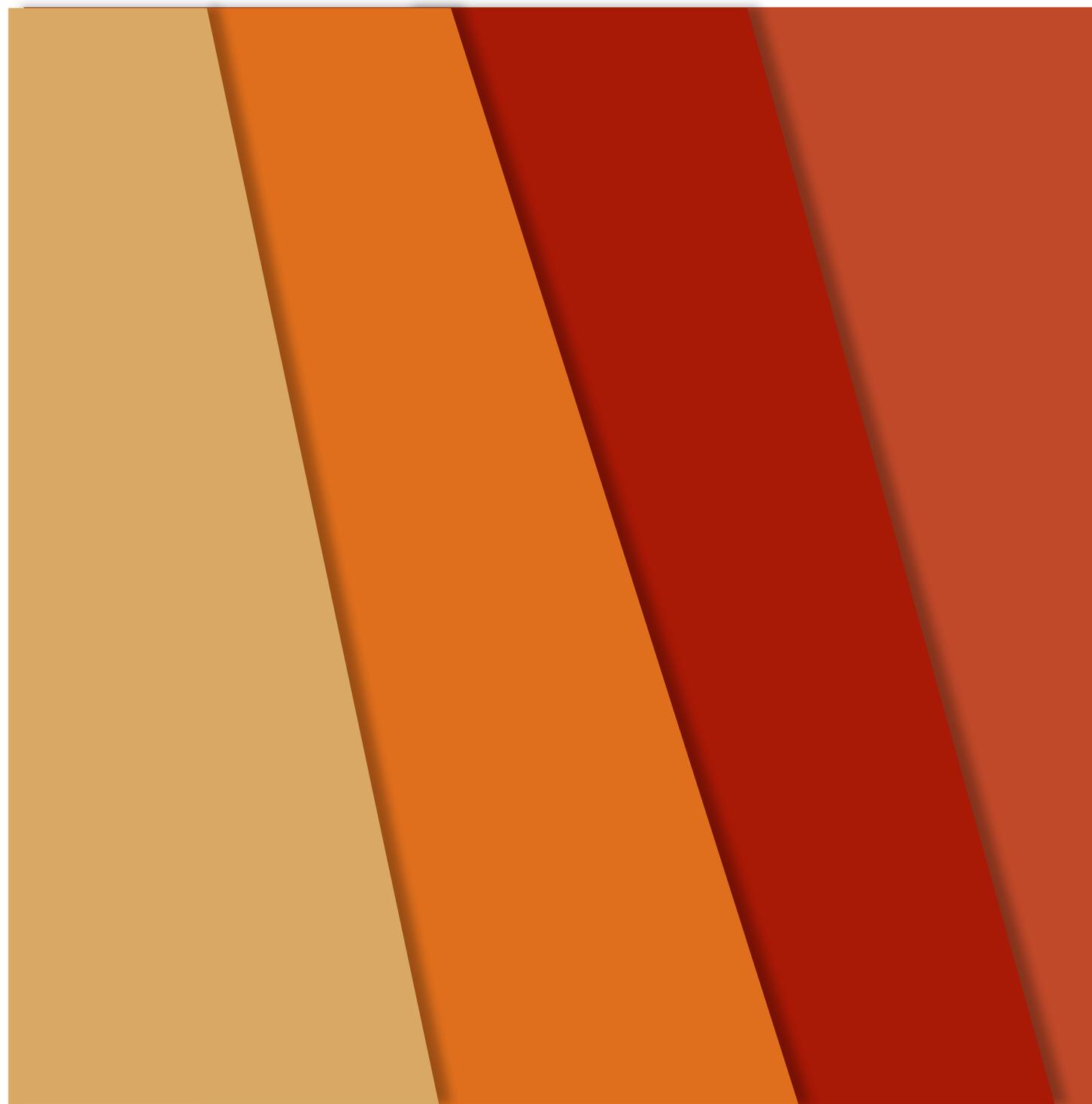


Alcohol Policies and Legislation Review

FINAL REPORT



October 2017

www.nt.gov.au



Table of Contents

Foreword	1
Acknowledgements	3
Background	3
List of Abbreviations/Acronyms	6
Definitions	7
Executive Summary	8
Recommendations	10
The Northern Territory Context	25
1. CHAPTER 1 – Whole-of-Government Approach	29
1.1 Whole-of-Government Approach.....	29
1.2 Changing the Culture.....	30
1.3 Research / Data / Evaluation.....	31
2. CHAPTER 2 Regulatory Framework	34
2.1 The <i>Liquor Act</i>	34
2.2 Who makes decisions under the <i>Liquor Act</i>	37
2.3 Application process and consultation.....	39
2.4 Liquor Licence Fees.....	40
2.5 Categories and Terms and Conditions of Liquor Licences	44
2.6 Density of liquor licences and the size of liquor outlets.....	58
2.7 Compliance and Enforcement.....	60
2.8 Responsible Service of Alcohol	67
2.9 Signage in licensed premises.....	69
2.10 Promotion and Advertising	70
2.11 Alcohol and Vessels.....	72
2.12 Restricted Areas.....	73
3. CHAPTER 3 Harm Prevention	82

3.1	Volumetric Taxation	82
3.2	Floor Price	83
3.3	Safe and Vibrant Entertainment Precincts.....	87
3.4	Major Events.....	92
3.5	Community Patrols (Night and Day Patrols, Community Safety Officers).....	92
3.6	Point of Sale Interventions (POSIs)	94
3.7	Foetal Alcohol Spectrum Disorder (FASD).....	94
3.8	Early Childhood and Education	100
3.9	Remote Workforce Development.....	103
4.	CHAPTER 4 Managing Harms	106
4.1	Treatment	106
4.2	Alcohol and Other Drugs Court	111
4.3	Drinking Spots.....	113
4.4	Managed Alcohol Programs (Wet Houses)	114
4.5	Sobering Up Shelters	117
	The Panel	120
	Terms of Reference for Consultation	121
	Key Themes from the ‘Have Your Say’ Survey	123
	History of other Northern Territory alcohol reviews, reports and initiatives	129
	Review of Liquor Permit Schemes Under the NT <i>Liquor Act</i>: Final Report Recommendations	130
	Managing Alcohol Consumption – A review on Licensed Clubs in Remote Indigenous Communities in the NT, Bowchung Report , 2015	133
	Comparison of Jurisdictional Fee Structures	134
	Alcohol Use Disorders Identification Test (AUDIT) (WHO)	137

Foreword

There can be no doubt the people of the Northern Territory of Australia have a problem with alcohol. Whilst it can be readily accepted that many people in the Northern Territory do not drink alcohol at all and most of those who do drink alcohol do so responsibly, the fact remains that we have a strong, entrenched and harmful drinking culture. We have a problem that must be addressed.

Regrettably, we hold an unenviable list of firsts. We have the highest per capita consumption of alcohol in Australia¹. It is amongst the highest in the world². We also have the highest rate of risky alcohol consumption in Australia with 44 per cent of people drinking at a level that puts them at risk of injury or other harms at 'least once in the past month', compared with 26 per cent of people nationally³. We have the highest death rate due to alcohol of any Australian jurisdiction⁴. We have the country's highest rates of hospitalisations related to alcohol misuse⁵. Forty per cent of all road fatalities in the Northern Territory involve an illegal blood alcohol concentration compared with less than 30 per cent in other jurisdictions⁶. Unfortunately, the list goes on.

It is well recognised that the impact of alcohol misuse is not just upon the individual, it extends to their family, friends and acquaintances and to the whole of the community in which that person resides.

As noted in the issues paper, in 2004/5 the total social cost of alcohol in the Northern Territory was estimated to be \$642 million or \$4197 per adult compared with a national cost estimate of \$943 per adult⁷. While the financial costs associated with alcohol misuse are considerable the social costs are much more serious, diverse and often hidden.

We know that alcohol misuse is a substantial contributor to child abuse and neglect⁸. Alcohol is a significant driver of crime, being associated with most assaults and at least 56 per cent of domestic violence incidents⁹. Anecdotally we are informed by health workers and others that there is a high incidence of Foetal Alcohol Spectrum Disorder (FASD) in the Northern Territory. The harms associated with the misuse of alcohol are both manifest and wide-ranging.

The good news is that we are now in a position to start to address this major problem. The Northern Territory Government has recognised the need to act and has asked this panel to conduct a review and make recommendations to guide the development of an integrated Alcohol Harm Reduction Framework directed towards preventing and reducing harms associated with alcohol misuse. We are

The Northern Territory has the highest per capita consumption of alcohol in Australia.

As well as:

- the highest rate of risky alcohol consumption in Australia
- the country's highest rates of hospitalisations related to alcohol misuse
- and, forty percent of all road fatalities in the Northern Territory involve an illegal blood alcohol concentration.

1 Northern Territory Department of the Attorney General and Justice. (2017). *Northern Territory Wholesale Alcohol Supply 2008 to 2015*, p. 3. Retrieved from <https://justice.nt.gov.au/attorney-general-and-justice/statistics-and-strategy/wholesale-alcohol-supply-data>.

2 Loxely, W. et al 2016, National Alcohol Sales Data Project (NASDP) Stage Five Report 2016, national Drug Research Institute, Curtin University, Perth. World Health Organization 2014, Global Information System on Alcohol and Health (GISAH), Available at http://gamapservr.who.int/gho/interactive_charts/gisah/consumption_adult/atlas.html?detectflash=false, last accessed 7th July 2017.

3 Australian Institute of Health and Welfare. 2013 National Drug Strategy Household Survey. Canberra: 2014.

4 Gao C, Ogeil R, Lloyd B. *Alcohol's burden of disease in Australia*, Vic Health, FARE, Eastern Health and Turning Point

5 *ibid*3

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

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

8 See data referred to in the La Trobe University submission

9 Department of the Attorney-General and Justice 2017, Northern Territory Crime Statistics: Data through April 2017, Northern Territory Government, Darwin

pleased to note that the Leader of the Opposition joined the call for action, observing that the issue is of paramount importance and beyond partisan politics. In our widespread consultations with the Northern Territory community we have sensed a strong feeling that it is time for action.

Reform in this area must be a priority for government. The response will need to be a whole-of-government commitment over time and spread beyond the political cycle.

It can be expected that some people in the community will not agree with all the recommendations we have made and some people will be concerned about the impact of those recommendations upon themselves. No doubt there will be some resistance. However, the recommendations we make are evidence-based and are made for the benefit of the whole community.

We are encouraged by the positive response to the review and we hope this report will mark a turning point in dealing with the significant problem confronting the people of the Northern Territory.

Trevor Riley
Chair, Expert Panel

Acknowledgements

The panel would like to thank the organisations, government agencies and individuals who provided written submissions, oral submissions, attended the public forums and completed the survey.

The panel would also like to acknowledge the work of the members of the support team for the research, writing and administrative assistance provided throughout the course of the review. Special thanks go to Kelly Cork-King, Anna McGill, Tania Davidson and the administrative support team.

Background

Over the years there have been numerous reviews and reports commissioned to address the causes of the high consumption rates and consequent harms caused by alcohol in the Northern Territory. Those reviews have included the *Use and Abuse of Alcohol by the Community (1991)*, *Living with Alcohol Program (1992-2000)*, *Inquiry into Public Drunkenness in Central Australia (1995)*, *Northern Territory Alcohol Framework (2004)*, *Enough is Enough (2011)*, *Alcohol – Hurting People and Harming Communities Report (2015)*, and the Select Committee on *Action to Prevent Foetal Alcohol Spectrum Disorder – The Preventable Disease (2015)*¹⁰. Legislation, programs and policies have been developed to address some of the findings and recommendations of these reviews.

Legislation has also been introduced by the Australian Government that has affected the supply and availability of alcohol, particularly in the remote communities of the Northern Territory. This includes the *Northern Territory Emergency Response (NTER) Act (2007)*, *Stronger Futures in the Northern Territory (SFNT) Act (2012)*, and the review of the *Stronger Futures in the Northern Territory Act (2016)*. The SFNT Act repealed the NTER Act however it still imposed alcohol restrictions across the Northern Territory's Aboriginal communities.

While some improvements have been achieved as a result of these initiatives the Northern Territory continues to experience Australia's highest alcohol consumption and suffers from its highest level of alcohol related harms¹¹.

In order to address this issue the Northern Territory Government appointed an independent Expert Advisory panel (the panel) to undertake a review of the Northern Territory's current alcohol policies and legislation (the review).

The members of the panel and the terms of reference under which they would conduct the review were announced on 24 April 2017. The panel members are Mr Trevor Riley (Chair), Ms Patricia (Trish) Angus, Mr Denys Stedman and Associate Professor Richard Matthews (AM). panel bios can be found at Appendix A.

Terms of Reference:

The panel was asked to consider broad policy and legislative issues, as well as some identified key matters. The purpose of the review was addressed in the following terms:

With the overarching objective of developing an integrated Alcohol Harm Reduction Strategy, based on the recommendations of an Expert Advisory panel, the review will:

Alcohol Policy

1. analyse and assess the Northern Territory's alcohol policies, their implementation and effectiveness
2. consider best practice alcohol policies from other places and how they would translate to the Northern Territory
3. advise the government on the development of an evidence-based alcohol harm reduction framework for the Territory.

Alcohol Legislation

1. consider best practice liquor and related legislation from other parts of Australia and overseas, and how it would translate to the Northern Territory
2. advise the government on reforms that could be considered in relation to the Northern Territory's *Liquor Act*.

10 A full list of previous reviews and initiatives can be found at Appendix D

11 Northern Territory alcohol related statistics can be found throughout the report, particularly within the Territory Context at pages 15,16,17

Key matters the review will report on:

- » evidence based policy initiatives required to reduce alcohol fuelled crime.
- » ensuring safe and vibrant entertainment precincts
- » alcohol service provision and management in remote communities
- » decision-making under the *Liquor Act*
- » the density of liquor licences and the size of liquor outlets.
- » The full terms of reference are at Appendix B and at <https://alcoholreview.nt.gov.au/>

Conduct of the Review

On 15 May 2017 the government released an issues paper, that was developed to inform community-wide discussion and to provide guidance for those wishing to provide feedback and input into the review. The paper posed questions seeking input from the public on ideas, concepts and types of measures that could be adopted to minimise alcohol related harm in the community and to promote responsible drinking (the issues paper can be viewed at <https://alcoholreview.nt.gov.au/>).

As part of the review the panel called for submissions from key stakeholders (including research institutes, government departments, health organisations and industry representatives) and the general public to ascertain their views on what the key issues were, what needed to be addressed and recommendations for reducing the impact of harm from excessive alcohol consumption. In total 138 submissions were received from a broad range of stakeholders. Written submissions can be viewed at <https://alcoholreview.nt.gov.au/>). The panel also sought input directly from targeted industry organisations and government agencies about issues such as marine safety and aviation policy.

Consultations

The panel undertook public consultations across the Northern Territory to hear views directly from the community. The following mechanisms were used to promote the forums:

- » newspaper advertisements in local media (NT News, Katherine Times, The Centralian Advocate and Tennant Creek & District Times)
- » Facebook promotion (through the Department of Health's Consumer Participation Facebook page)
- » direct contact with key stakeholders including local councils, Land Councils, Aboriginal community controlled health organisations, the Aboriginal Medical Services Alliance NT (AMSANT), primary health care clinics, industry organisations and Members of the Legislative Assembly

- » distribution of posters throughout communities at health clinics, local government organisations and non-government organisations working in those communities
- » television advertisements on the Channel 10 and Channel 9 community boards, and infomercials being run on ABC TV and Imparja television throughout June and July 2017
- » radio campaigns with 104.1FM, Larrakia Radio, 8TR Katherine, 8CCC and CAAMA
- » digital strategies including banners on the Northern Territory Department of Health website, the 'Have Your Say' survey tool on the Northern Territory Government webpage and the list of consultation dates and venues on the alcohol policies and legislation review website.

Public consultations were held in the following locations:

- » **29 May**, Nhulunbuy
- » **30 May**, Darwin
- » **30 May**, Palmerston
- » **3 July**, Tiwi Islands, Milikapiti
- » **3 July**, Tiwi Islands, Wurrumiyanga
- » **4 July**, Jabiru
- » **5 July**, Gunbalanya
- » **7 July**, Borroloola
- » **7 July**, Ngukurr
- » **11 July**, Maningrida
- » **17 July**, Darwin (x 2 sessions)
- » **19 July**, Tennant Creek
- » **20 July**, Yulara / Mutijulu
- » **21 July**, Alice Springs / Amoonguna
- » **25 July**, Katherine
- » **25 July**, Mataranka
- » **2 August**, Alice Springs
- » **10 August**, Tiwi Islands, Wurrumiyanga
- » **18 August**, Ti Tree, Alice Springs

The panel was unable to travel to all the remote regions identified in the public consultation schedule due to visits being cancelled at the request of the community while other matters were being dealt with as was the case with Wadeye and Jilkminggan. Panel members did meet with some Traditional Owners from Wadeye in Darwin but it was not a representative group.

An on-line survey was also conducted over the course of the review to seek views on the following key questions:

1. What are your thoughts on the current approaches to reducing the supply of alcohol?
2. What are your thoughts on the current approaches to reducing the demand for alcohol?

3. What are your thoughts on the current approaches to reducing harm from alcohol?
4. What strategies could be taken to promote cultural change in relation to drinking behaviours?
5. What strategies have been effective in reducing alcohol fuelled crime and anti-social behaviours?
6. What are your thoughts on the current approaches to service provision and management in remote Aboriginal communities, including town camps?
7. What are your thoughts on the current approaches to create safe and vibrant entertainment precincts?
8. How should decisions relating to liquor licences be made and by whom?
9. How should density of liquor licences be considered when deciding a liquor licence application?
10. Should the Territory permit new big box or warehouse style take-away liquor outlets?
11. What other strategies could be considered?

As at 8 September 2017, 85 people had completed the survey. A list of the overarching themes from the survey responses is at Appendix C.

List of Abbreviations/Acronyms

ABS	Australian Bureau of Statistics
ACCHO	Aboriginal community controlled health organisation
ACCHS	Aboriginal community controlled health service
ACPO	Aboriginal Community Police Officer
Act	a reference to the <i>Liquor Act</i>
AHA NT	Australian Hotels Association NT
AIHW	Australian Institute of Health and Welfare
AMSANT	Aboriginal Medical Services Alliance NT
AMP	Alcohol management plan
APONT	Aboriginal Peak Organisations NT
ATSIHP	Aboriginal and Torres Strait Islander Health Practitioner
BDR	Banned Drinker Register
CAAC	Central Australian Aboriginal Congress
CAHS	Central Australia Health Service
CSO	Community Safety Officer (also known as Night Patrol Worker)
Cwlth	Commonwealth
DGL	Director-General of Licensing established pursuant to section 5 of the <i>Licensing (Director-General) Act 2014</i>
DoH NT	Department of Health (Northern Territory)
DoH (Cwlth)	Australian Government Department of Health
FASD	Foetal Alcohol Spectrum Disorder
GRA	General Restricted Area
LSP	Liquor supply plan
LWA	Living With Alcohol Program
NHMRC	National Health and Medical Research Council
NPA	National Partnership Agreement
NTER Act	<i>Northern Territory Emergency Response Act</i>
NTPFES	Northern Territory Police Fire and Emergency Services
PAAC	People's Alcohol Action Coalition
PHAA	Public Health Association of Australia
PHSO	Public Housing Safety Officer
PMC	Department of Prime Minister and Cabinet
POSIs	Point of sale interventions
RSA	Responsible service of alcohol
SFNT Act	<i>Stronger Futures in the Northern Territory Act</i>
SUS	Sobering up shelters
TEHS	Top End Health Service
WHO	World Health Organization

Definitions

Abstainers	People who do not consume alcohol.
Alcohol	General term used to reference liquor. In the context of this report it is used to reference liquor that is used for consumption.
Alcohol dependence	A cluster of behavioural, cognitive and physiological phenomena that may develop after repeated alcohol use. Typically, these phenomena include a strong desire to consume alcohol, impaired control over its use, persistent drinking despite harmful consequences, a higher priority given to drinking than to other activities and obligations, increased alcohol tolerance, and a physical withdrawal reaction when alcohol use is discontinued.
Brief intervention	Those practices that aim to identify a real or potential alcohol problem and motivate an individual to do something about it. (World Health Organization).
Burden of disease	The cumulative effect of a broad range of harmful health consequences on a community.
Harm	Adverse health outcomes. In the context of this report, harm includes disease and/or injury resulting from consumption of alcohol.
Harmful drinking	Drinking at levels that are likely to cause significant injury or ill health.
Harmful use	Alcohol consumption that results in consequences to physical and mental health. Some would also consider social consequences among the harms caused by alcohol.
Hazardous use	A pattern of alcohol consumption that increases the risk of harmful consequences for the user or others and is of public health significance despite the absence of any current disorder in the individual user
licensing authority	A reference generally to the liquor licensing regulator
Lifetime risk	The accumulated risk from drinking either on many drinking occasions or on a regular (e.g. daily) basis over a lifetime
Liquor	A beverage that contains more than 1.15 per cent by volume ethyl alcohol (per section 4 of the <i>Liquor Act</i>)
Regular drinking	Repeated drinking occasions over a period of time (drinking daily, or every weekend, over years)
Risk	A person's risk of experiencing an adverse health outcome is the probability of the person developing that outcome in a specified time period
South Australian review	The Hon T R Anderson QC's 2016 review of the <i>South Australian Liquor Licensing Act (1997)</i>
Single occasion	A sequence of drinks taken without the blood alcohol concentration reaching zero in between.

Executive Summary

Most Territorians drink alcohol and generally do so for enjoyment, relaxation and sociability, at levels that cause few adverse effects. However, a substantial proportion of people continue to drink at levels that increase the risk of alcohol-related harm. For some, alcohol is a cause of significant ill health and hardship.

It is this alcohol related harm, both to the individual drinker and the broader community that continues to have a devastating effect throughout the Northern Territory.

The Northern Territory continues to have the highest rates of:

- » alcohol related deaths
- » alcohol-related burdens of disease
- » single occasion risky drinking behaviours
- » lifetime risky drinking behaviours.

Alcohol related emergency department presentations across the Northern Territory made up approximately 10 per cent of all presentations in 2016. In the last quarter of 2015 alone the number of admissions to hospital for specific alcohol-attributed conditions was 242 in the Top End and 282 in Central Australia¹².

The highest percentage of assaults reported across the Territory, including domestic violence, are alcohol related. Alcohol contributes to more than 44 per cent of deaths on our roads.

The high levels of FASD in the Territory constitute one of the most extreme impacts of harmful alcohol consumption on the innocent.

Unsafe drinking behaviours also have a significant financial and social impact.

The above figures, along with the additional research and evidence presented to the review clearly indicate that a lot of Territorians do not drink responsibly and more needs to be done to address the drinking culture and individual attitudes towards safe drinking practices. It is for this reason that a focus of this review has been to address some of the underlying causes contributing to the continued adverse effects of alcohol misuse occurring across the Territory.

A recurring theme throughout the review was that the lack of coordinated, long-term, appropriately resourced programs targeting alcohol harm reduction is a major contributor to the lack of any reduction in the high alcohol harm related statistics for the Northern Territory.

Measures that received strong support from service providers and the wider community included the need for a volumetric tax on all liquor products; the introduction of a floor price for alcohol; an expansion of treatment support and diversionary programs; better education regarding the harms of alcohol misuse; improved access to programs in remote areas; and the need for a review of the regulatory framework. Each of these areas, along with a number of additional topics, has been addressed in the body of this report.

Due to the breadth of the issues there will be a number of topics that have not been addressed either due to the time constraints of the project or a lack of information available to adequately address the issue.

The subject of political donations from the alcohol industry was raised in submissions to the review and during public consultations. However, as there is a formal inquiry into this issue underway we have chosen not to comment on it in this Report.

The report notes that the Northern Territory needs a comprehensive, coordinated and sustained approach to reducing alcohol related harm. The approach must focus on supporting those affected by alcohol misuse, addressing social determinants (in particular housing, employment, education and access), educating the population about the detrimental effects of excessive and sustained alcohol consumption, ensuring measures are culturally responsive, targeting the supply of alcohol, and strengthening and supporting licensing and enforcement agencies and regulations.

In response to the disturbing statistics and to the research, evidence, submissions and general information presented to us, it is the recommendation of this panel that the proposed Alcohol Harm Reduction Framework focus on the following key (high level) themes:

- » a long-term and coordinated whole-of-government approach
- » development of a more appropriate liquor regulation framework
- » harm minimisation initiatives (including a sustained education program on the harmful effects of alcohol and promotion of the National Health and Medical Research Council's (NHMRCs) safe drinking guidelines
- » harm management initiatives.

12 Northern Territory Department of Health Submission to the Alcohol Policies and Legislation review

The Report addresses a number of targeted initiatives within each of these key themes and the recommendations aim to support action in these areas. Some of the key recommendations include:

- » the need for a complete rewrite of the current *Liquor Act* to provide a coherent framework for the operation of the liquor industry within harm minimisation principles
- » the new *Liquor Act* to include the introduction of defined licence categories with core terms and conditions and risk based application and annual licence fees
- » addressing significant issues including the density of alcohol retail outlets, prohibiting all takeaway sales on Sundays, implementing an immediate moratorium on takeaway liquor licences, and phasing out store licences to reduce the number of corner grocery stores that sell alcohol
- » the need for a stronger governance framework to support a whole-of-government approach to addressing alcohol related harms
- » a return to a Liquor Commission regime to foster appropriate enforcement of, and compliance with, the provisions of the *Liquor Act* within a tiered framework which ensures appropriate separation between those making decisions and those undertaking enforcement and compliance activities
- » the reintroduction of Therapeutic Courts with emphasis on diversion and treatment
- » the introduction of a floor price for alcohol products to reduce the availability of dangerously 'cheap' alcohol; and for the government to continue to lobby the Australian Government for the introduction of a volumetric tax
- » the establishment of a dedicated locally based research body, tasked with undertaking research specific to alcohol and other drug patterns of use, addiction and harms in the Northern Territory, to ensure our policies, programs and legislation are based on the best available contemporary evidence
- » improved data collection, linkages and sharing across government agencies and non-government organisations
- » extending funding timelines for new programs and initiatives to ensure there is adequate time to assess their impact on reducing alcohol related harm; and allowing for rigorous, independent evaluations of all programs
- » trialling a managed alcohol program to support those persons experiencing issues with alcohol misuse to manage their alcohol consumption in a safe space whilst also having the opportunity to undertake brief interventions and engage wrap around services to support those individuals

- » targeting public health education programs at population, community and individual levels to inform the general public of the risks of unsafe alcohol consumption.

We have considered all the submissions, correspondence, evidence, research and information provided to us both in writing and during our public consultations and the recommendations in this Report are founded on that information.

It is our view that if the recommendations presented are comprehensively addressed alcohol consumption in the Northern Territory will trend downwards and reach or fall below the national average with a resultant reduction in harms.

For real success to be achieved in reducing alcohol-related harm a bipartisan, long-term, culturally responsive, public health, social determinants approach must be taken towards this issue. We recommend that this government and its successors review the integrated Alcohol Harm Reduction Framework regularly to test the impact of the framework's elements in achieving the above outcome.

We are not suggesting this is going to be easy. The statistics relating to harmful and risky drinking across the Northern Territory are stark, and it is going to take a sustained and appropriately resourced effort to effect real change.

Recommendations

1. CHAPTER 1 Whole-Of-Government Approach

1.1 Whole-of-Government Approach

1.1.1 The Northern Territory Government strive for a bipartisan agreement to give effect to the alcohol harm minimisation framework to ensure a sustained long-term approach to addressing the issues.

1.1.2 Alcohol harm reduction be given major project status within government, with all new programs/policies/Cabinet submissions to consider and address the impact they will have on reducing the harms caused by alcohol.

1.1.3 A strong focus be given to addressing social determinants to support alcohol harm minimisation efforts.

1.1.4 The establishment of a high-level executive position within the Department of the Chief Minister that reports directly to the Chief Executive (CE) and through the CE to the Chief Minister and Cabinet with the Chief Minister then reporting to Parliament on all alcohol related matters.

1.1.5 The role of the high level officer in the Department of the Chief Minister shall include, but not be limited to:

- coordinating the Northern Territory Government response to the Alcohol Policies and Legislation review
- oversight of the development of an inter-agency implementation plan with clear performance indicators for each agency
- ensuring liaison with non-government organisations and the Australian Government on all alcohol-related matters
- ensuring adequate data collection and appropriate linkage across all agencies
- coordinating evaluation of the interagency

implementation plan and its initiatives in partnership with external research bodies

- reporting through the Chief Minister to Parliament on progress with implementation and outcomes
- coordinating public health awareness campaigns at a population, community and individual level.

1.1.6 The high-level officer in the Department of the Chief Minister oversee a unit that is resourced with, at a minimum, support staff with a knowledge of health, law enforcement, and regulation matters.

1.2 Changing the Culture

1.2.1 Public education campaigns be developed to:

- target sub-groups of the population to address the drinking culture within those groups
- encourage abstinence among people under 18 (and especially among those under 15)
- highlight the risks of drinking when pregnant, planning a pregnancy or when breastfeeding
- highlight risks of alcohol in the workplace
- highlight the impact of alcohol on sporting performance
- highlight the risks of driving under the influence of alcohol
- highlight the connection between consumption of alcohol and violence.

1.2.2 All campaigns promote the NHMRC Australian Guidelines to reduce health risks from drinking alcohol and have an overall aim to improve the drinking culture, and ultimately reduce harm within the Northern Territory.

1.2.3 To assess the success of the measures outlined in this report a baseline survey and subsequent three yearly attitudinal survey be undertaken to assess the attitudes of Territorians towards the use of alcohol.

1.2.4 The Northern Territory Government give priority to hosting, supporting and promoting alcohol free events.

1.2.5 The Northern Territory Government increase resources to provide young people with access to further sporting opportunities, drop-in centres, and programs to encourage family/community connectedness and personal/social development.

1.3 Research / Data / Evaluation

1.3.1 The data linkage project (*Improving the developmental outcomes of Northern Territory children: a data linkage study to inform policy and practice in family services and education*) be expanded to allow for the capture and sharing of data about alcohol use, treatment and prevention, to enable better access to, and use of, relevant data to inform alcohol harm minimisation initiatives, policies and programs.

1.3.2 The Northern Territory Government support the establishment of an external dedicated research unit, either new or within an existing research body, addressing alcohol and other drugs. The unit report to Parliament and have the charter of initiating research into the causes, patterns and consequences of alcohol and other drug misuse in the Northern Territory.

1.3.3 The research body also undertake the role of conducting independent, high-quality evaluations of interventions and policies.

1.3.4 The research body work towards standardising data collection systems and records across all services providers.

1.3.5 Collection of data relating to the BDR commence immediately and an independent evaluation of the BDR be undertaken to assess its impact on alcohol harm minimisation within three years or some other suitable period.

1.3.6 The Northern Territory Government regularly collect and publish comprehensive alcohol related wholesale supply, consumption, criminal justice, hospital and health data. Care must be taken to ensure the capture of data relating to the online sale and supply of alcohol.

1.3.7 Feedback from all data collected be provided to stakeholders including the licensing authority, emergency departments, police, ambulance and licensees.

1.3.8 The Northern Territory Government trial the Cardiff model to link emergency department

data with assault statistics to inform policy development in this area and to improve front-line response to incidents.

1.3.9 A last drinks survey, be developed and implemented across the Northern Territory, enabling data linkage across police, emergency departments and the licensing authority.

1.3.10 Emergency department data collection include mandatory questions on; location of alcohol related event; consumption of alcohol in the past 12 hours; place of last alcoholic drink consumed; place where the majority of the alcohol was purchased.

1.3.11 A 'last drinks' monitoring system be implemented by Police to mandatorily identify where people involved in alcohol related crime purchased and consumed their last drinks.

2. CHAPTER 2 Regulatory Framework

2.1 The *Liquor Act*

- 2.1.1 The *Liquor Act* be rewritten.
- 2.1.2 The *Liquor Act* provide a coherent framework for the operation of the liquor industry within harm minimisation principles consistent with the goals and aims discussed in this report.
- 2.1.3 Remove confusing and inconsistent provisions in the Act.
- 2.1.4 Develop a Public Interest and Community Impact test in accordance with this report.
- 2.1.5 The public interest and community impact test be explained in guidelines covering, but not limited to, the matters identified in section 6 of the *Liquor Act* and in table 12 included in this report.
- 2.1.6 All decisions made under the Act be required to apply the public interest and community impact test.
- 2.1.7 The Act make it clear that at all times the onus rests firmly upon the applicant to establish the case for the outcome sought by the applicant.
- 2.1.8 Section 3 of the Act remain in its present or a similar form.

2.2 Who makes decisions under the *Liquor Act*

- 2.2.1 A Liquor Commission be established as the independent and primary decision maker under the *Liquor Act*.
- 2.2.2 The Commission consist of four appointed members, with three members (Chair and two others) required to be in attendance for a hearing.
- 2.2.3 The Chair of the Commission be a lawyer with a minimum of five years of post-admission experience and be of good standing in the community.
- 2.2.4 At least one sitting member have a health background.
- 2.2.5 The structure and operations of the Commission

reflect the matters discussed in this report.

- 2.2.6 The position of Director of Licensing be established, with the position being vested with the powers discussed in this report.

2.3 Application process and consultation

- 2.3.1 The *Liquor Act* be amended to permit the Commission to grant leave to peak industry bodies, key government agencies and peak community and health bodies, to make submissions when it holds a hearing with respect to a licence application or an alcohol management plan.
- 2.3.2 The *Liquor Act* be amended to require both the Northern Territory Police, Fire and Emergency Service and Department of Health to be formally notified of an application and that a response be provided by each.

2.4 Liquor Licence Fees

Application and Annual Fees

- 2.4.1 All application fees be reviewed and set at an appropriate level in line with other jurisdictions.

Annual fees

- 2.4.2 An annual risk-based licensing fee be introduced for all liquor licence categories based on the following principles:
 - a base fee that applies to the different categories of licence
 - a loading fee to reflect the patron capacity of the venue for on-premises and club licence categories
 - a loading fee for the takeaway licence category based on volume of sales
 - a loading fee for extended hours authorities
 - a loading fee attributed to poor compliance history.
- 2.4.3 Payment of the annual fee be a statutory requirement and failing to make payment would give rise to suspension of the licence and recovery of the amount owing.

2.5 Categories and Terms and Conditions of Liquor Licences

Trading Days and Hours of Operation – On-premises Licences

- 2.5.1 Standard Days of trade for on-premises licences be Monday to Saturday, with Sundays, Good Friday and Christmas Day defined as Restricted Days to which restricted hours apply (10am to 10pm).
- 2.5.2 An automatic extension of the standard trading hours for consumption on-premises, or trading hours authorised by an extended trading authority, will apply on New Year's Eve for an additional three hours of trade, but in any event not past 4am.
- 2.5.3 Standard Hours be established by legislation to apply to all licence categories that authorise the sale of retail alcohol for consumption on the premises. Those hours be 10 am to 11 pm Monday to Saturday, and 10 am to 10 pm on Sundays and other restricted days.
- 2.5.4 The licence identify the hours, within the Standard Hours, in which trading will take place, making it unlawful to trade outside those hours.
- 2.5.5 The Standard Hours may be extended by applying for and being granted an extended hours trading authority.

Trading Days and Hours of Operation – Takeaway Licences

- 2.5.6 The Standard Days for trade in takeaway liquor be Monday to Saturday, with the sale of takeaway liquor on Sunday prohibited.
- 2.5.7 Further restrictions on such trading days be provided in appropriate circumstances as assessed by the licensing authority.
- 2.5.8 Liquor supply plans allow for regions to have specific takeaway sales free days each week where a need is identified.
- 2.5.9 The current prohibition of takeaway sales on Good Friday and Christmas Day be retained.

Takeaway Standard Hours

- 2.5.10 Standard Hours for all takeaway liquor outlets be provided in the *Liquor Act* to be no earlier than 10 am and no later than 10 pm Monday to Saturday.

2.5.11 The takeaway licence must identify the actual hours within the Standard Hours in which takeaway trading will take place, making it unlawful to trade outside those hours.

2.5.12 Further restrictions on such trading hours (later opening hours and earlier closing hours) may be provided in appropriate circumstances as assessed by the licensing authority.

Store Licences

2.5.13 Takeaway liquor only be permitted to be sold from a stand-alone business in which the primary focus of the business is the sale of alcohol.

Cessation of Trade

2.5.14 The *Liquor Act* be amended to provide that licensees must provide notice, in writing, to the licensing authority when they intend to cease trading for periods longer than six weeks, and prohibiting the cessation of trade for a period longer than six months without prior consent from the licensing authority.

2.5.15 The *Liquor Act* be amended to empower the licensing authority to cancel a licence that has ceased operating.

Categories of Licence

2.5.16 The following categories or licences be established:

- On-premises Liquor Licence
- Club Licence
- Takeaway Liquor Licence
- Restaurant and Catering Licence
- Liquor Producer Licence
- Major Event Licence
- Limited Licence
- BYO Licence
- Interstate Supplier Licence

2.5.17 Transitional arrangements ensure that licensees are subject to annual risk based licence fees during the transitional period.

2.5.18 A condition be imposed on all extended hours

authorities, prohibiting the sale of beverages with a high alcohol content (>5 per cent), and rapid consumption beverages such as shots.

2.5.19 Store licences transitioning to takeaway licences be subject to a condition restricting liquor sales to 15 per cent of the gross annual sales of the business, and a seven year sunset period in which time the licensee obtains a takeaway licence and the transitional licence will cease to operate.

2.5.20 The Northern Territory Government imposes an immediate moratorium on issuing new takeaway licences to allow for the new framework to be established and take effect and because such licences have reached saturation point. A review be undertaken after the first five years of operation when consideration be given to extending the moratorium.

2.5.21 An independent review be undertaken on the effectiveness of the categories at five years from commencement and further modification of categories be considered where necessary.

Transfer of a liquor licence, substitution of premises and variations of conditions

2.5.22 Approval for transfer of a liquor licence only be granted within the same licence category and will be subject to appropriate probity, public interest and community impact requirements.

2.5.23 Fees for a transfer application should be set at an appropriate level.

2.5.24 The *Liquor Act* be amended to require applications for the substitution of premises to be treated as a new application under the Act and be subject to the same requirements including consideration of the public interest and community impact test.

2.5.25 The licensing authority have the discretion to authorise a substitution without the new application process being undertaken where the premises to be substituted is in close proximity to the premises identified in the licence; there is no significant change in the nature of the business; and no other concerns arise.

2.5.26 Public notice of any substitution application be required.

2.5.27 No change to a licence category be made through the substitution process.

2.5.28 Fees for a substitution application should be set at an appropriate level.

2.5.29 An application to vary a licence within the terms and conditions of a category be permitted, however, variation that moves a licence from one category to another not be permitted.

2.5.30 The licensing authority retain the power to vary licence conditions, including standard conditions, when considered necessary.

2.5.31 All variation applications be subject to the public interest and community impact test.

Liquor Accords

2.5.32 That liquor accords continue to be an element in the regulatory framework for liquor licences.

2.5.33 The *Liquor Act* be amended, in relation to accords, to:

- allow the licensing authority to give a direction to a licensee requiring participation in a liquor accord and noting that failure to comply will constitute a breach
- impose a positive duty on the administrative arm of the licensing authority to establish liquor accords.

2.5.34 The licensing authority undertake evaluation and monitoring to inform regular reviews of all accords.

2.5.35 The licensing authority publish the contents of all accords.

2.6 Density of liquor licences and the size of liquor outlets

2.6.1 The *Liquor Act* provide that density (however described) is a matter to be taken into account when considering the public interest and community impact.

2.6.2 The *Liquor Act* provide that the volume of alcohol to enter the community be taken into account when considering the public interest and community impact.

2.6.3 The *Liquor Act* provide that, to assist with assessing density, licensees be identified by clearly defined geographic and population areas.

2.6.4 The Licensing database be updated to ensure information relating to the location of a venue is accurate.

2.6.5 Licensees be required to provide regular returns (six monthly or yearly) reporting the volume of alcohol sales from their premises.

2.7 Compliance and Enforcement

2.7.1 A more rigorous and publicised approach be taken to the compliance and enforcement regime to ensure compliance with the requirements of the licence and the *Liquor Act* and that failures are met with consequences that deter the Licensee and others from similar conduct. Consequences of breaches should be both financial and reputational and be seen as part of broad cultural change in relation to alcohol.

2.7.2 More information be made available to both licensees and the public about liquor licensing regulation in the Northern Territory. In respect of licensees, this information should be in a format that can be easily incorporated into induction and training programs for new and existing staff to encourage and improve licensee compliance.

2.7.3 The Department of the Chief Minister oversee a review of current processes with the Commissioner of Police and the licensing authority as they relate to planning, information gathering, staff training, liaison and secondment, joint operations and any other measure, and make necessary changes to improve compliance and enforcement outcomes.

2.7.4 The *Liquor Act* be amended to empower police with similar authority to suspend a licence as provided to the licensing authority under section 48A of the *Liquor Act*, save that such powers are to be limited to suspension for a 48 hour period.

Compliance activity

2.7.5 Licensing be appropriately resourced to undertake a broad range of compliance activity under the *Liquor Act*.

2.7.6 Licensing prepare an annual audit and compliance plan for liquor licences. Outcomes to be reported in the licensing authority's annual report.

2.7.7 The *Liquor Act* be amended to allow for harm minimisation audits to be conducted periodically in respect of licences, with the ability for the

licensing authority to make a decision regarding suspension, revocation or amendment of the licence depending on the outcome of the audit.

2.7.8 Licensing be sufficiently resourced to regularly undertake covert 'mystery shopper' programs, similar to those used in Queensland.

Enforcement

2.7.9 The number of offences that may be dealt with by infringement notice under the *Liquor Act* be reviewed and, where appropriate, expanded.

2.7.10 The *Liquor Act* be amended to authorise Licensing Inspectors to issue infringement notices in the same circumstances as allowed for police.

2.7.11 The *Liquor Act* be amended to allow Licensing Inspectors and police to issue on the spot infringement notices.

2.8 Responsible Service of Alcohol

2.8.1 The *Liquor Act* be amended to include RSA requirements as a statutory condition of a liquor licence to elevate the importance of RSA.

2.8.2 The *Liquor Act* be amended to include the requirement to hold an RSA certificate on commencement of employment, thereby removing the one-month grace period that now applies.

2.8.3 An RSA refresher course be undertaken every three years, with the course content and delivery being approved by the licensing authority.

2.8.4 High risk licences (such as major event licences or licences that operate an extended hours authority) must develop and implement an amenity and patron safety plan which includes an element for RSA.

2.8.5 Specific compliance and enforcement activity relating to RSA, such as the 'mystery shopper' program, be introduced and administered by the licensing authority.

2.9 Signage in licensed premises

2.9.1 The *Liquor Act* be amended to provide that mandatory signage, as approved by the licensing authority, be displayed in licensed premises.

2.10 Promotion and Advertising

- 2.10.1 The Northern Territory Government advocate at the national level for independent, legislated control on the content, placement and volume of all forms of alcohol advertising and promotion. There should be a comprehensive code and enforceable decisions with sanctions that act as a deterrent to inappropriate alcohol advertising.
- 2.10.2 The Northern Territory Government advocate that the issue of alcohol advertising during telecasts of live sports events be considered at a national level, with a view to prohibiting, or at least restricting, such advertising.
- 2.10.3 The Northern Territory Government advocate nationally for initiatives that provide for alternatives to sports sponsorship by the alcohol industry.
- 2.10.4 The licensing authority endeavour to ensure the Good Sports program or similar programs are incorporated into future accords and alcohol management plans to promote the health and safety of those associated with sporting clubs.
- 2.10.5 The *Liquor Act* be amended to make clear the power of the licensing authority to control, restrict or prohibit undesirable promotional activity in relation to both on-premises licences and takeaway licences.
- 2.10.6 The legislation makes clear that promotion (by whatever means) of alcohol by reference to harmful price discounts is prohibited.
- 2.10.7 The *Liquor Act* be amended to make clear the power of the licensing authority to restrict or prohibit the sale of undesirable liquor products in relation to both on-premises licences and takeaway licences.
- 2.10.8 The *Liquor Act* be amended to provide for the licensing authority to specifically prohibit certain types of promotional activities, such as shopper dockets.
- 2.10.9 External advertising of the sale of alcohol be prohibited for businesses with a current store licence that will be transitioning to a takeaway licence until a takeaway licence is obtained.
- 2.10.10 All external advertising on licensed premises comply with the Advertising Code of Practice as approved under the *Liquor Act*.

2.10.11 The Advertising Code of Practice be reviewed to ensure it conforms with harm minimisation principles.

2.10.12 The Northern Territory Government bans alcohol advertising on publicly owned assets such as buses and buildings.

2.11 Alcohol and Vessels

2.11.1 The Northern Territory Government legislate to make it an offence for a person to operate or navigate a vessel with a breath or blood alcohol content above a prescribed minimum in a manner similar to the requirements of the Traffic Act in relation to vehicles.

2.12 Restricted Areas

General Restricted Areas and Alcohol Protected Areas

- 2.12.1 No changes be made to the dry status of an area/ community without local decision making and local ownership over alcohol management.
- 2.12.2 Consultation commence now with communities the subject of an Alcohol Protected Area declaration under the SFNT Act, as to the future management of alcohol in that community when the SFNT Act ceases in 2022.
- 2.12.3 The Northern Territory Government convene meetings with the Australian Government and representatives of each of the Alice Springs town camps to formulate an alcohol management plan relating to supply for the particular circumstances of the individual town camps.

Public Restricted Areas

- 2.12.4 The present confusing array of Restricted Areas be abolished and all public space in urban areas be restricted, with the ability for exemptions to be declared in appropriate cases. Such exemptions may be time limited.
- 2.12.5 The licensing authority, or the local government authority, be responsible for granting exemptions on its own initiative or on application from appropriate bodies. All exemptions must have regard to the public interest and community impact.

Private Restricted Premises

- 2.12.6 The *Liquor Act* be amended to provide the authority for Public Housing Safety Officers,

Public Housing Officers and Police to make an application for a public housing residence to be declared as restricted premises.

Alcohol Management Plans (AMP) and Liquor Supply Plans (LSP)

2.12.7 In line with the commitment to local decision making, the Northern Territory Government use the partnership between the Regional Network Group in the Department of the Chief Minister and APONT, to reinvigorate the AMP process with communities.

2.12.8 The *Liquor Act* be amended to specifically empower the licensing authority to inquire into and promulgate local and regional LSPs. The Act should directly, or through regulations, specify in detail the powers and obligations of the licensing authority as well as the local community in developing such plans.

2.12.9 The regime should:

- define a regional Liquor Supply Plan as a set of provisions that apply to a particular geographic area
- include provisions that specify:
 - areas within the LSP area where liquor licences may not be issued
 - areas subject to specific restrictions such as a General Restricted Area declaration
 - types of business that may or may not be operated in conjunction with a liquor licence in the area and identify pre-requisites additional to those in the Act or Guidelines for a business to be licensed
 - standard conditions for the area that may impose further restrictions on the conditions applicable to licence categories (for example, hours of operation, types of liquor and types of container)
 - matters that relate to particular controls on the behaviour, or limits on the rights of individuals, provided that the proposed controls or limits conform with community expectations, are likely to reduce alcohol related harm and are consistent with the objects of the *Liquor Act* - this would

include things such as the introduction of a permit system

- the collection of data and other information concerning the resulting effects of the plan
- the establishment of a local or regional alcohol management committee or the use of an already established group/committee to undertake this function.
- provide that, where the licensing authority is satisfied there is likely to be a public benefit, a plan may also specify for a given period, no greater than three years, the number of licences generally, or in particular categories, that may be issued in the locality or region
- specify that the licensing authority may, having regard to the objects of the Act, the public interest and any request, submission or other information that has been provided to it, determine that a Liquor Supply Plan should be developed for an area and determine the process that will apply to develop the plan
- entitle specific organisations or people to apply to the licensing authority for it to determine that a Liquor Supply Plan should be developed for the area. Such organisations and people would include but not be limited to community members, regional councils, health services and local police officers, or the licensing authority itself
- provide that, unless the licensing authority is satisfied, after consideration of any material provided by the applicant or any other person, that development of a Liquor Supply Plan would not advance the objects of the Act, that such a plan should be developed unless there is an overwhelming reason not to
- provide that the licensing authority may determine that all or some elements of a plan are to be trialled for a specified period of time, no longer than 12 months, and that the licensing authority should provide for a process to evaluate the trialled elements
- provide that the licensing authority may determine the procedures to be followed to develop the Liquor Supply Plan, but also provide that any person may make a

submission in writing, that the licensing authority will provide assistance to people who wish to provide an oral submission to turn it into writing, and that the licensing authority will in the first instance use informal procedures to promote agreement among licensees and community members about the content of plan. The legislation should also provide that, where no agreement is reached, the licensing authority may conduct a hearing where it may appoint counsel assisting the licensing authority. At the hearing any licensee, local government body, the Commissioner of Police, any existing alcohol management committee (or equivalent committee tasked with LSP related coordination functions) and any government or community-based health, welfare or legal service provider may as of right, and any other person may with leave of the licensing authority, attend and give relevant evidence

- provide that a Liquor Supply Plan should specify a period of time not less than two years and not more than five years after which the plan must be reviewed by the licensing authority
- provide that the licensing authority should be empowered to establish and support ad hoc or permanent local advisory committees to assist it in gaining detailed input from community interests.

Alcohol Service Provision in Remote Communities

2.12.10 The Northern Territory Government develop clear action plans for managing alcohol in communities as we move towards 2022 and the cessation of the SFNT Act, and that the AMP process, including permits, be a part of that process.

2.12.11 A comprehensive set of guidelines be developed providing for the core requirements of a permit system for the guidance of communities in which such systems exist and for communities considering such a system.

2.12.12 Government act on the recommendations of the review of Liquor Permit Schemes under the Northern Territory *Liquor Act* (permit report) – prepared by the Menzies School of Health Research. Those recommendations appear at Appendix E to this report.

2.12.13 The introduction of licensed social clubs, or

changes to conditions of existing licensed social clubs, only occur following extensive consultation with communities through a local decision making framework.

2.12.14 Licensed social clubs be encouraged to emphasise the social aspect of the club rather than be simply a place to consume alcohol.

2.12.15 Government act on the recommendations of the Bowchung Report, *Managing Alcohol Consumption – a review on licensed clubs in remote Indigenous communities in the Northern Territory*. Those recommendations appear at Appendix F to this report.

2.12.16 A specific education campaign be conducted in remote communities to raise awareness of the problems that sly-grogging causes, and encourage people to ‘dob-in-a-grog-runner’.

2.12.17 Additional police resources be made available to remote communities to provide appropriate law enforcement including measures to restrict secondary supply of alcohol.

3. CHAPTER 3 Harm Prevention

3.1 Volumetric Taxation

3.1.1 The Northern Territory Government continue to vigorously lobby the Australian Government in relation to the implementation of a single volumetric tax rate across all alcohol products and for the abolishment of the current WET tax for wine products.

3.2 Floor Price

3.2.1 A minimum unit price (floor price) for all alcohol products of approximately \$1.50 per standard drink or such other figure as may be determined after appropriate review, in recognition that raising the price of alcohol is a cost-effective way to reduce alcohol-related harm.

3.2.2 The minimum unit price apply to all sales and supply of alcohol in the Northern Territory including all outlets conducting on-premises and takeaway sales. This figure be indexed against average ordinary time wages to ensure its effect is not diminished over time.

3.2.3 The impact of the introduction of a minimum unit price be rigorously evaluated after three years on its impact on consumption and alcohol related harms.

3.3 Safe and Vibrant Entertainment Precincts

3.3.1 A review be conducted of the statistical data about alcohol related harm experienced within the Darwin Waterfront precinct to assess whether the Darwin CBD Designated Area should be extended to include the Darwin Waterfront precinct.

3.3.2 All licences authorised to trade until 4 am include a condition that requires a lock out to be initiated from 3 am.

3.3.3 The *Liquor Act* be amended to require any licensee trading under an extended trading authority to install an approved ID scanner linked to the BDR at each entry to their licensed premises and those on the BDR be denied entry.

3.3.4 The licensing authority ensure (through the licensing process) that late night precincts remain first and foremost entertainment precincts and

not become alcohol precincts. The licensing authority should ensure there is an appropriate mix of licensed businesses offering a varied range of entertainment options.

3.3.5 The impact and effectiveness of declarations of Designated Areas under the *Liquor Act* be assessed.

3.3.6 The licensing authority investigate additional conditions to be imposed within particular designated areas as identified in this report.

3.3.7 The Northern Territory Government review the availability of late night transport options in designated areas.

3.4 Major Events

3.4.1 The *Liquor Act* be amended to include a provision enabling police, emergency management personnel and Licence Inspectors to initiate preventative action (such as restricting the amount of alcohol sold per service, or suspending alcohol sales for a prescribed period of time) at major events if breaches of licence conditions are observed or alcohol-fuelled anti-social behaviour is becoming an issue.

3.4.2 Transport management be addressed as a condition of the major event licence category.

3.5 Community Patrols (Night and Day Patrols, Community Safety Officers)

3.5.1 Steps be taken to improve awareness and understanding of the role and scope of Community Patrol Workers among workers themselves, police, sobering up shelters, local government and in the wider community.

3.5.2 The Department of the Chief Minister coordinate more effective collaboration between police, sobering up shelters, community patrols and local government to ensure a coordinated approach to tackling alcohol related problems in the community.

3.5.3 The operating hours/days of community patrols be re-assessed, on a community by community basis, and adjusted in accordance with demand.

3.5.4 The operating hours of community patrols align with the opening hours of the sobering up shelter in the region.

3.5.5 The number of community patrol workers employed be re-assessed, on an individual community basis, to ensure there are adequate staff to meet the demand.

3.5.6 The Department of the Chief Minister ensure effective coordination and integration of Australian Government funded programs (such as community patrols) with Northern Territory initiatives by maintaining effective communication, with the Australian Government.

3.5.7 The Department of Health work with community patrol providers to assess the need for further education of alcohol related harms in each community, and if appropriate develop culturally responsive educative information about alcohol harms and sources of assistance which Community Patrol Workers can disseminate as part of their engagement with drinkers.

3.6 Point of Sale Interventions (POSIs)

3.6.1 POSIs continue in regional centres after the commencement of the BDR until (and unless) it can be demonstrated that they are no longer required.

3.6.2 The *Liquor Act* be amended to empower uniformed Licensing Inspectors to undertake the POSI role.

3.6.3 Appropriate training be provided to Licensing Inspectors to enable them to undertake the POSI role.

3.6.4 Police continue to undertake the POSI role until Licensing Inspectors are employed and trained.

3.6.5 The POSIs regime be monitored and then evaluated to measure its continuing effectiveness and efficiency.

3.7 Foetal Alcohol Spectrum Disorder (FASD)

3.7.1 The Department of Health develop a strategy for implementing the Australian FASD diagnostic instrument, finalised in 2015. As part of that strategy development, the Department considers the cost effectiveness of multi-disciplinary paediatric teams.

3.7.2 The Northern Territory Government prioritise funding for early intervention services for FASD,

including paediatric diagnosis, psychotherapy and other behavioural management measures, and early childhood support and education services.

3.7.3 The Department of Health promote protocols for screening alcohol use before and during pregnancy to raise awareness of the risks or alcohol, assist expectant mothers with alcohol issues, and collect data in accordance with the Australian Institute of Health and Welfare's National Maternity Data Development Project.

3.7.4 Protocols for screening alcohol use during pregnancy include guidelines for support and referral for women struggling with alcohol use during pregnancy, including information on relevant local support services.

3.7.5 Alcohol screening include the use of other screening tools such as the Edinburgh Postnatal Depression scale, to assess the total environment of the pregnant woman.

3.7.6 The Department of Health review options for screening for FASD, particularly targeted screening of high risk populations, in line with the possible development of a national FASD screening instrument.

3.7.7 The Department of Health undertake audits of the current professional development needs of the health workforce in relation to FASD and develop a plan for ensuring an adequate level of awareness of FASD.

3.7.8 The government improve support for caring for children in the first years, particularly for at risk populations and:

- expand the Family as First Teachers program
- explore options for promoting early childhood education programs, such as Abecedarian day care, across the Territory
- explore options for improving support to new mothers, including the Family Nurse Partnerships Program.

3.7.9 The Department of Education implement and strengthen its initiatives to address the needs of students with FASD, including the delivery of strategies, training and resources for teaching students with FASD and the establishment of a formal FASD reference group.

- 3.7.10 A multi-disciplinary diagnostic service be established to which child protection workers, legal practitioners, judicial officers and correctional staff may refer individuals suspected of having a cognitive impairment such as FASD. The service should be linked to government and community based treatment programs.
- 3.7.11 The multi-disciplinary diagnostic service maintain data on the prevalence of FASD individuals in contact with the criminal justice and child protection systems.
- 3.7.12 A FASD support service be established in the Department of Health to provide case management for FASD individuals and their carers through an appointed social worker.
- 3.7.13 Additional funding be allocated to the development of more residential secure care facilities for the delivery of behavioural management programs to the cognitively impaired, including FASD individuals.
- 3.7.14 Community based health organisations and social service providers be funded to provide evidence based behavioural management programs for FASD individuals. The programs should be linked to the FASD support service.
- 3.7.15 A high level FASD Working Group be established and coordinated by the Department of the Chief Minister with representatives from the Departments of Health, Education, Children and Families, Attorney-General and Justice, Corrections and Police, Fire and Emergency Services to develop and implement an action plan addressing:
- protocols for sharing information about people diagnosed with FASD
 - training and awareness of FASD and related referral options for health
 - teaching, child protection, police, justice and corrections professionals
 - continuity and coordination of FASD services.
- 3.7.16 The Northern Territory Government continue to support the development and implementation of AMPs and that these be evaluated regularly to ensure their ongoing effectiveness (this recommend is subject to the recommendations regarding changes in relation to AMPs made elsewhere in this report).
- 3.7.17 The Northern Territory Government restrict the trading of alcohol at times when the greatest harm from alcohol consumption occurs as per recommendations made in the Categories and Terms and Conditions of Licences section with this report.
- 3.7.18 In line with recommendation 4.1.3 (in the Treatment section of this report), the demand study include a needs assessment for family rehabilitation facilities.
- 3.7.19 The Northern Territory Government ensure all children receive a culturally appropriate sexual health awareness program, such as the Adolescent Sexual Education Program and Core of Life.
- 3.7.20 The Department of Health ensure all training of health professionals include information on FASD and the risks of drinking while pregnant, and that protocols for antenatal visits include discussion of the risks of alcohol and whether the woman is consuming alcohol.
- 3.7.21 The Department of Health implement programs to improve the awareness regarding, and availability of, contraception options.
- 3.7.22 The Department of Health assess the need for intervention and support services for alcohol dependent pregnant women, particularly for rehabilitation services that provide for families and children, and alcohol free, safe accommodation.
- 3.7.23 Education programs be developed to increase awareness and effects of FASD (as per Chapter 3.8 education) and these be offered to the judiciary, lawyers (including prosecutors and defence counsel) Corrections and Youth Justice Officers.
- 3.7.24 The Northern Territory Government advocate for warnings on alcohol labels to be larger and more eye catching and be varied regularly.
- 3.7.25 All licensed premises display clear visual warnings about the risks of drinking while pregnant.
- 3.7.26 The Department of Health commission a prevalence study, using both antenatal and postnatal screening, to accurately assess the extent of FASD across the Northern Territory.

3.7.27 The Department of Health improve the proportion of pregnant women receiving antenatal care within the first trimester of pregnancy, with the aim of achieving 100 per cent.

3.7.28 A FASD regional interagency network committee be established in the Top End, similar to the Central Australian network committee.

3.7.29 A review of the Northern Territory FASD Strategy be undertaken and associated action plans developed in line with the National FASD Strategy 2018-2028 when it is released.

3.7.30 The Northern Territory Government advocate at a national level for additional and sustained funding to prevent FASD and support those affected by FASD.

3.8 Early Childhood and Education

3.8.1 The Northern Territory Government commit to long term and sustained investment in early childhood development programs.

3.8.2 School-based alcohol and drug programs with evidence of success be delivered in all Northern Territory schools at appropriate ages, on a long term basis.

3.8.3 School-based alcohol and drug programs that are suitable for urban settings be assessed and, if necessary, modified to ensure they are appropriate for regional and remote settings of the Northern Territory.

3.8.4 Educative programs be provided by AOD workers and teachers at key community events, to raise awareness of the harms of alcohol misuse.

3.8.5 The Department of Health develop education campaigns and resources to be delivered in a primary health setting, with a particular focus on women, to raise awareness of FASD.

3.9 Remote Workforce Development

3.9.1 The Northern Territory Government take expert advice on how best to ensure the appropriate training of local people and the transition of such people into identified areas of employment in recognition of the importance of providing employment opportunities in remote communities the government.

3.9.2 The Northern Territory Government invest in providing locally based training in remote areas with training targeted at health (ATSIHP, AOD and support services, such as treatment services), policing (ACPO) and other key support roles (PHSO, Night Patrol workers).

3.9.3 The Northern Territory Government increase support for people living in remote communities to undertake studies (by way of scholarships, traineeships, community based foundation level training, etc).

3.9.4 The Department of Housing and Community Development work towards increasing the number of PHSOs to enable the permanent presence of this workforce in regions where there is an identified need.

3.9.5 Government address gaps in employee housing to support a local workforce.

4. CHAPTER 4 Managing Harms

4.1 Treatment

- 4.1.1 The Department of Health promote the use of a standardised assessment tool (such as the AUDIT tool) across all health delivery services.
- 4.1.2 The AUDIT tool (or similar tool) be used to assess relevant individuals to stream them into the appropriate treatment for that individual.
- 4.1.3 The Department of the Chief Minister coordinate the development of a demand study for alcohol treatment services in the Northern Territory. This study should draw on ABS data, the Chief Health Officer's report, the Criminal Justice data collection, the Menzies School of Health Research data, emergency department presentations, hospital admissions, data from the Aboriginal Medical Services Alliance Northern Territory (AMSANT) and other relevant reports that have been presented to the review. The demand study should take into account the need to provide services locally where it is clinically safe and effective to do so.
- 4.1.4 The demand study should inform a multi-agency alcohol services plan which would meet the demand for alcohol treatment across the range of service types. This services plan should be developed by the Department of the Chief Minister and should include a workforce plan and an asset plan.
- 4.1.5 The Department of the Chief Minister ensure all existing services from all agencies be mapped against the overall service plan and a gap analysis be conducted to determine priorities for additional services, workforce and facilities. Where existing services have no evidence base, consideration should be given to changing the service model or conducting a rigorous evaluation.
- 4.1.6 Where appropriate, external expertise be sought to complete the demand study, mapping of services and gap analysis and evaluation of services.
- 4.1.7 That the Department of the Chief Minister closely monitor the progress of the demand study, gap analysis and development of the multi-agency service plan to ensure its progression.
- 4.1.8 That the Department of the Chief Minister ensure the implementation of the multi-agency service plan and monitors and reports on progress against the plan by ensuring each agency has clear targets about their actions which must be the subject of regular reporting.
- 4.1.9 Treatment programs have funding certainty for seven years (ten years in remote communities).
- 4.1.10 The Northern Territory Government work in partnership with AOD training providers to overcome barriers to remote workforce training.
- 4.1.11 The Northern Territory Government consider introducing 'internships' in remote communities.
- 4.1.12 The Department of the Chief Minister ensure effective coordination and integration of Australian Government funded programs with Northern Territory initiatives by maintaining adequate contact, and ensuring effective communication, with the Australian Government.

4.2 Alcohol and Other Drugs Court

- 4.2.1 An Alcohol and Other Drugs Court (along the lines of the former SMART Court) be established with emphasis upon diversion and treatment. The operation of the new court be modified in light of the experience with the SMART Court and with the operation of similar courts in other jurisdictions.
- 4.2.2 The former CREDIT/Bail diversion program for alcohol and drug related offending be considered in conjunction with the establishment of the court and adopted in such modified form as is appropriate to the circumstances.
- 4.2.3 The court be subject to an evidence-based assessment after it has been in operation for a sufficient period to evaluate its worth.
- 4.2.4 Funding for the COMMIT program be continued if it is deemed successful in meeting its objectives following the full evaluation of the program scheduled for 2019/20.
- 4.2.5 To increase the efficiency of the SMART court consideration be given to combining the function with mental health court liaison services.

4.3 Drinking Spots

- 4.3.1 The Northern government, in consultation with

the affected communities, reviews identified 'drinking spots' throughout the Territory and, where appropriate:

- i. relocate the drinking spot away from major roadways
- ii. reduce speed limits near known drinking spots
- iii. provide appropriate signage, to be developed in conjunction with communities and Aboriginal organisations, to warn road users of the existence of such spots
- iv. where practical provide water and shelter and adequate lighting to provide greater visibility of people or obstacles
- v. ensure, where practical, regular patrols by Police Officers and/or community night patrols are undertaken at known drinking spots.

4.3.2 The Northern Territory Government establish a working group to review strategies and initiatives to improve the safety of drinking spots in the Northern Territory.

4.4 Managed Alcohol Programs (Wet Houses)

4.4.1 A residential managed alcohol program be trialled in an appropriate location in the Northern Territory.

4.4.2 A comprehensive and independent evaluation of the trial be conducted, to measure its effectiveness in reducing alcohol related harms.

4.5 Sobering Up Shelters

4.5.1 A review of SUS services across the Northern Territory be undertaken to:

- identify geographic areas of need
- identify if the current beds in each existing SUS are adequate
- determine the peak demand times for the use of SUS in each geographic area
- identify the most effective service delivery and funding model for each geographic area
- determine whether the current AUDIT (or

similar) screening tool is being completed with every client and whether it is the most appropriate tool to use

- examine and address the reasons for the low usage rates.

4.5.2 The sobering up shelter monitoring system be expanded to record the score generated from the use of the AUDIT (or similar) screening tool.

4.5.3 Appropriate key performance indicators for SUS operations be established to measure the number of referrals to treatment services based on the score generated from the use of the AUDIT (or similar) screening tool.

4.5.4 SUSs be appropriately staffed to enable assessments to be made and advice offered regarding rehabilitation and other treatment services.

4.5.5 In relation to a person apprehended under Part V11 Division 4 of the Police Administration Act, Police be required to exhaust all other reasonable alternatives for the person's care and protection before detaining a person at a police station under the protective custody laws, this should be monitored to ensure this is occurring.

4.5.6 SUSs should have funding certainty for seven years (10 years in remote communities).

The Northern Territory Context

Effective alcohol policy is informed and reviewed in the context of the best available evidence. We have gathered and drawn on this evidence and the lessons and successes of past reviews and programs when developing this report and its recommendations.

The Problem

The harmful drinking culture of the Northern Territory has been well publicised over the years and while some research suggests there has been a modest decline in overall drinking rates in the Northern Territory¹³, the harm caused by excessive and unsafe drinking practices remains a major concern.

As confirmed in the Alcohol Burden of Disease Report (2014) 14 the Northern Territory continues to have the highest per capita consumption rate across Australia (12 litres per person per year compared with the national estimated per capita adult alcohol consumption rate of 10.42 litres) and the highest rate of alcohol attributed burden of disease and alcohol related deaths.

The National Health and Medical Research Council (NHMRC) guidelines for alcohol consumption provide advice on reducing the health risks from drinking alcohol. For healthy men and women, drinking no more than two (2) standard drinks a day reduces the lifetime risk of harm from alcohol-related disease or injury. Drinking no more

than four (4) standard drinks on a single occasion reduces the risk of alcohol-related injury arising from that occasion. (A single occasion of drinking refers to a person consuming a sequence of drinks without their blood alcohol concentration reaching zero in between)¹⁵. The Northern Territory had the nation's highest proportion (47.8 per cent) of adults exceeding these guidelines¹⁶.

As the below graph¹⁷ shows the Northern Territory continues to have the highest level of at risk drinking behaviours across all jurisdictions for persons aged 14 years and over¹⁸ and one of the lowest rates for those abstaining from drinking.

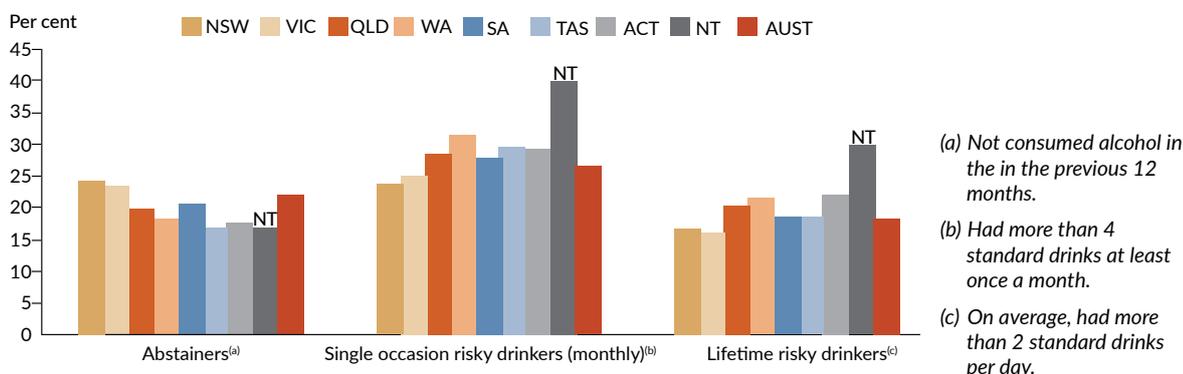
Excessive alcohol consumption can have significant impacts on the individual drinker, their families and members of the wider community.

Individual impacts include death, injuries, break-down in family relationships, deterioration of financial circumstances, loss of employment and disconnection from culture. It can also have serious long-term health impacts such as cancers, cardiovascular disease, liver cirrhosis, other chronic conditions and the on-set or intensification of mental health problems and many more.

Family and community impacts include injuries, deaths (from violence and motor vehicle accidents), domestic and family violence and child protection issues.

Excessive alcohol consumption also leads to social harms such as personal and property crime, drink driving and anti-social behaviours with wider economic consequences such as adverse impacts on tourism and commercial opportunities.

Alcohol Risk



13 National Drug Strategy Household Survey 2016 (AIHW)
 14 Gao, C. *, Ogeil, R.P. *, & Lloyd, B. (2014). Alcohol's burden of disease in Australia. Canberra: FARE and Victoria Health in collaboration with Turning Point.

15 NHMRC - <https://www.nhmrc.gov.au/guidelines-publications/ds10>
 16 AIHW - alcohol use by state and territory - <http://www.aihw.gov.au/alcohol-and-other-drugs/alcohol/state-and-territory/>
 17 Ibid - Figure 72: Abstainers, lifetime risky drinkers and single occasion risky drinkers, by state and territory, people aged 14 or older, 2013 (per cent)
 18 Ibid

The Alcohol Burden of Disease Report noted that the Northern Territory has the highest proportion of alcohol-related deaths for both males and females with the proportion around three times greater than the national average.

The proportion of infectious diseases and deaths attributable to alcohol in the Northern Territory (22.6 per cent), was almost three times as high as the proportion in Tasmania (8.1 per cent).

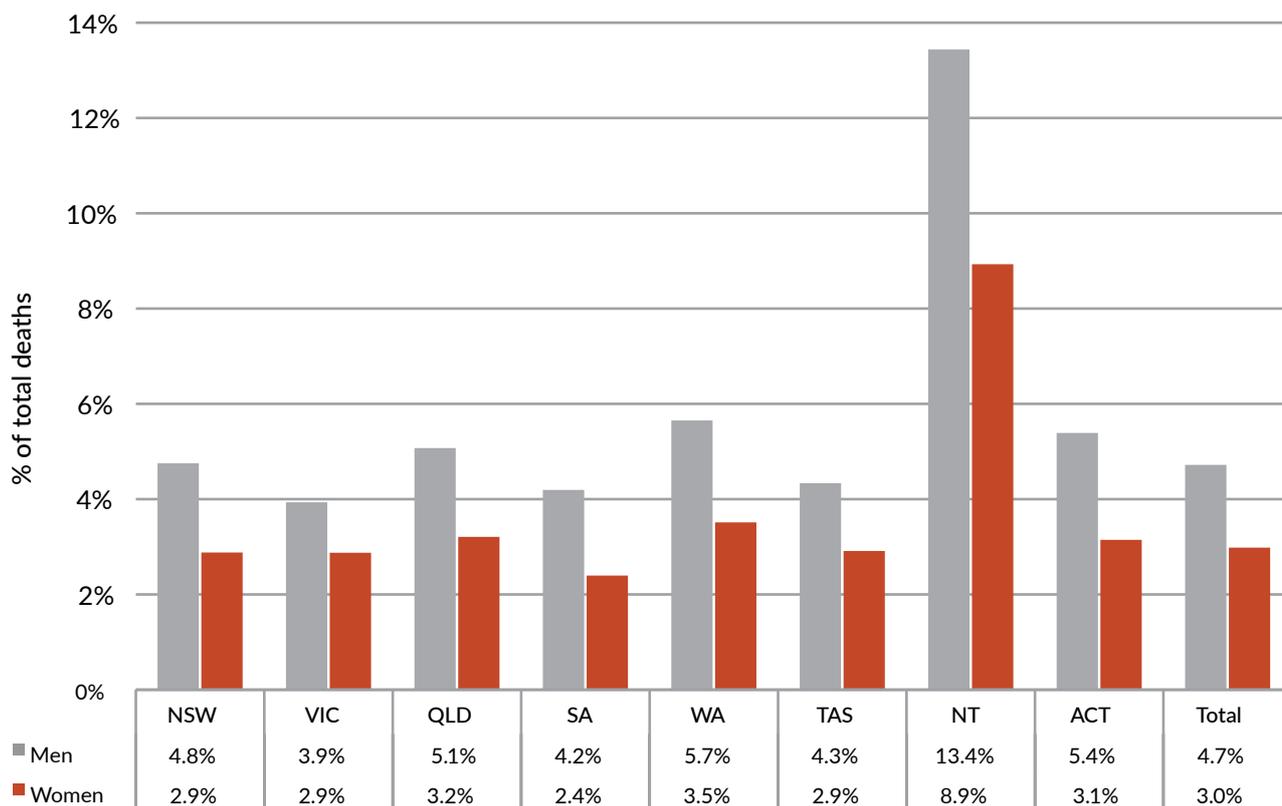
The population rates of alcohol-attributable injury mortality and morbidity were highest in the Northern Territory. The Northern Territory also had the highest population rates of alcohol-attributable neuropsychiatric diseases, deaths and hospitalisations with rates around 10 times higher than those in any other state or territory.¹⁹

The Report found that the highest proportion of alcohol-attributable deaths for both sexes occurred in the Northern Territory, (males: 13.4 per cent, females 8.9 per cent) about three-times greater than the national figure (males: 4.7 per cent, females 3.0 per cent)²⁰.

It is often the innocent who are most significantly adversely affected by alcohol related crimes. Excessive alcohol consumption results in an increased risk of violence, domestic violence, sexual assault and road casualties.

The impact of alcohol consumption also extends to the unborn child. The consumption of alcohol during pregnancy can result in birth defects and behavioural and neurodevelopmental abnormalities known as FASD.

Proportion of deaths in men and women attributable to alcohol by state in Australia in 2010²¹

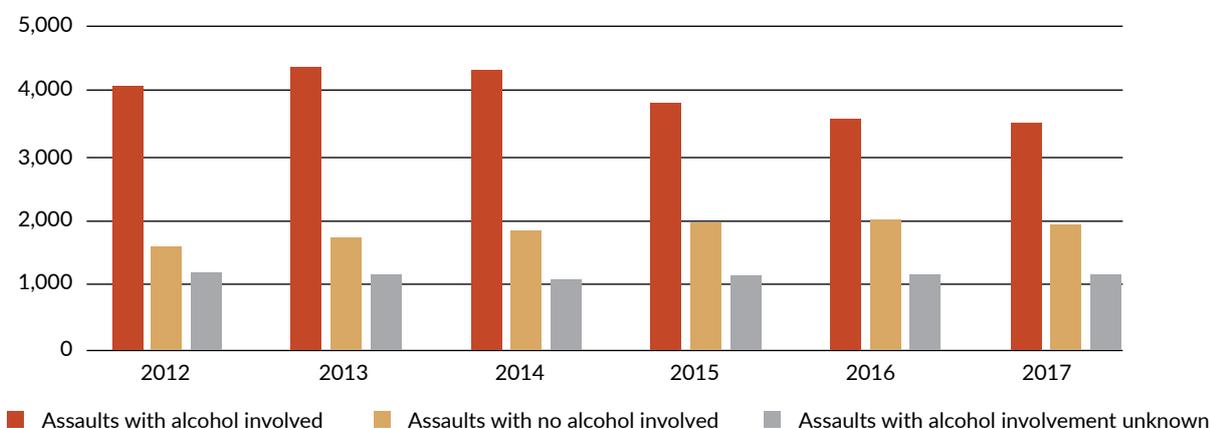


19 Gao, C.*, Ogeil, R.P.*, & Lloyd, B. (2014). Alcohol's burden of disease in Australia. Canberra: FARE and VictoriaHealth in collaboration with Turning Point.

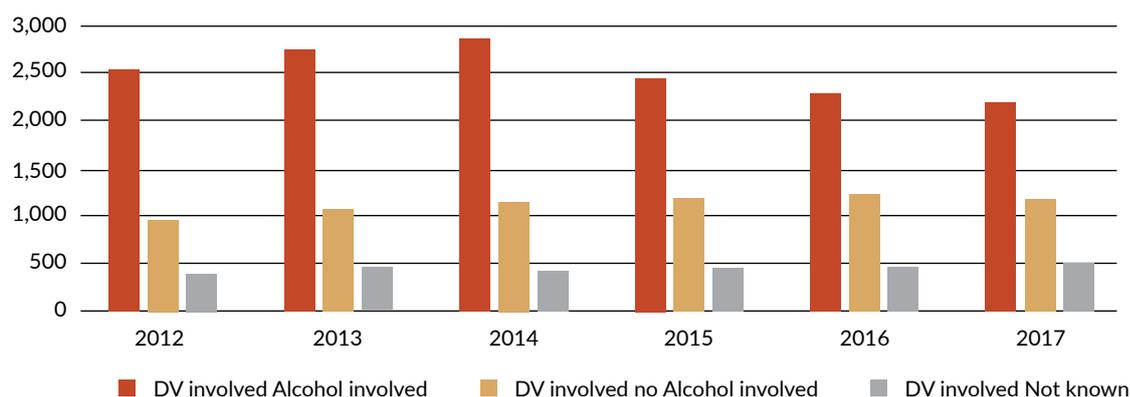
20 Ibid

21 Northern Territory Crime Statistics <http://www.pfes.nt.gov.au/Police/Community-safety/Northern-Territory-crime-statistics/Statistical-publications.aspx>

Total Assaults in the NT ²²



Domestic Violence Results NT ²³



With a high proportion of pregnancies (especially in younger women) being unplanned, 25 per cent of Northern Territory births being to mothers aged between 18 and 24²² and 60.6 per cent of women aged between 18 and 24 reported as exceeding the single occasional risk consumption guidelines²³ there is an increased risk of women consuming alcohol in early pregnancy without being aware they are pregnant. This in turn increases the risk of babies being affected by FASD.

The low proportion of Aboriginal women presenting for health checks within their first trimester (<13 weeks) is

also a contributing risk factor. The 2015 Select Committee Report on Action to Prevent Foetal Alcohol Spectrum Disorder – The Preventable Disease – made a number of recommendations in relation to addressing the rising incidence of FASD and we urge government to act on those recommendations. Further information about the Select Committee Report and its recommendations is provided in the body of this report.

The evidence presented to the review was consistent in stating that alcohol consumption in the Northern Territory was far too high at 173 per cent of the Australian average. The Australian average is itself high by world standards. In order to reduce the harms from alcohol in the Northern Territory it is necessary to reduce consumption. This may be self-evident but needs to be stated.

²² Hall J, O'Neil L. Northern Territory Midwives' Collection. Mothers and Babies 2014. Department of Health, Darwin, 2016

²³ National Health Survey: First Results, 2014-15 - [http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by per cent20Subject/4364.0.55.001~2014-15~Main per cent20Features~Alcohol per cent20consumption~25](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4364.0.55.001~2014-15~Main%20Features~Alcohol%20consumption~25)

²⁴ Ibid.

²⁵ Northern Territory Crime Statistics <http://www.pfes.nt.gov.au/Police/Community-safety/Northern-Territory-crime-statistics/Statistical-publications.aspx>

The Response

It is apparent that there are many reasons people misuse alcohol, including trauma, homelessness, joblessness, family dysfunction, low self-esteem, loss of culture, experimentation, peer and social pressure, boredom, stress, addiction and mental health issues. Recognising and addressing these causal factors is an important step in minimising harm associated with risky drinking.

Governments are aware of these issues and the harms caused by alcohol and there have been numerous programs and initiatives developed over the years in an attempt to reduce the level of drinking and address the drinking culture in the Northern Territory. Measures have included:

- » restrictions on product availability
- » restrictions on licensed premises such as opening hours, lock outs, types of alcohol available for purchase (i.e. no full strength beer) and responsible service of alcohol requirements
- » declarations of dry areas and restricted areas
- » alcohol protection orders
- » the banned drinker register
- » mandatory treatment orders
- » voluntary alcohol accords
- » point of sale interventions / temporary beat locations
- » promotion of responsible drinking.

A list of previous reviews, programs and initiatives is provided at Appendix D.

Some of the recommendations from previous reports have not been supported by government and therefore not implemented, whilst others have been supported but not fully implemented.

Some of these initiatives have been successful; others have not. The unsuccessful programs often had no evidence base to support them, were short-term, had not been adequately resourced and had not been evaluated to determine their impact.

The Living with Alcohol Program is an example of a rigorously evaluated initiative that involved a mixture of a pricing measure and a public education approach which led to positive impacts. This program ceased when its dedicated funding source was removed as an indirect result of a High Court decision.

Alcohol harm minimisation measures must also address underlying social determinants such as employment, education, housing and social and emotional wellbeing. More effort needs to be made across government to improve conditions for all Territorians where they live, work, learn and play. Better coordination of services, information sharing and cross-government collaboration will assist in developing an effective alcohol harm minimisation framework and achieving sustained results.

During this review it was noted that while there has been a lot of effort put into addressing the harm caused by alcohol in the Northern Territory the major barriers to effectively addressing the issues included:

- » lack of a consistent whole-of-government policy approach
- » out-dated and ineffective legislation
- » lack of long-term approaches and funding
- » programs and services being affected by politically based decisions and by changes of government
- » very few evaluations of programs and services being undertaken to properly assess their effectiveness
- » poor coordination and communication between the various agencies with responsibilities in this area
- » a lack of appropriate data collection and sharing by agencies to assist with evidence building that can be used to identify gaps to enable targeted approaches.

Clearly, more work is required to reduce the impact of alcohol-related harm across the Northern Territory.

1. CHAPTER 1 – Whole-of-Government Approach

1.1 Whole-of-Government Approach

Responsibility for alcohol policy, regulation and enforcement is presently spread across multiple agencies including the Department of Health (policy), the Department of the Attorney-General and Justice, licensing authority (regulation, enforcement) and Northern Territory Police (enforcement).

During the review there was consistent support for a whole-of-government approach to addressing the issues raised. In a submission to the panel the Leader of the Opposition supported the need for a whole-of-government approach to the problem of alcohol related harm in the Northern Territory and he called for an evidence based bipartisan effort to tackle the problem. We are encouraged by his response, and by the general consensus, to think that not only is a whole-of-government approach available but a whole of community response is achievable.

As noted throughout this report the statistics relating to harmful and risky drinking across the Northern Territory are, at the very least, disturbing. It will take a sustained, coordinated and appropriately resourced effort to develop and implement an effective alcohol harm minimisation framework to address the problem. The framework will necessarily include a comprehensive approach to reducing alcohol related harm focussed on:

- » targeting the availability of alcohol
- » supporting those who are adversely affected by alcohol use
- » addressing social determinants
- » educating the population about the detrimental effects of excessive and sustained alcohol consumption
- » being culturally responsive
- » strengthening and supporting licensing and enforcement agencies.

Implementation will require a whole-of-government approach with a high-level of cross-agency coordination, cooperation and information sharing. Effective leadership and coordination are essential to ensure any alcohol harm minimisation framework is effective and achieves sustained results.

We strongly recommend centralising the coordination role for the response to the problems revealed in the review and the implementation of its recommendations, including the development of the Framework and introducing necessary legislation and policy initiatives. Such a

coordination role should be based in the Department of the Chief Minister with the responsible officer reporting directly to the Chief Executive and ultimately through the Chief Minister and Cabinet to Parliament. Given the importance of this issue coordination should be the sole responsibility of this officer.

This approach will ensure all matters relating to alcohol are addressed concurrently and in a coordinated way, rather than in isolation from each other as now occurs.

The role of the high-level officer in the Department of the Chief Minister shall include, but not be limited to:

- » coordinating the government response to the review
- » overseeing the development of an interagency implementation plan with clear performance indicators for each agency
- » coordinating evaluation of the framework and its initiatives in partnership with external research bodies
- » ensuring liaison with non-government organisations and the Australian Government on all alcohol-related matters
- » ensuring adequate data collection and appropriate linkage across all agencies
- » reporting through the Chief Minister to Parliament on progress with implementation and outcomes
- » Coordinating public health awareness campaigns at a population, community and individual level.

Recommendations:

- 1.1.1 The Northern Territory Government strive for a bipartisan agreement to give effect to the alcohol harm minimisation framework to ensure a sustained long-term approach to addressing the issues.
- 1.1.2 Alcohol harm reduction be given major project status within government, with all new programs/policies/Cabinet submissions to consider and address the impact they will have on reducing the harms caused by alcohol.
- 1.1.3 A strong focus be given to addressing social determinants to support alcohol harm minimisation efforts.
- 1.1.4 The establishment of a high-level executive position within the Department of the Chief Minister that reports directly to the Chief Executive (CE) and through the CE to the Chief Minister and Cabinet with the Chief Minister then reporting to Parliament on all alcohol related matters.

1.1.5

The role of the high level officer in the Department of the Chief Minister shall include, but not be limited to:

- coordinating the Northern Territory Government response to the Alcohol Policies and Legislation review
- oversight of the development of an inter-agency implementation plan with clear performance indicators for each agency
- ensuring liaison with non-government organisations and the Australian Government on all alcohol-related matters
- ensuring adequate data collection and appropriate linkage across all agencies
- coordinating evaluation of the interagency implementation plan and its initiatives in partnership with external research bodies
- reporting through the Chief Minister to Parliament on progress with implementation and outcomes
- coordinating public health awareness campaigns at a population, community and individual level.

1.1.6

The high-level officer in the Department of the Chief Minister oversee a unit that is resourced with, at a minimum, support staff with a knowledge of health, law enforcement, and regulation matters.

1.2 Changing the Culture

The current drinking culture in the Northern Territory manifestly encourages excessive and harmful drinking. This is highlighted by factors such as:

- » all major events held across the Territory have alcohol available for consumption
- » the extremely high density of liquor outlets in the Northern Territory
- » the lack of alcohol free events.

All adult Territorians have a right to enjoy alcohol responsibly. The statistics, research and evidence presented to the review demonstrate that many Territorians do not drink responsibly. A fundamental element of an effective alcohol framework requires a significant change in the drinking culture and in individual attitudes towards alcohol to one that is responsible and reflects safe drinking practices.

The purpose of our recommendations is not to take away a person's right to enjoy a drink. It is to arm them with

knowledge of the overall effects misusing alcohol can have on their health and wellbeing, thereby allowing them to make informed decisions on when, where and how much alcohol they consume.

There is a lack of understanding in the community of the long-term effects sustained drinking can have on the body. There is also a misconception, particularly among people aged between 15 and 24, about what are considered to be safe drinking levels. This misconception and poor understanding sustains the current culture and contributes to the continued high levels of alcohol related deaths, injuries, adverse health impacts and broader financial and societal impacts across the Territory.

Shifting the drinking culture must be a key focus of any alcohol harm reduction framework and should be a key element of any initiatives, policies or programs developed to support that framework. Change is a long-term commitment, and no single approach will work. To achieve this change a broad range of strategies targeting communities and individuals is required.

The Living with Alcohol program demonstrated that attitudes can change if appropriate public health campaigns are consistently delivered.

Public health campaigns need to be developed to educate people on the risks associated with unsafe drinking practices. Campaigns should target key sub-groups of the population, (i.e children under 15, 15 to 17 year olds, 18 to 24 year olds, over 40s etc) and use available evidence to educate them about the benefits of a responsible drinking culture within those groups. For example recent research shows males and females between the ages 18 to 24 are more likely to exceed the single occasion risk guidelines (69.4 per cent males, 60.6 per cent females)²⁶, whilst persons aged 40 to 49 are more likely to undertake lifetime risky drinking behaviours²⁷.

Public health campaigns need to be developed to:

- » encourage abstinence among young people under the age of 18, in recognition of the evidence that the later adolescents delay their first alcoholic drink the less likely they are to become regular consumers²⁸
- » highlight the risks of drinking when pregnant, planning

26 Australian Bureau of Statistics – National Health Survey: First Results, 2014-15

27 Australian Institute of Health and Welfare 2016. Trends in alcohol availability, use and treatment 2003-04 to 2014-15. Drug treatment series no. 28. Cat. no. HSE 179. Canberra: AIHW.

28 NHMRC – Australian Guidelines to reduce health risk from drinking alcohol

a pregnancy and when breastfeeding to prevent FASD and reduce the harmful effects on young children (FASD is further addressed later in this report)

- » highlight the risks of alcohol in the workplace
- » highlight the impact of alcohol on sporting performance
- » highlight the risks of driving under the influence of alcohol.

All campaigns must promote the National Health and Medical Research Council's (NHMRC), *Australian Guidelines to reduce health risks from drinking alcohol* to educate the population on the safe limits for lifetime drinking levels, single occasion drinking, youth under the age of 18 and during pregnancy and breastfeeding.

Government must prioritise hosting, supporting and promoting alcohol free events across the Territory to provide an opportunity, particularly for young people and families, to participate in events free of alcohol.

In addition to public health campaigns and alcohol free events, increased resources are needed to give young people access to more sporting opportunities, drop-in centres, and programs to encourage family/community connectedness and personal/social development.

As the consistent downward trends in smoking shows, targeted restrictions and public health campaigns can have a positive impact on community attitudes and indulgence in risky behaviours. Restrictions on smoking in venues and in advertising are now generally accepted in the community and nationally fewer people are taking up smoking and more people are reducing their daily smoking. It is a similar shift in attitude we are hoping will be achieved by both government and community support of the measures proposed throughout this report.

Recommendations:

- 1.2.1 Public education campaigns be developed to:
 - target sub-groups of the population to address the drinking culture within those groups
 - encourage abstinence among young people under 18 (and especially among those under 15)
 - highlight the risks of drinking when pregnant, planning a pregnancy or when breastfeeding
 - highlight risks of alcohol in the workplace
 - highlight the impact of alcohol on sporting performance
 - highlight the risks of driving under the influence of alcohol
 - highlight the connection between consumption of alcohol and violence.
- 1.2.2 All campaigns promote the NHMRC Australian Guidelines to reduce health risks from drinking alcohol and have an overall aim to improve the drinking culture, and ultimately reduce harm within the Northern Territory.
- 1.2.3 A baseline survey and subsequent three yearly attitudinal survey be undertaken to assess the attitudes of Territorians towards the use of alcohol as a measure of the success of the measures outlined within this Report.
- 1.2.4 The Northern Territory Government should give priority to hosting, supporting and promoting alcohol free events.
- 1.2.5 The Northern Territory Government increase resources to provide young people with access to further sporting opportunities, drop-in centres, and programs to encourage family/community connectedness and personal/social development.

1.3 Research / Data / Evaluation

To ensure a sustained positive effect on alcohol harm reduction it is necessary to:

- » facilitate better data linkage
- » insist on continual research to ensure contemporary evidence is used when developing programs and policies
- » require appropriate and rigorous program evaluations.

The Northern Territory presents some unique challenges in its challenging geography, workforce availability and cultural overlay. The relationship between alcohol consumption and chronic diseases such as diabetes and renal disease, the tragedy of FASD and the relationship to loss, alienation and poverty is particularly marked. For this reason it is important to collect and link a broad range of data at a population and individual level.

Data

Like all jurisdictions, the Northern Territory holds multiple datasets in relation to alcohol consumption and harms. These datasets are held by human service agencies, non-government organisations (NGOs), community controlled organisations and criminal justice agencies. Each dataset captures data relevant to the core operations of the individual agency or organisation. However, the data captured by each of these agencies and organisations has cross-relevance for others and all would benefit from having access to each of the individual datasets to more effectively identify and address issues.

Some good work has already been done. For instance the Menzies School of Health Research has developed an excellent set of indicators at a community level to monitor improvement (or otherwise) in Indigenous communities²⁹.

The panel was made aware of the National Health and Medical Research Council (NHMRC) Data Linkage Partnership Project entitled '*Improving the developmental outcomes of Northern Territory children: a data linkage study to inform policy and practice in family services and education*'. This is a three year research partnership (2015-2017) between Menzies, the Northern Territory Departments of Health, Education, and Territory Families and the Aboriginal Medical Services Alliance Northern Territory (AMSANT) to make better use of existing departmental data to create more integrated and locally relevant evidence to guide Northern Territory social and public policy.

Increasingly sophisticated data linkage allows more effective use of data. We recommend this worthwhile project be expanded. It should include any additional agencies or NGOs that develop policies or provide services about alcohol use, treatment and prevention, to enable better access to, and use of, relevant data to inform alcohol harm minimisation initiatives, policies and programs.

Regular national surveys also provide useful information on changing patterns of use. As is the case elsewhere, there is relatively poor use of this data to monitor the extent of the

29 Developing a place-based alcohol indicators framework to monitor and evaluate alcohol management plans and other alcohol initiatives in the Northern Territory Final Report – Dr J Buckley, Dr M Stevens, Prof R Midford (report not publicly released).

problem and the long term effectiveness of prevention and treatment programs at both an individual and population level. Government should continually review national surveys to monitor the patterns of use and attitudes in the Northern Territory compared with national trends and other jurisdictions.

Another strong data linkage tool that would be useful in the Territory is a Last Drink Surveys (LDS). Whenever alcohol is identified as having been consumed by an alleged offender prior to committing an offence, the apprehending officer collects details about their last drink such as:

- » where it was consumed
- » where it was purchased
- » the time it was consumed
- » whether alcohol had been consumed at any other location/s in the last four hours.

Similar information is taken during the triage process in an emergency department, as well as information on the estimated number of standard drinks, and the location/venue of the last drink consumed.

LDSs have been used in New Zealand, with similar pilot programs being introduced in Australia which have included linking police data³⁰ and emergency department data³¹.

We consider the principal aim of the LDS would be to assist agencies with a statutory role in liquor licensing to identify where alcohol related problems originated, particularly in relation to licensed premises. Not only could this information be used to inform targeted compliance activity, or the point of sale intervention strategies discussed elsewhere, but it could also be used to inform local accords and alcohol management planning.

We recommend that a Last Drinks Survey enabling data linkage across police, emergency departments and the licensing authority be developed and implemented across the Northern Territory.

Research

There is a need for more research on local patterns of alcohol consumption, misuse, harm and addiction. Whilst alcohol consumption is decreasing nationally it continues

30 The Alcohol Linking Program: Adopted by NSW Police (2009) <http://www.fare.org.au/wp-content/uploads/research/Adoption-of-the-Alcohol-Linking-Program-into-Routine-Practice-by-New-South-Wales-Police.pdf>

31 Last drinks: A study of rural emergency department data collection to identify and target community alcohol-related violence : 2015 Emergency Medicine Australasia: Peter MILLER,1 Nicolas DROSTE,1 Tim BAKER2 and Cathreena GERVIS3. - 1School of Psychology, Deakin University, Geelong, Victoria, Australia, 2School of Medicine, Deakin University, Warrnambool, Victoria, Australia, and 3South West Healthcare, Warrnambool Campus, Warrnambool, Victoria, Australia

to increase in the Territory. We need to better understand why this is the case so programs and interventions can be appropriately focussed.

Most research undertaken to date is grant funded, which means it is generally time-limited and its focus varies depending on who is funding the research.

The Territory would benefit from establishing a locally based research body, tasked with specifically researching alcohol and other drug patterns of use, addiction, harms etc. This body would support government agencies and NGOs to develop contemporary, evidence based policies and programs into the future.

Monitoring and Evaluation

Treatment programs, especially new and innovative ones, should be rigorously evaluated. Where possible the evaluation component should be identified within the funding.

We acknowledge that some programs already have a solid evidence base and may not require separate evaluation – their effectiveness may be monitored by the consistent data set.

Considerable research and evaluation expertise exists within research bodies in the Northern Territory such as Menzies School of Health Research and Charles Darwin University. Consideration should be given to establishing a formal partnership (or partnerships) with external evaluation agencies to ensure rigour and independence.

Recommendations:

1.3.1 The data linkage project (*Improving the developmental outcomes of Northern Territory children: a data linkage study to inform policy and practice in family services and education*) be expanded to allow for the capture and sharing of data about alcohol use, treatment and prevention, to enable better access to, and use of, relevant data to inform alcohol harm minimisation initiatives, policies and programs.

1.3.2 The Northern Territory Government supports the establishment of an external dedicated research unit, either new or within an existing research body, addressing alcohol and other drugs. The unit report to Parliament and have the charter of initiating research into the causes, patterns and consequences of alcohol and other drug misuse in the Northern Territory.

1.3.3 The research body also undertake the role of conducting independent, high-quality evaluations of interventions and policies.

1.3.4 The research body work towards standardising data collection systems and records across all services providers.

1.3.5 Collection of data relating to the BDR commence immediately and an independent evaluation of the BDR be undertaken to assess its impact on alcohol harm minimisation within three years or some other suitable period.

1.3.6 The Northern Territory Government must regularly collect and publish comprehensive alcohol related wholesale supply, consumption, criminal justice, hospital and health data. Care must be taken to ensure the capture of data relating to the online sale and supply of alcohol.

1.3.7 Feedback from all data collected be provided to stakeholders including the licensing authority, emergency departments, police, ambulance and licensees.

1.3.8 The Northern Territory Government trials the Cardiff model to link emergency department data with assault statistics to inform policy development in this space and to improve front-line response to incidents.

1.3.9 A last drinks survey, be developed and implemented across the Northern Territory, enabling data linkage across police, emergency departments and the licensing authority.

1.3.10 Emergency department data collection to include mandatory questions on; location of alcohol related event; consumption of alcohol in the past 12 hours; place of last alcoholic drink consumed; place where the majority of the alcohol was purchased.

1.3.11 A 'last drinks' monitoring system be implemented by Police to mandatorily identify where people involved in alcohol related crime purchased and consumed their last drinks.

2. CHAPTER 2 Regulatory Framework

2.1 The *Liquor Act*

The supply of liquor and the liquor industry in the Northern Territory is regulated by the *Liquor Act* (the Act) which was originally enacted in 1979. Since 1979 there have been over 50 amendments to the Act resulting in a complex, and in some places, inconsistent regulatory regime. It is time for the Act to be re-written.

The primary object of the Act is expressed to be to regulate the sale, provision, promotion and consumption of liquor so as to minimise the harm associated with the consumption of alcohol, however the provisions of the Act do not ensure this object is achieved. There is universal agreement that there are far too many licences to sell alcohol issued in the Northern Territory but history shows that over many years the overwhelming majority of applications for new licences have been successful. An application refusal is a rarity. The Act has not operated to limit the number of new licences to an appropriate level nor to control the number and nature of licences issued in a geographical area.

Further, each licence is issued at minimal cost and, once granted, remains current forever unless there is sufficient reason to cancel it, or the licence is surrendered. The requirements that exist in licensing regimes of other jurisdictions in relation to licence renewal or review, are nowhere to be found in the Northern Territory regime. Unless the licence conditions are being breached, it is difficult to cancel or vary a licence that no longer meets community needs or protects the community amenity.

As we will discuss, the Act does not create categories of licence with settled core conditions but, rather, simply provides that the Director-General of Licensing (Director-General) may “issue a licence to an applicant for the sale of liquor, or the sale and consumption of liquor on, at, or away from, premises specified in the licence”. As a consequence, businesses with similar operations and business models may (and do) obtain licences under quite different administratively determined categories and with quite different operating conditions.

The need for a complete re-write of the Act has previously been identified but not acted upon. In 2004 the Northern Territory Alcohol Framework Final Report recommended that the then *Liquor Act* be rewritten in its entirety and replaced by a new Act. The recommendation outlined the purposes of rewriting the *Liquor Act* as:

- » to provide a coherent framework for the operation of

the liquor industry within harm minimisation principles and consistent with the goals and aims of the Alcohol Framework

- » to remove confusing and inconsistent provisions
- » to implement the specific recommendations made within the report relating to amendments to the *Liquor Act*.

We make the same recommendation. It is necessary for the Act to be replaced by a completely new Act.

Recommendation:

- 2.1.1 The *Liquor Act* be rewritten.
- 2.1.2 The *Liquor Act* provide a coherent framework for the operation of the liquor industry within harm minimisation principles consistent with the goals and aims discussed in this report.
- 2.1.3 Remove confusing and inconsistent provisions in the Act.

We move to consider some specific aspects of the *Liquor Act* and its operation that we consider foundation elements to an effective regulatory framework for the sale and consumption of liquor. In looking at the fundamental elements – including how decisions are made, categories of licence, compliance and enforcement, and dry areas – we acknowledge that there will be particular areas and matters not specifically addressed that will need to be considered in a rewrite of the Act. The following discussion and recommendations are made with reference to amendments to the *Liquor Act*, however the discussion is to be considered in the context of a complete rewrite of the *Liquor Act*.

Decision making criteria – objects of the Act and the Public Interest

In 2004 the *Liquor Act* was amended to include additional specific objectives of the Act relating to the ‘public interest’. Since then, all decisions made under the Act, either by the former Licensing Commission or by the Director-General, have been required to be made in the public interest, having regard to the objects of the Act.

As noted early in this Report, Section 3 provides that the primary object of the Act is to regulate the sale, provision, promotion and consumption of liquor:

- (a) so as to minimise the harm associated with the consumption of liquor; and
- (b) in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor.

Section 6 of the Act sets out a range of criteria that must be considered in determining the public interest, in the following terms:

- (a) harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;
- (b) liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
- (c) public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;
- (d) the safety, health and welfare of persons who use licensed premises must not be put at risk;
- (e) noise emanations from licensed premises must not be excessive;
- (f) business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;
- (g) a licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:
 - i. by-laws made under the *Local government Act*; and
 - ii. provisions of or under the *Planning Act*;
- (h) each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;
- (i) the use of credit in the sale of liquor must be controlled;
- (j) practices which encourage irresponsible drinking must be prohibited;
- (k) it may be necessary or desirable to limit any of the following:
 - i. the kinds of liquor that may be sold;
 - ii. the manner in which liquor may be sold;
 - iii. the containers, or number or types of containers, in which liquor may be sold;

iv. the days on which and the times at which liquor may be sold;

- (l) it may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;
- (m) it may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;
- (n) it may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices.

This lengthy list of considerations has not served to ensure that harm minimisation has been at the forefront of decision making in the Northern Territory. It has not served to constrain the issue of licences almost as of right. Research suggests that having such a wide range of considerations leads to individual considerations relating to harm minimisation being either overlooked or not accorded sufficient weight.³²

A study of the application and effectiveness of "public interest" objectives embedded in liquor licensing legislation, which examined licensing decisions arising from reviews of decisions or complaints about licensees, concluded that public interest arguments were generally ineffective. The study found that the majority of licensing systems were heavily weighted towards the presumption that applications for a liquor licence will be successful.³³

The South Australian review recommended that the needs test that applied in the *Liquor Licensing Act* (South Australia) for the issue of new licences or the removal of an existing licence to other premises, be replaced with a test based on the concepts of both community impact and public interest for higher risk categories of licence³⁴. The review concluded that this combined approach to the test required the decision maker to focus on the public interest and the potential impact on the community rather than 'simply what the public want and say they cannot get without difficulty'³⁵. Such a test 'should require the applicant to satisfy the licensing authority that granting the application

32 Manton E, Effectiveness of public interest arguments in recently case law; Stemming the tide of alcohol; Liquor Licensing and the public interest published 2014 <http://fare.org.au/>

33 Manton E, Effectiveness of public interest arguments in recently case law; Stemming the tide of alcohol; Liquor Licensing and the public interest published 2014

34 Recommendation 72 The Hon. T R Anderson QC review of the South Australian Liquor Licensing Act 1997

35 Ibid page 170 and 171

will not detract from the safety and well-being of the community and is in the public interest’.

This test should be adopted and apply to all applications that come before the licensing authority and not just to high risk licences as suggested in South Australia. This is because of the acknowledged fact that there are far too many licences in the Northern Territory leading to significantly elevated levels of alcohol related harm contributed to by all categories of licence.

Drawing from Table 12 of the South Australian review we also consider the following matters to be relevant to a public interest and community impact test, which at the very least ought be provided in guidelines supporting the Act.

In the Northern Territory the concept of “community” is likely to be much broader than in other jurisdictions depending upon geographical location. In remote areas the concept may include places over 100 kilometres away and not just the next suburb.

In all other jurisdictions liquor licensing legislation includes a requirement that public interest objectives be considered, however the procedures differ. Some jurisdictions require a specific community impact statement or public interest assessment to be prepared, identifying the impact the proposed licence will have on community amenity. In Western Australia the legislation imposes a positive duty on the applicant to demonstrate that granting a

Criteria	Matters to be considered
<p>The potential harm or health impacts that may be caused to people, or any group of people within the local community area, due to the availability and accessibility of an additional liquor outlet</p>	<p>Are there any ‘at-risk’ groups or sub-communities within the locality? This may include—</p> <ul style="list-style-type: none"> • children and young people; • Aboriginal people and communities; • people from regional and remote communities, families; • migrant groups from non-english speaking countries; • people in low socio-economic areas; • mining communities; and/or • communities that experience high tourist/visitor numbers. <p>Are there any community buildings, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • schools and educational institutions; • hospitals, drug and alcohol treatment centres; • accommodation or refuges for young or disadvantaged people; • child care centres; • aboriginal communities; • recreational areas • dry areas; and • any other area where young people may congregate or be attracted to. <p>What policies and procedures will the applicant implement to minimise any potential harm or health impacts to these ‘at-risk’ groups or sub-communities?</p>
<p>Information about the suburb or council area in which the premises is proposed to be located to assess any social impact on the community.</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises to the extent such information is published.</p>
<p>Any cultural, recreational, employment or tourism benefits for the local community area.</p>	<p>Will the proposed licensed premises provide economic benefits or any additional employment opportunities and to what level?</p>
<p>Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.</p>	<p>What additional services will be provided other than simply an additional outlet for the sale of liquor – this may include accommodation or dining.</p>

liquor licence is in the public interest.³⁶ In our opinion the Western Australian model should be adopted in the Northern Territory where it is clear that the irresponsible sale, supply and consumption of alcohol is causing unacceptable levels of harm far greater than in other parts of Australia. The need for demonstrated public interest is greater because of the greater harm caused by alcohol in this jurisdiction.

The *Liquor Act* should make it clear that the onus of establishing that the grant of a relevant application is in the public interest rests firmly upon the applicant at all times. The sale of alcohol should be seen as a privilege not a right and the supply and sale of it should be supported only if the community is protected from harm by sensible controls.

Recommendations:

- 2.1.4 Develop a Public Interest and Community Impact and test in accordance with this report.
- 2.1.5 The public interest and community impact test be explained in guidelines covering, but not limited to, the matters identified in Section 6 of the *Liquor Act* and in table 12 included in this report.
- 2.1.6 All decisions made under the Act be required to apply the public interest and community impact test.
- 2.1.7 The Act make it clear that at all times the onus rests firmly upon the applicant to establish the case for the outcome sought by the applicant.
- 2.1.8 Section 3 of the Act remain in its present or a similar form.

2.2 Who makes decisions under the *Liquor Act*

The Northern Territory Licensing Commission was abolished on 1 January 2015 and replaced by the new statutory office of Director-General of Licensing. At the same time the legislated position of Director of Licensing was removed, and all powers and functions attributed to that position were transferred to the Director-General of Licensing.

A key feature of the Director-General of Licensing framework that differs from the former Licensing

Commission framework is that the Director-General is not required to hold a public hearing when determining a matter under the *Liquor Act*.

There has been overwhelming support expressed in the submissions received by the review and in the course of public meetings, for reinstating a Commission decision making framework, particularly one that holds public hearings. A consistent theme was the need for greater transparency and increased community involvement in the decision making process. While community involvement under the Director-General framework was maintained, deliberation in a public forum was no longer mandated. This apparent lack of transparency has resulted in a lack of confidence in the decision making process and the consideration of the public interest in liquor matters.

Another major concern with the current framework is the lack of differentiation between the body making the decisions about applications and enforcement on one hand, and the body that directs compliance activity and prosecutes complaints and disciplinary matters on the other. The approach has contributed to repeated expressions of a lack of confidence in the decision making process. Concerns were also raised about the independence of the position of the Director-General.

In our opinion the framework must change to provide transparency and restore confidence. It is our recommendation that the decision making framework revert to a tiered approach similar to that which was in place under the former Licensing Commission regime.

The restored regime should strive to improve transparency through open hearings and better communication with the community it serves. For example, our investigations reveal that regulators in other jurisdictions provide much more information on their websites and through subscription newsletters to ensure relevant information is readily accessible to the public. This information may include details of all applications made, the status of the applications, interim and final decisions made, and in some instances the minutes of Commission meetings. While this is not a legislative matter, from a policy perspective, ensuring sufficient information about matters before the decision maker is available to the public, industry and other stakeholders, is critical for building community confidence.

The former Licensing Commission had jurisdiction over a number of other licensing regimes including gaming machines, totalisator licences, escort licences and private security licences. The scope of this review has been limited to liquor, and we have not considered the desirability of reintegrating those additional licence portfolios into the proposed Commission. We note the relationship between

³⁶ See section 38(4) of the *Liquor Control Act 1998 Western Australia*

liquor and gaming machine licences, and suggest any Commission established for the purposes of the *Liquor Act* should also have jurisdiction over matters under the *Gaming Machine Act*.

The recommended approach towards a tiered regulatory system is outlined below and includes recommendations on appropriate roles for the Minister, the Commission and the Director of Licensing as the three proposed tiers.

Role of the Minister

In 2011 the Act was amended to introduce section 125A which empowered the then Commission (and subsequently the Director-General of Licensing) to issue guidelines with the approval of the Minister. This addition appears to have found its policy foundation in the Northern Territory Alcohol Framework 2004 recommendation 30. The recommendation provided that the *Liquor Act* should authorise the Minister to issue Alcohol Policy Guidelines on any matter consistent with the objects of the Act. We recognise the benefit of maintaining the capacity to issue guidelines to allow government to pursue specific policy objectives in relation to liquor, and provide some certainty for industry and the community to respond to emerging issues.

Very few guidelines have been issued, however in recent times the Director-General of Licensing has used this section to issue guidelines relating to takeaway liquor and public hearings to positive effect.

Role of the Commission

A Commission should be established as the independent and primary decision maker under the *Liquor Act*. Although the review's terms of reference limit us to alcohol, we note the relationship between liquor licences and gaming machine licences, and recommend the Commission also be the designated licensing authority under the *Gaming Machine Act*.

Having regard to the commercial and social consequences of liquor regulation matters, decisions about these matters should be made independently of government. However, as discussed, the purpose of section 125A is to provide the Minister with a framework for setting government policy for the administration of the *Liquor Act* through guidelines.

Allowing the Commission to make recommendations to the Minister about policy matters arising from the administration of the *Liquor Act* provides a level of expertise and a degree of independence from government which supports the policy development ultimately approved by the Minister. The Commission, however, must be appropriately resourced to effectively perform this function.

The Commission should be the primary decision maker for decisions about licences, serious disciplinary matters, restricted areas and restricted premises. It should also have some new functions around alcohol management plans (AMPs), liquor supply plans (LSPs) and liquor accords as discussed below.

Like the current framework, where a decision is made and an affected person (be that the applicant or an objector) is aggrieved by the decision, an application for review to the Northern Territory Civil and Administrative Tribunal should be retained.

As a general rule, the Commission should hear all matters that attract objections, and all complaints that may result in disciplinary action, in public. While the Commission would have the ability to delegate matters, all decisions, regardless of the decision maker, should have written reasons provided to all parties and published on a publicly accessible website.

The 2004 Alcohol Framework recommended that the Commission have legislated power to use mediation and conciliation processes to resolve objections and complaints where both sides to the dispute agree, and where the Commission believed it would be the best way to resolve the dispute. Such an approach should be adopted when appropriate to avoid incurring unnecessary costs when a matter can be resolved more expeditiously. While transparency is an important rationale behind the recommendation to re-establish a Commission, a Commission needs to be flexible in its approach. We agree with and adopt this recommendation.

A model for the use of mediation and conciliation exists in the *Northern Territory Anti-Discrimination Act* where the decision maker (in that case the Commissioner) must consider whether a dispute might be resolved through mediation and conciliation. Where the decision maker decides conciliation or mediation is not suitable, or where mediation and conciliation fail, the decision maker holds a hearing and makes a decision.

Role of the Director of Licensing

The statutory position of Director of Licensing (Director) should be re-established with powers similar to those held under the former Licensing Commission framework. Those powers will need to be suitably enhanced or modified consistent with the suggestions we make.

The Director should not be part of the Commission but placed in the government agency with responsibility to monitor compliance with the Act, and investigating and initiating enforcement.

The role of the Director must be clearly defined in the legislation. As noted above, the Commission is to be responsible for all decisions about granting of licences and matters of discipline. However it should have the capacity to delegate certain decision making functions to the Director. Delegations should be made in writing, published and relate to non-contentious or low risk licensing matters only.

Broadly speaking, matters that could be delegated from the Commission to the Director of Licensing may include:

- » applications for certain categories of licence (for example certain types of limited licences that we note are likely to be high in number and low in risk), that do not attract any objections from the community
- » complaints that may be mediated in the first instance.

Where a decision is made by the Director under delegation, if a party is aggrieved by that decision, they can seek an internal review of the decision by the Commission, with the Commission's decision in turn being reviewable by the Northern Territory Civil and Administrative Tribunal.

The focus of the role of the Director should be on:

- » enforcement and compliance under the Act, (including the use of harm minimisation audits), initiating and investigating complaints, issuing infringement notices for minor offences and the like
- » participating as a party in proceedings before the Licensing Commission (including mediations and conciliations) regarding applications, complaints, objections, alcohol management plans and liquor accords
- » developing and delivering material to support licensees and patrons comply with their obligations under the *Liquor Act*, such as signage and RSA material (discussed elsewhere in this review)
- » monitoring and approving in-house management plans and policies that must be maintained by licensees.

The Director should take on new functions in relation to harm minimisation audits as another compliance and enforcement activity. This is discussed further in the Compliance and Enforcement section of this report.

Recommendations:

- | | |
|-------|---|
| 2.2.1 | A Liquor Commission be established as the independent and primary decision maker under the <i>Liquor Act</i> . |
| 2.2.2 | The Commission consist of four appointed members, with three members (Chair +2) required to be in attendance for a hearing. |
| 2.2.3 | The Chair of the Commission be a lawyer with a minimum of five years of post admission experience and be of good standing in the community. |
| 2.2.4 | At least one sitting member have a health background. |
| 2.2.5 | The structure and operations of the Commission reflect the matters discussed in this report. |
| 2.2.6 | The position of Director of Licensing be established, with the position being vested with the powers discussed in this report. |

2.3 Application process and consultation

Generally speaking, we are of the view that all licensing decisions must go to the Commission and be the subject of a public hearing. However, the Commission should be given the authority to delegate decisions to the Director of Licensing in certain circumstances, such as when the application relates to a low risk category and does not attract any objections.

The *Liquor Act* currently provides that a notice should be published for all new licence applications and for all substitution of premises applications. These notices are generally published in a local newspaper, and posted on a sign affixed to the premises. This is often referred to as 'advertising the application'. The Act also provides that where the Director-General considers it in the public interest, other applications such as material alterations of a licensed premises, and variations of licence conditions should also be advertised.

This process of advertising is crucial in making the public aware of applications which in turn allows objections to be made to the application. In addition to advertising an application, the licensing authority is required to provide notice to the relevant local council, and by administrative practice, provides notice to both Police and the Department of Health. This process should be continued, and the *Liquor Act* amended to require both the Police, Fire and Emergency Services and the Department of Health be

formally notified of an application and that a response be provided.

Section 47F of the *Liquor Act* provides for the range of stakeholders that can object to applications that have been advertised and the grounds upon which they can object. This section was introduced in 2004 following what had been an unrestricted objection process, which had led to frivolous objections being made which inhibited efficient decision making. Although section 47F did implement restrictions on who could object, the range of stakeholders that can object, and the grounds upon which they can object, we consider them to be sufficiently broad that they should be retained.

In addition to the current objection and consultation requirements in respect of licence applications, the *Liquor Act*, requires public consultation about public restriction decisions such as declarations for general or public restricted areas. This consultation is again a crucial element of the decision making process and should be retained.

The Commission should have some additional powers in relation to how it exercises its functions. Specifically, these would include the power to:

- » issue directions regarding the resolution of complaints and objections and the conduct of hearings and consultations
- » conduct consultations about licence applications and conditions as well as applications for declarations for restricted areas and restricted premises
- » use mediation and conciliation to resolve certain disputes.

How the Commission must inform itself

At present it is the obligation of the Director-General under the *Liquor Act* to satisfy him or herself that any application meets the relevant test, namely the objects of the Act and the public interest test set out in section 6. The power of the Director-General in this regard is broad and inquisitorial by virtue of Section 28 of the *Liquor Act*. In our opinion the *Liquor Act* imposes a positive duty on the Director-General, as it did with the former Northern Territory Licensing Commission, to make its own inquiries of organisations such as Police, health and other community agencies that may have information relevant to the application. Such inquiries may arise, for example, where such an organisation submits a general objection without providing sufficient information to substantiate it. Further, it is within the power of the Director-General to call its own expert witnesses as required to inform consideration of the public interest of any matter. To improve the information available to the Commission, we also propose it is given a specific power to grant leave to peak industry bodies, key government agencies and

peak community and health bodies, to make submissions when it holds a hearing about a licence application or an AMP. Under the current *Liquor Act*, the Commission does not have a specific power to grant such leave. Although we are of the view that the current scope of objectors is sufficient, we recognise there may be instances where peak organisations may be able to provide information relevant to an application outside the formal objection process.

In 2004 sections of the *Liquor Act* were amended to expand the grounds for objection to thereafter include adverse impact on amenity of the neighbourhood and adverse impact upon health, education, public safety and social conditions in the community.

The information on which an application is considered should not be limited to the information provided by the applicant or by any objectors. We propose that this situation continue with the new Commission. We recommend that the Director-General (and the new Commission once established) review the relevant practices and procedures to ensure that, as part of the obligation to satisfy itself, it has access to all information relevant to a matter before it.

Recommendations:

- 2.3.1 The *Liquor Act* be amended to permit the Commission to grant leave to peak industry bodies, key government agencies and peak community and health bodies, to make submissions when it holds a hearing about a licence application or an alcohol management plan.
- 2.3.2 The *Liquor Act* be amended to require both the Northern Territory Police, Fire and Emergency Service and Department of Health to be formally notified of an application and that a response be provided by each.

2.4 Liquor Licence Fees

Application and Annual Fees

Under the existing provisions of the *Liquor Act* there is a \$200 application fee for all types of liquor licences. Once the licence is issued there is no additional fee charged, nor are there any annual renewal fees payable by a licence holder. This approach is at odds with all other jurisdictions in the country.

Application fees

We have received many submissions indicating that application fees are inadequate. Industry supported application fees, particularly for those that relate to

new applications. Industry submissions proposed that application fees be used to fund a buy back scheme to reduce the number of existing licences and also as a barrier to entry. We have settled upon another approach discussed elsewhere in this Report. This situation should be reviewed in five years in light of circumstances at that time.

The application fee should be set at an appropriate level in line with those of other jurisdictions.

Recommendation:

2.4.1 All application fees be reviewed and set at an appropriate level in line with other jurisdictions.

Annual fees

The Northern Territory is the only jurisdiction not to have introduced risk based annual liquor licence fees. The approach and value of the fees vary from jurisdiction to jurisdiction. Although industry opposes the introduction of annual fees, an overwhelming number of submissions support the introduction of a risk based annual fee. We are of the view that annual fees must be introduced as part of an effective regulatory framework.

The South Australian review comprehensively discussed the various jurisdictional approaches to risk based fees. The following table (Table 7), which reflects each jurisdiction’s position in 2015/16, appears at Chapter 6.2 of the South Australia review:

Jurisdiction	Fixed fee	Base fee	Trading hours loading	Compliance history fee	Capacity loading	Location loading
Australian Capital Territory	✓					
New South Wales		✓	✓	✓	✓	✓
Northern Territory						
Queensland		✓	✓	✓		
South Australia		✓	✓		✓	
Tasmania	✓					
Victoria		✓	✓	✓	✓	
Western Australia	✓					

Although we have considered a fixed fee approach to the annual licensing fee (as is the case in the Australian Capital Territory, Tasmania and Western Australia), given our recommendation to establish simplified formal licence categories, we consider a more sophisticated annual fee formula that recognises the risks of different categories of licence and venues is more appropriate.

The annual risk based fee should have several components in its structure:

- » A base fee that applies to the different categories of licence. The base fee would set a standard level of risk for that category of licence, which would be in line with broader community expectations - for example the base fee for a takeaway liquor licence would be higher than that of a restaurant liquor licence.
- » In addition to the base fee we consider it appropriate to include a loading to reflect the patron capacity of the venue for on-premises and club licence categories. It has been shown that an increase in the number of people consuming alcohol in a venue increases the risk of harm (in particular violence)³⁷.
- » A loading fee for takeaway licence category based on sales volume should be applied. Takeaway alcohol has the potential for increased harms due to the unregulated way the alcohol can be consumed. It follows that increased sales potentially result in increased harms, and a loading should be applied accordingly.

37 Research referenced in FARE Submission page 34

- » On top of the base fee, an additional fee should apply to extended hours authorities that may operate with the licence, (i.e. the later the closing time the higher the fee). This again recognises the substantial evidence that shows the later licensed premises operate, the greater the risk of alcohol-related harms³⁸.
- » The final component to the annual fee structure would be a fee that is attributed to poor compliance history. The approach to this does vary across jurisdictions, with some jurisdictions having a three-strike approach, some on the basis of infringement notices being issued, and others taking into account disciplinary action being taken by the licensing authority or action by a court. We consider that there should be a monetary loading allocated to the various levels of breach that have occurred in the preceding 12 months.

Payment of the annual fee would be a statutory requirement, and failing to do so would be a breach of the Act and give rise to suspension of the licences and recovery of the amount owing.

A comparison of fees applied in each jurisdiction, noting minimum and maximum fee ranges is over the page. A further comparison of the types of fees applied in each jurisdiction is provided at Appendix G.

Recommendations:

- 2.4.2 An annual risk-based licensing fee be introduced for all liquor licence categories based on the following principles:
- a base fee that applies to the different categories of licence
 - a loading fee to reflect the patron capacity of the venue for on-premises and club licence categories
 - a loading fee for the takeaway licence category based on volume of sales
 - a loading fee for extended hours authorities
 - a loading fee attributed to poor compliance history.
- 2.4.3 Payment of the annual fee be a statutory requirement and failing to make payment would give rise to suspension of the licence and recovery of the amount owing.

³⁸ Research referred to in FARE Submission page 19; research referred to in Amity Submission page 8; AMANT Submission page 3

Reproduction of Table 8 South Australia review; jurisdictional comparison of risk based fee models by business example, with minimum and maximum fees noted

Business	Capacity	SA	ACT	NSW	QLD	TAS	VIC	WA
Hotel – Close 11.00pm	200	\$109	\$4322	\$510 \$16510	\$3388 \$31492	\$845.60	\$924.90 \$8324	\$578
	400	\$758	\$5186	\$510 \$19510	\$3388 \$31492	\$845.60	\$1387.35 \$12486	\$578
	>400	\$758	\$5186	\$510 \$19510	\$3388 \$31492	\$845.60	\$2312.25 \$20810	\$578
	>1000	\$758	\$5186	\$510 \$19510	\$3388 \$31492	\$845.60	\$3699.60 \$33296	\$578
Hotel – Close 1.00am	200	\$109	\$8465	\$3010 \$19010	\$12798 \$40902	\$845.60	\$2774.60 \$10173.20	\$852
	400	\$758	\$11240	\$3010 \$22010	\$12798 \$40902	\$845.60	\$4161.90 \$15260.55	\$852
	>400	\$758	\$11240	\$3010 \$22010	\$12798 \$22652	\$845.60	\$6936.50 \$25433	\$852
	>1000	\$758	\$11240	\$3010 \$22010	\$12798 \$40902	\$845.60	\$11098 \$40692.80	\$852
Hotel – Close 3.00am	200	\$1516	\$12105	\$5510 \$21510	\$12798 \$40902	\$845.60	\$4624.50 \$12023.60	\$852
	400	\$2239	\$14699	\$5510 \$24510	\$12798 \$40902	\$845.60	\$6936.75 \$18035.40	\$852
	>400	\$3403	\$14699	\$5510 \$24510	\$12798 \$40902	\$845.60	\$11561.25 \$30059	\$852
	>1000	\$3403	\$14699	\$5510 \$24510	\$12798 \$40902	\$845.60	\$18498 \$48094.40	\$852

Business	Capacity	SA	ACT	NSW	QLD	TAS	VIC	WA
Hotel – Close 5.00am	200	\$2274	\$15564	\$5510 \$21510	\$15938 \$52828	\$845.60	\$8324 \$15723.10	\$852
	400	\$3720	\$18159	\$5510 \$24510	\$15938 \$52825	\$845.60	\$12486 \$23584.65	\$852
	>400	\$11590	\$18159	\$5510 \$24510	\$15938 \$52825	\$845.60	\$20810 \$39307.75	\$852
	>1000	\$11590	\$18159	\$5510 \$24510	\$15938 \$52825	\$845.60	\$33296 \$62892.40	\$852
Small Venue/Bar – Close 11.00pm	South Australia – 120 New South Wales – 60 VIC – <200	\$109	n/a	\$204 \$12204	\$626.50 \$24966.50	n/a	\$924.90 \$8324	\$578
Small Venue/Bar – Close 1.00am	South Australia – 120 New South Wales – 60 VIC – <200	\$109	n/a	\$204 \$12204	\$10036.50 \$34376.50	n/a	\$2774.60 \$10173.70	\$852
Small Venue/Bar – Close 3.00am	South Australia – 120 New South Wales – 60 VIC – <200	n/a	n/a	\$204 \$12204	\$10036.50 \$34376.50	n/a	\$4624.50 \$12023.60	\$852
Small Venue/Bar – Close 5.00am	South Australia – 120 New South Wales – 60 VIC – <200	n/a	n/a	\$204 \$12204	\$13176.50 \$37516.50	n/a	\$8324 \$15723.70	\$852

2.5 Categories and Terms and Conditions of Liquor Licences

The Northern Territory does not have a regime of appropriately defined categories of liquor licence and it does not have a scheme of consistent conditions applicable to the licences that have been issued. The lack of identifiable licence categories with consistent conditions negatively affects the ability of stakeholders and people in the community to effectively comment on, or even fully understand, an application for a licence.

The lack of definition inhibits effective compliance and enforcement activity and does not lend itself to best practice risk based licensing. Indeed, it works against any risk based licensing regime which requires differentiated licence fees across the range of licence categories. The present ad hoc system creates public uncertainty about the way licensed premises are authorised to operate. It can also contribute to an unwillingness for members of the public or stakeholders to make complaints about inappropriate licensing practices.

The present system (or lack thereof) has led to what is known in the industry as 'licence creep' where one style of licence is issued and, over a period of time through incremental amendments, it becomes a quite different business – perhaps of a kind that would not have been granted such a licence in the first place. This is obviously undesirable.

In a written submission the AHANT said:

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.

It is time to legislate for defined categories of liquor licences that are supported by a range of consistent base conditions. The establishment of formal categories of licence has been discussed in previous reviews, but not implemented. We suspect that this failure has been due to the complexity surrounding the transition to a new regime.

In refining the licensing framework, we consider there are essentially three sources of licence conditions:

- » conditions imposed by the *Liquor Act* or regulations, such as standard hours and days of trade, prohibitions upon providing credit, incident reports, RSA requirements and the like
- » conditions authorised to be imposed by the *Liquor Act* on licences, such as requirements for CCTV, security or other ID scanning requirements and the like
- » Conditions imposed by the licensing authority which may be necessary or desirable to minimise harm.

Elsewhere in this review we have referred to matters we think should be the subject of legislation and apply to all licences, such as RSA and signage requirements. This approach should be taken in the re-writing of the *Liquor Act*, as it will lead to more consistency in addition to the public being more aware of the conditions of a particular licence.

Before discussing categories of licence, and some standard conditions, we look at some matters of a general nature.

Licence Period

The *Liquor Act* currently provides that a licence shall remain in force until it is surrendered, suspended or otherwise cancelled under the *Liquor Act*³⁹. In effect this creates a perpetual licence. We understand and accept the importance of certainty around the duration of a liquor licence for business operations and, despite some submissions seeking specific terms, we do not consider it necessary to change the present arrangements. We have reached this position in light of our recommendation that annual risk based licence fees be established and that enforcement and compliance regimes are enhanced. It should be a condition of each licence that the annual fee must be paid, and regular sales returns provided where required.

Trading Days and Hours of Operation – Categories permitting the sale of liquor for consumption on-premises

Trading Days – on-premises

At present there is significant inconsistency in trading days between licences that have been granted for on-premises sales, particularly in respect of the capacity to trade or otherwise on Good Friday and Christmas Day. Similarly, some licence conditions allow for later closing times on New Year's Eve, whereas other licences, relating to similar businesses, prohibit such trading and require an application to vary the licence.

39 Section 30 *Liquor Act*

This inconsistency and ambiguity creates difficulties not only around the important matters of compliance and enforcement activity by the licensing authority, but also uncertainty for the public about which licensed premises are open and for what times.

We note the South Australia review recommended that restrictions on trading on Good Friday and Christmas Day be abolished and trading be authorised on any day of the week. This recommendation was accepted by the South Australian Government. The position in South Australia is different from that generally applicable across other Australian jurisdictions⁴⁰ which tend to treat such days, particularly Good Friday and Christmas Day, as restricted days with restricted hours.

There is no need for inconsistency or ambiguity in the Northern Territory. The ability to trade on these 'restricted days' should be determined by the category of licence held. Each licence category will specify whether it permits trade on the restricted day and within the restricted hours. An extended hours authority (as later discussed) should not be available on Good Friday or Christmas Day.

This does not mean the licensed premises must be open seven days a week or on public holidays. The principle we endorse is that the licensee be able to trade within the hours of the nominated licence category but they may limit the actual hours and days within that category to those that best suit their business model and have been agreed with the licensing authority.

In relation to New Year's Eve, many existing on-premises licences include conditions that permit the licensee to trade for extended hours. We note that most jurisdictions provide legislatively for the automatic extension of hours for that night for certain licence categories. It would appear to us that this is a reasonable approach and it would reduce the administrative burden on the licensing authority in dealing with applications for variations.

Recommendations:

- 2.51 Standard Days of trade for on-premises licences be Monday to Saturday, with Sundays, Good Friday and Christmas Day defined as Restricted Days to which restricted hours apply (10am to 10pm).
- 2.5.2 An automatic extension of the standard trading hours for consumption on-premises, or trading hours authorised by an extended trading authority, will apply on New Year's Eve for an additional three hours of trade, but in any event not past 4am.

Hours of Trade – on-premises

It is important to have consistency in relation to hours of operation. There is significant evidence that reducing the hours during which alcohol can be sold, both on and off premises, will have a positive impact on reducing alcohol related harms. The research was referenced in numerous submissions and supported a reduction in the hours of trade for both off premises and on-premises sales⁴¹. As a general proposition, there should be a reduction in the hours of trade across the Northern Territory. We note with interest that in their Acts several jurisdictions have defined standard or ordinary trading hours, with the ability for licensees to apply for "extended hours trading authorities". We believe this will fit within a flexible, yet risk based, approach to licensing categories.

We recommend that the *Liquor Act* be amended to provide that Standard Hours of trade apply to the Standard Days as defined above, which can then be included in the on-premises licence. We consider the standard hours that should apply to all standard days (with the exception of the takeaway category of licence) are:

- » Monday to Saturday - 10am to 11pm.
- » Restricted Days - 10am to 10 pm.

Subject to obtaining an extended hours trading authority, these hours become the maximum hours authorised for trade.

As well as these standard hours, the licensing authority must retain the ability to impose conditions that reduce the standard hours when it is in the public interest to do so. If a licensee wants to operate beyond these standard hours it must apply for and be granted an extended hours trading authority. This is discussed in greater detail below in relation to late night precincts.

40 With the exception of ACT and Tasmania who do not restrict trading days

41 Research referred to in the following submissions in support of their recommendations Aboriginal Peak Organisations Northern Territory Recommendation 15; Aboriginal Medical Services Alliance Northern Territory Recommendation 17; FARE recommendation 7;

In setting standard hours, we make it clear that we do not consider it to be mandatory for a licence to operate for all of those hours. The standard hours set the outer limits applicable to that category of licence. To assist with compliance and enforcement activity, the licensee must be required to nominate the actual hours, within the standard hours, it intends to operate. The nominated hours will then be noted in the licence and it will become a condition of the licence that the licensee cannot trade outside those hours.

Recommendations:

- 2.5.3 Standard Hours be established by legislation that apply to all licence categories that authorise the sale of retail alcohol for consumption on the premises. Those hours be 10 am to 11 pm Monday to Saturday, and 10 am to 10 pm on Sundays and other restricted days.
- 2.5.4 The licence identifies the hours, within the Standard Hours, in which trading will take place, making it unlawful to trade outside those hours.
- 2.5.5 The Standard Hours may be extended by applying for and being granted an extended hours trading authority.

Trading Days and Hours of Operation – Takeaway Licences

Currently, the days and hours liquor can be sold for consumption away from the premises varies depending on the type of licence. The Liquor Regulations provide for such sales (other than a store licence) on:

- » Sunday to Friday – 10am to 10pm
- » Saturdays – 9am to 10 pm.

The Liquor Regulations go on to provide the days and hours that liquor may be sold for consumption away from the premises when sold under a store licence as:

- » Monday to Friday - 10am to 10pm
- » Saturday - 9am to 10 pm
- » No sales on Sunday.

Sunday Trade

There is significant evidence to support the conclusion that reducing access to alcohol reduces harm, with initiatives such as Thirsty Thursday, which prohibited alcohol sales in Tennant Creek on a Thursday, being but one example. A number of submissions⁴² sought the introduction of a specific day free of alcohol sales to align with Centrelink

payments. During public meetings we heard the reason the successful Thirsty Thursday initiative was not continued was due to changes in the methods and timing of Centrelink payments, therefore an alcohol free day was no longer able to be linked to a particular Centrelink payment day.

Currently there are 78 store and liquor merchant licences operating across the Northern Territory which, by virtue of Regulation 4, are not permitted to trade on Sunday. This leaves 182 other licensed premises allowed to sell liquor to the public, club members and bona-fide guests on a Sunday.

The Liquor Stores Association argued that this is an anomaly, is anti-competitive, and protectionist in favour of hotels with bottle shops attached. Those bottle shops are able to continue to trade on a Sunday and sell exactly the same packaged liquor products as stores. It was submitted that it is not in the public interest to continue such an anomaly.⁴³

Consideration needs to be given to this ‘anomaly’ and what impact - positive or negative - it has on reducing harms associated with alcohol. We note that the issue was considered at length as part of the Northern Territory Alcohol Framework Interim Report in 2004,⁴⁴ and it was determined that:

While noting that arguments that restrictions on Sunday trading are linked to reductions in harm are attractive, we do not feel that we have sufficiently detailed data to make a final determination. We propose to obtain data on harm indicators and proxies for harm including variation by day of the week in relation to Police call outs, hospital admissions, sobering up shelter admissions and refuge admissions to assist us to assess the strength of these arguments in our final report.

Unfortunately, the relevant information appears not to have been gathered.

In response to the submissions regarding Sunday trade, we consider there to be three possible policy responses:

- » maintain the status quo
 - » amend the *Liquor Act* to allow Store licences to trade on Sunday
- or
- » amend the *Liquor Act* to prohibit all takeaway sales on Sunday.

While the Liquor Stores Association has advocated for the Sunday takeaway trade restriction to be lifted, doing so would only increase the availability of alcohol which,

42 APONT, FARE, PAAC

43 Liquor Stores Submission page 4
44 at page 219

according to the relevant and compelling research, would increase harms. Accordingly we do not agree with this position.

Unfortunately, no evidence has been identified during this review that addressed the suggestion made in the 2004 Northern Territory Alcohol Framework, however the significant evidence that links takeaway sales with alcohol related harms cannot be denied.

With the extensive research that shows a decrease in alcohol availability will result in a decrease in harms, it follows that expanding the Sunday trade prohibition to all takeaway licences, would have a positive impact. Taking such an approach gives effect to recommendations from many of the submissions to allow for regional alcohol free days across the Northern Territory, albeit not linked to a Centrelink payment. While this approach may inconvenience some members of the public, the expected benefits in reduction of alcohol related harms will outweigh that inconvenience.

We are also of the view that the current prohibition on takeaway sales on Good Friday and Christmas Day are well accepted and managed and should be retained.

Recommendations:

- 2.5.6 The Standard Days for trade in takeaway liquor be Monday to Saturday, with the sale of takeaway liquor on Sunday prohibited.
- 2.5.7 Further restrictions on such trading days be provided in appropriate circumstances as assessed by the licensing authority.
- 2.5.8 Liquor supply plans allow for regions to have specific takeaway sales free days each week where a need is identified.
- 2.5.9 The current prohibition of takeaway sales on Good Friday and Christmas Day be retained.

Takeaway Standard Hours

As we have observed it is now well recognised that a reduction in trading hours with a consequent reduction in accessibility to alcohol is an effective harm minimisation strategy⁴⁵. Many submissions advocated for a reduction in trading hours, particularly for takeaway alcohol. We consider the hours of 10am to 10pm six days a week to be a reasonable response to the competing claims.

45 The Menzies School of Health report "Moving Beyond the Restrictions: The Evaluation of the Alice Springs Alcohol Management Plan"; and research referred to in the following submissions in support of the identified recommendation Aboriginal Peak Organisations Northern Territory Submission Recommendation 15; Amity Community Services Inc Submission page 9; City of Darwin Submission page 5; FARE Submission Recommendation 7.

Recommendations:

- 2.5.10 Standard Hours for all takeaway liquor outlets be provided in the *Liquor Act* to be no earlier than 10 am and no later than 10 pm Monday to Saturday.
- 2.5.11 The takeaway licence must identify the actual hours within the Standard Hours in which takeaway trading will take place, making it unlawful to trade outside those hours.
- 2.5.12 Further restrictions on such trading hours (later opening hours and earlier closing hours) may be provided in appropriate circumstances as assessed by the licensing authority.

Store Licences

Before discussing a new range of licence categories we wish to direct attention to the existing 'store licence'. The *Liquor Act* has recently been amended to provide a definition of a store licence. Section 32A(10) provides that a store licence means a licence that authorises the sale of liquor for removal and consumption away from licensed premises and that is endorsed with the words:

- » AUTHORITY – STORE; OR
- » AUTHORITY – LIQUOR MERCHANT.

No further definition is provided on what type of operation would be issued with such a licence. A review of the Northern Territory licensing database suggests that such licences are issued to businesses including:

- » stand-alone bottle shops
- » corner stores operating in suburban areas
- » bottle shops attached to large supermarket stores.

If the licensing framework was being created anew we would be of the view that no mixed business operations would be able to obtain a liquor licence. That is not the case and we must be mindful of the fact that some stores presently operate with liquor licences.

Both Queensland and Tasmania prohibit the sale of packaged liquor products in supermarkets under their respective Acts. Victoria and New South Wales permit packaged liquor sales from within a store, albeit with some restrictions. The Western Australian position is less clear, although in April 2016 the Director of Liquor Licensing did grant a liquor licence to an Aldi Supermarket⁴⁶. In granting the licence the Director imposed specific conditions to

46 <http://www.rgl.wa.gov.au/docs/default-source/rgl/aldi-butler-conditional-grant-decision-liquor-store.pdf?sfvrsn=0>

ensure the liquor products were adequately segregated from the general grocery shelves.

We have taken the position that the existing style of store licences should be phased out, and that takeaway liquor should only be sold from a standalone business (noting that this business could be attached to, but physically separate from, an on-premises licence). We consider that a business that does not have a primary focus of selling liquor should not be licensed to sell alcohol for takeaway consumption at all.

Some submissions in support of store licences argued that these stores are a convenience for shoppers by providing a 'one stop' shop for their groceries and alcohol. This convenience argument, when considered in the context of the harms that can arise from takeaway sales, is far from sufficient to change our position that store licences should be phased out. The approach we recommend will have a positive impact in two ways. First, it will reduce the availability of liquor overall. Secondly, it will send a clear message that alcohol need not be available in every context in community life. Alcohol is, as many have noted, 'no ordinary commodity'⁴⁷.

Some businesses have been operating under such a licence for some time. We therefore propose that existing operations be given some protection, while no further such licences should be issued. Existing businesses will be given the opportunity to transition to the new takeaway category of licence and, over a period of seven years, comply with the requirements of such a licence. In the period of transition the 'ancillary' aspect of the liquor licence will be subject to a restrictive definition.

We refer to these licences again when we discuss the Takeaway licence category below.

Recommendation:

- 2.5.13 Takeaway liquor only be permitted to be sold from a stand-alone business in which the primary focus of the business is the sale of alcohol.

Cessation of Trade

It has been noted that the Licensing NT Liquor Database includes a number of licences which are not currently operating for various reasons. We note that the Director of Licensing has been conducting an audit and seeking the surrender of those licences which are not being operated, which we commend.

⁴⁷ See in particular, Alcohol, No Ordinary Commodity, research and public policy, Oxford University Press.

The *Liquor Act* does not provide the licensing authority with the ability to cancel a licence for non-trade. The *Liquor Act* should be amended to provide for a process of notification to the licensing authority about the cessation of trade similar to section 93 of the *New South Wales Liquor Act 2007*. That section requires a licensed premises to notify the licensing authority during any continuous period of non-trade of more than six weeks.

While we consider it necessary to enable a licensee to cease trade for a period of time in certain circumstances, such as the renovation of the premises, such cessation of trade should not be for more than six months without the Licensing Authority's approval. The Licensing Authority should also be able to cancel a license in circumstances where no reasonable explanation for an extended closure is given.

Recommendations:

- 2.5.14 The *Liquor Act* be amended to provide that licensees must provide notice, in writing, to the licensing authority when they intend to cease trading for periods longer than six weeks, and prohibiting the ceasing of trade for a period longer than six months without prior consent from the Licensing Authority.
- 2.5.15 The *Liquor Act* be amended to empower the licensing authority to cancel a licence that has ceased operating where no reasonable explanation has been provided

Categories of Licence

A risk based approach to developing licence categories with core and consistent conditions is critical to an effective and robust alcohol regulatory framework that contributes to strong alcohol policy.

Although the categories that exist in other jurisdictions are not always consistent, we have considered them⁴⁸, along with the various submissions from industry groups, in arriving at the recommended categories. What must be considered and achieved in establishing a worthwhile regime of licensing categories is that the categories have direct relevance to the businesses that sell and supply alcohol in the Northern Territory both now and into the future. They must also facilitate the regulatory regime under which the businesses will operate, including in relation to enforcement and compliance.

A range of approaches to declaring licensing categories is available. We have settled on the approach of creating an established set of licensing categories, supported by a

⁴⁸ We have paid particular attention to the 2016 review of the *South Australian Liquor Licensing Act*, undertaken by the Hon T R Anderson QC (the South Australian review).

range of additional 'authorities' or permits that allow the core conditions of individual licensing categories to be added to in order to meet particular circumstances.

As a consequence of the ad-hoc system of licensing that has applied to date, the licences now held show a lack of uniformity in what they permit and the terms and conditions under which they operate. There are no categories (save for some loosely created in the licensing authority for administrative convenience) and no settled standard conditions. The result is that any transition to an ordered and consistent licensing regime will be difficult to implement and will, almost inevitably, lead to concerns for licence holders. The period of transition will need to be carefully and sensitively managed.

We will discuss the transitional process shortly but first we identify the categories that we recommend be adopted and describe them in a general sense.

We recommend that the following categories of licence be established:

- » On-premises licence
- » Club licence
- » Takeaway licence
- » Restaurant and catering licence
- » Producer licence
- » Special event licence
- » Limited licence
- » BYO authority
- » Interstate Supplier licence

1. On-premises Licence

This licence category will authorise the retail sale of alcohol for consumption on the premises. Where appropriate, it will encompass restaurants on the premises. We consider the majority of licences that currently authorise the sale of liquor for consumption on-premises would transition into this category, including not only hotels, wayside Inns and tavern licences, but other licences that apply to vessels and function centres.

A number of submissions were received from industry, including the AHANT, and licensees themselves, suggesting the categories to be established, and seeking stand-alone categories for particular types of on-premises operation. While our proposal to have a single on-premises category may be considered too broad, we believe this is the preferred approach to the complex, inconsistent and confusing approach currently being applied.

In other jurisdictions, there is a specific licence that applies to venues that also offer accommodation. We have chosen not to create a separate category for accommodation as they will fall under an on-premises licence.

Where the current licence also authorises the sale of takeaway liquor, the transitional arrangements will see the licensee transition into the on-premises licence category with a separate takeaway category licence.

In transitioning to this category, any licence that currently has an entitlement to hold a gaming machine licence (and if following an application in accordance with the *Gaming Machine Act*, such a licence is granted) can continue to hold such an entitlement. Those licences that currently do not have that entitlement will not gain such ability on transition to this category.

The relationship between newly created categories of licence and any entitlement to seek permission to use gaming machines will have to be addressed by the relevant authorities.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to an on-premises liquor licence include:

- » standards hours and days as noted above
- » trade on restricted days within the hours provided above
- » authorise the sale of liquor for the consumption on the premises only
- » an ability to seek an extended hours trading authority
- » where the licensee operates an accommodation service, they are restricted to selling liquor to persons who are staying at the licensed premises for consumption on the premises only.

2. Club Licence

The proposed club licence category is essentially an on-premises licence restricted to non-profit associations that are incorporated associations (incorporated in the Northern Territory or with the Office of the Registrar of Indigenous Corporations). The licence will permit the retail sale of alcohol for consumption on the premises and be limited to financial club members, their bona-fide guests and visitors. This will include any restaurants on the premises.

We are aware that several clubs in remote communities are operating under a 'tavern licence'. We consider the transitional arrangements for situations like this must see these licences transition to club licences and operate as such. We discuss remote community clubs further in the Social Clubs in Remote Communities section of this report.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a club liquor licence include:

- » standards hours and days as noted above
- » trade on restricted days within the hours provided above
- » the obligations of the Management Committee
- » sale and consumption by members, bona-fide guests and visitors only
- » members register to be kept and maintained
- » visitor book to be kept and maintained
- » club constitution not to be changed without approval of licensing authority
- » maximum of six visitors per member on any given day
- » entitlement to hold a gaming machine licence if, following an application in accordance with the *Gaming Machine Act* such a licence is granted.

Transitional arrangements will provide for existing club licences (including those that are structured as clubs and ought to hold a club licence) to transition to the new club category. The Standard Hours will be 10 am to 11 pm, Monday to Saturday and 10 am to 10 pm on Sunday. We note that many clubs are presently authorised to trade until 2 am on Thursday, Friday and Saturday nights. The licensee will have one year to apply, at a nominal cost, for an extended hours authority for Thursdays, Fridays and Saturdays, but no other days.

In relation to the 64 current club licences that authorise the licensee to sell takeaway alcohol, the transitional arrangements will permit the licensee to be transitioned to also hold a takeaway liquor category of licence (discussed below) that relates to these sales. A condition of any takeaway licence attached to a club licence will provide that the takeaway sales may only be made to financial members of the club.

3. Takeaway Liquor Licence

A stand-alone takeaway liquor licence category should be established. Any business wishing to sell takeaway liquor for consumption off premises will require this licence as well as any other licence it may also require. The ability to sell takeaway liquor will not be included in any other liquor licence category.

A licensed premises with a takeaway licence will be permitted to operate under the same roof as a store or on-premises venue but must be physically separated by a permanent and substantial barrier from other commercial operations within the premises. The takeaway licence should have a separate point-of-sale or check out operated

by a person who is over the age of 18 and who has completed responsible service of alcohol training. Sound harm minimisation principles require that alcohol products not be displayed in the same shelves as grocery products.

We are firmly of the view that the Northern Territory is over serviced with takeaway liquor outlets. In the absence of significant population growth or the establishment of significant new urban areas we see little need for any additional takeaway outlets. We therefore propose an immediate moratorium on the granting of additional licences in this category subject to review after five years.

There was some, but limited, discussion regarding the issue of buy back of licences, particularly relating to store licences. With the phasing out of store licences and with the new arrangements attached to takeaway licences it is premature for buy backs to occur.

Subject to government wishing to seize any opportunity to buy back particular high risk licences, the issue should be reconsidered at the same time as the review of the moratorium on the granting of additional licences and in light of the circumstances that then exist. In the meantime the licensing authority should collect accurate wholesale sales data in order to determine the value should buy backs be considered. Such data would assist in making certain that correct value is determined.

How do licences transition

We recommend that any current liquor licence that authorises the sale of liquor for consumption on and off the premises transitions to two new categories of licence. For example, a public hotel licence that currently authorises on and off premises sales would transition to an on-premises licence and, separately, to a takeaway liquor licence.

A current 'liquor merchant' licence would transfer to a takeaway liquor licence, however a store licence or an 'off premises licence' would be subject to particular transitional arrangements and to a sunset provision.

Ancillary Sales – transition for store licences

The current store licence category includes a condition that requires the sale of liquor to be a secondary business, and goes on to talk of the sale of liquor being 'ancillary'. This condition appears to have been drawn from a decision of the former Licensing Commission in 2000 in which it described a store licence as a licence authorising the sale of liquor which is to be ancillary to what the licence refers to as 'groceries'. The Commission, in its decision, went on to say "in our view that means 'ancillary' in two different ways: ancillary in terms of percentage of gross turn over...

but also ancillary in terms of the shopping environment⁴⁹. No further guidance has been given as to what percentage may be considered ancillary or what is meant by ancillary to the shopping environment.

While we acknowledge that stores, particularly those in urban areas, provide a level of convenience for shoppers, we believe the absence of a clear definition of 'ancillary' has led to a very liberal approach being taken to the meaning of that term for licensing purposes. Further, with limited data collection being undertaken to determine the relevant percentages, and such data as is available revealing a large variation in the percentages of liquor being sold by different stores under this licence, proper consideration of the public interest becomes difficult.

Current store licences will necessarily need to consider whether to transition to a takeaway category and, in so doing, will be required within the transitional period to determine whether the business is able to move the liquor sales to a location that fulfils the obligation to be physically and operationally separate from the remaining business.

To allow businesses to make the necessary decisions and, if they wish to transition to a takeaway licence with the obligations that must be undertaken, we have proposed a sunset period of seven years to apply to the transitional arrangements. This will allow appropriate changes to business models and structures to take place. After the sunset period, if the steps to transfer the licence to a takeaway licence have not been completed, the transitional licence will cease to exist.

Further, and importantly, the transitional takeaway licence stores will hold in the interim, will be subject to a condition providing that the ancillary sales of takeaway liquor must not exceed 15 per cent of the licensee's annual gross turnover. We have reached this figure by referring to information received from the Director-General advising the ancillary sales of liquor of individual store licence holders currently range from two per cent to 39 per cent, with an average of just under 13 per cent.

While some submissions advocated for 'ancillary' to be better defined by referring to a specific percentage⁵⁰, no suggestion about what the percentage should be was provided. This is not the first time consideration has been given to better defining 'ancillary' using a specific percentage of turnover. The Northern Territory Alcohol Framework in 2004 considered the issue and agreed there needed to be a tightening of what was considered ancillary to groceries.

49 https://justice.nt.gov.au/_data/assets/pdf_file/0004/252436/020724_Delissaville_Store_26.pdf

50 AHA Northern Territory Submission

During that review, liquor store owners advocated for a definition and suggested alcohol sales greater than 10-15 per cent of annual total business turnover could not be classed as ancillary to the main business.⁵¹

The requirement that sales must not exceed 15 per cent of gross turnover will need to be strictly monitored by referring to reliable data with the loss of the transition licence a consequence of breach.

In a similar vein, we note a number of 'off premises' licences have been issued to caravan and holiday parks throughout the Northern Territory. We appreciate many of these provide a convenience to bona-fide guests although not all such licences are limited to sales to guests. In our opinion such a limitation is required.

Where the licensee operates an accommodation service, they are restricted to selling liquor to persons staying at the licensed premises for consumption on the premises only. For this they will need an on-premises licence.

Home delivery by Northern Territory licensed premises

A significant concern raised throughout the public meetings and written submissions related to the purchase of alcohol for home delivery. While we do not think it is necessary to prohibit the home delivery of alcohol by takeaway licences, we do consider it necessary to impose particular conditions on the licensee. Such conditions must include:

- » the delivery of any liquor purchased from a takeaway liquor outlet can only be between the hours of 10 am and 6 pm.
- » the licensee must ensure the person who purchased the liquor (and was therefore subject to an identification scan pursuant to section 31A) is the person to whom the liquor is delivered.
- » the licensee must apply responsible service of alcohol principles to the delivery of the liquor, in that the person receiving the liquor must not be intoxicated.

Conditions of the takeaway liquor licence

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a takeaway liquor licence include:

- » the hours of trade be 10am to 10pm Monday to Saturday, with no trade permitted on Sunday
- » a takeaway licensed premises can operate under the same roof as a store or on-premises licensed venue, but it must be physically separated by a permanent and substantial barrier from other commercial operations within the premises

51 Northern Territory Alcohol Framework Final Report July 2004 page 101.

- » there should be a dedicated point of sale (i.e. a check-out) within the licensed premises operated by a person who is at least 18 years of age and has completed responsible service of alcohol training
- » the delivery of any liquor purchased from a takeaway liquor licence can only be between the hours of 10 am and 6 pm
- » the licensee must ensure that the person who purchased the liquor (and therefore was the subject to an identification scan pursuant to section 31A) is the person to whom the liquor is delivered
- » the licensee must apply responsible service of alcohol principles to the delivery of the liquor, in that the person receiving the liquor must not be intoxicated.

4. Restaurant and Catering Licence

This category will authorise the retail sale and supply of alcohol for consumption on-premises where the primary and predominant activity undertaken by the licensee is providing a meal or food as part of a catering function. Currently there are pm Monday to Saturday and 10 am to 10 pm on restricted days)) should apply to a restaurant and catering licence. If the licensee wishes to operate beyond the standard hours they must obtain an extended hours authority.

In keeping with the concept of a restaurant and catering licence, it must be a condition of this licence category that liquor only be sold with the provision of a meal. While we note that some current restaurant licences require a person be seated when consuming liquor, we believe this is too prescriptive. A restaurant venue may have an area where patrons gather prior to being seated. What we consider impermissible is a restaurant where patrons can attend the venue for the purpose of purchasing and consuming alcohol without intending to order a meal.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a restaurant and catering liquor licence include:

- » standards hours and days as noted above
- » trade on restricted days within the hours provided above
- » liquor only be sold with the provision of a meal
- » the sale of liquor must cease 30 minutes after the kitchen closes
- » in relation to catering, the liquor can be sold from a place other than the licensed premises, provided that the consumption of liquor is only by a person (other than a minor) attending a pre-booked function ancillary to a meal being provided by the licensee

- » no entitlement to hold a gaming machine licence under the *Gaming Machine Act*.

5. Liquor Producer Licence

A liquor producer's licence category should be established to authorise the sale of liquor of a 'licensees own' product for consumption off the premises. While we understand there is not a significant liquor production industry in the Northern Territory, there are several licences that authorise holders to brew or otherwise produce their own liquor, and they would transition to this licence.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a producers licence include:

- » standard days and hours of trade that have been stated above for takeaway will apply to this licence
- » retail liquor sales of the licensees own product may be made to a purchaser at any time for consumption off the licensed premises
- » wholesale liquor sales of the licensees own product may be made to a licensee at any time for consumption off the licensed premises
- » samples of the licensees own product may be provided for consumption on the licensed premises
- » no entitlement to hold a gaming machine licence under the *Gaming Machine Act*.

6. Major Events Licence

A major events licence category will authorise the licensee to supply liquor for any single event classified as a major event. This is not to be confined to Major Events as classified by the Northern Territory Government it will include events designated by the licensing authority as major events for the purposes of the legislation. Such events are likely to have a significant impact on the community, and could attract a large number of patrons. Further guidelines should be included in the Act to determine which events would constitute a major event for such purposes. Depending on the nature of the major event it may be the case that, where the event is to be held in an already licensed venue, the event organiser would need to apply for this licence even though the premises is already licensed for on-premises consumption.

Given the nature of these events, an application for such a licence should be made no later than three months before the event. The application process should require an event management plan that covers, at a minimum, the following matters:

- » amenity and crowd management
- » emergency procedures

- » transport
- » security.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a major events licence include:

- » prohibition on the sale of takeaway liquor
- » trading hours specific to the event
- » conditions requiring compliance with Event Management Plan

7. Limited Liquor Licences

Section 57 provides for the issue of a special licence that authorises the holder to sell liquor during a specific period of time. A special licence is different from a licence issued in Part III of the Act, otherwise described as a full liquor licence. The intent of a special licence is to enable individuals, associations, groups or organisations to sell liquor at one-off events such as sporting or cultural events and celebrations.

While the existing licences issued under section 57 continue to be applied for, particularly during the peak dry season, under the same legislative provisions there has been an administrative creation of a continuing special licence.

A continuing special licence is generally issued for 12 months and for a maximum of 30 hours per week. A continuing special licence allows sporting groups, workplace social groups and the like to sell liquor at functions and events as a means of fundraising. An application for a full liquor licence requires the applicant and associated parties to undergo a rigorous probity examination. No such probity is conducted for a special licence, although a special licence does require a criminal history check for the nominee. We do not agree with this administrative construct of a special continuing licence, and believe such venues should hold an appropriate licence.

We acknowledge that the Director-General is taking action to ensure holders of continuing special licences, which operate in more of a commercial manner, obtain a full liquor licence.

The need remains for a limited licence for both one-off events and groups that operate a workplace or sports group social club. By nature, these operate under restricted hours however under the same rigid conditions as a special licence. An example of such a licence is for a remote cattle station's staff where the club trades for one or two hours at the end of each day with the revenue generated used

to upgrade facilities or hold a Christmas party and the like. Some sporting groups also hold such a continuing special licence and trade for limited hours during the week and then on a weekend for drinks after training or at games.

We consider there is a need for a limited licence similar to that contemplated by the special licence. A limited licence would be issued in the following circumstances:

- » one off low risk events such as quiz nights, award ceremonies, trade fairs and the like
- » an extended limited licence which could be issued for 12 months and covers a limited number of events or limited hours of operation - such as a sports club that may seek to sell liquor on three separate weekends over 12 months, or a social club that seeks to be able to sell alcohol for two hours a week.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a Limited licence include:

- » prohibition on the sale of takeaway liquor
- » trading hours specific to the event.

8. BYO Licence

A BYO licence permits the possession and consumption of liquor at a premises that operates as a restaurant but does not sell liquor on the premises. Although the permit does not authorise the sale of liquor, requirements relating to responsible service of alcohol will continue to apply, as will provisions relating to minors.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to a BYO include:

- » Standard hours and days to apply.
- » A prohibition on minors and intoxicated persons being served alcohol.
- » Liquor must not be consumed unless with a meal.

9. Interstate Liquor Sales Licence

A repeated and significant concern raised by people who attended public meetings or made submissions, related to the control of liquor purchased on-line or by telephone from interstate businesses. On numerous occasions we were informed that postal services were one of the biggest suppliers (in the sense of transporters) of liquor into the Northern Territory. This is an area that is currently not regulated in the Northern Territory and there was no data available to confirm the claim.

Specific concerns were raised in relation to such matters as compliance by interstate businesses with the requirements of the Banned Drinkers Register (BDR), the floor price provisions, sales into 'dry' areas and other obligations applicable to alcohol sales in the Northern Territory.

Such sales are, or will be, of significant concern if they serve to undermine the harm minimisation scheme in the Northern Territory. The intent behind the *Liquor Act* is to cover purchases of liquor by people in the Territory. The operation of the Act should not be limited to those who operate a business physically located in the Territory. The harm caused by alcohol in the Northern Territory remains a harm no matter how the alcohol gets to the consumer. The *Liquor Act* should be amended to require an interstate business to be licensed in the Northern Territory to sell and/or supply liquor into the Northern Territory. The purpose is to ensure the efficacy of harm reduction efforts not to raise revenue.

There may be legal issues surrounding the regulation of interstate trade and we have obtained legal advice on this issue which indicates how this may be achieved. That advice will be provided to government for its guidance.

Conditions

In addition to any conditions prescribed by the *Liquor Act* and Regulations, or imposed by the licensing authority, the conditions that should apply to an interstate sales liquor licence include:

- » the licensee must ensure the person who purchased the liquor (and therefore was the subject to an identification scan pursuant to section 31A) is the person the liquor is delivered to
- » the delivery of any liquor purchased from a takeaway liquor licence can only be between the hours of 10 am and 6 pm
- » the licensee must apply responsible service of alcohol principles to the delivery of the liquor, in that the person receiving the liquor must not be intoxicated.

Extended Hours Trading Authority

With the introduction of standard hours across all licences, we note that some on-premises licences will wish to operate beyond the standard closing time of 11pm. It is well documented that the later on-premises liquor licences operate, the greater the risk of alcohol related harms, particularly those arising from violence and assaults⁵². To enable late night trading hours we recommend that an extended hours "trading authority" be established. This is an authorisation permitting a licensee who holds a club, restaurant or on-premises licence to trade for longer periods after satisfying the licensing authority as to

the public interest and community impact and on paying additional fees. The increased risk in relation to extended hours will be reflected in the annual licence fee.

We are of the view that there should be three types of extended hours:

- » extension to 12 midnight
- » extension to 2 am
- » extension to 4 am.

If a licensee wishes to trade beyond the standard trading hours they would apply for an authority stipulating the extended hours they wish to trade. The risk based licence fee would reflect the additional hours allowed under the extended hours trading authority and approved by the licensing authority.

No venue ought to be able to trade past 4am, except for the automatic extension previously discussed for New Year's Eve. Licensees that seek to have an extended hours trading authority may be subject to conditions related to matters over and above their existing obligations such as:

- » developing a risk management plan to address amenity and patron safety matters
- » increased security requirements
- » restrictions on the supply of beverages that promote rapid and excessive consumption of alcohol such as shots
- » queue management
- » drinks marshals.

Conditions relating to lock outs similar to those already in place in some venues may also be imposed. These are discussed in the Safe and Vibrant Entertainment Precincts section of this report. Noting also the impact of high volume alcohol and rapid consumption drinks, conditions should be imposed on all extended hours authorities that prohibit the sale of these types of drinks.

Wholesale Registration

Businesses wishing to sell wholesale alcohol to Northern Territory Licensees should continue to be registered in the Northern Territory. The wholesale registration, and requirement to provide quarterly returns of alcohol sales data, is an important data collection point for measuring harms in the Northern Territory.

Transition

To simplify the issue of transition to the recommended licensing regime, the following principles should be applied:

- » A current licensee may be required to hold one or more licence categories, in addition to an authority, in order to continue trading in the current manner.

52 Alcohol Policy Coalition submission page 2; FARE submission page 16;

- » Certain types of licences are considered not appropriate to continue (e.g. corner store licences), in which case the licensee will have a sunset period (up to seven years) to restructure the business and premises to apply for a new category of licence, with the application fee to be waived. If, at the end of the sunset period, the new licence has not been granted the licence will cease to operate.
- » An immediate moratorium on issuing new takeaway licences be introduced to allow for the new framework to be established and take effect, and because such licences have reached saturation point, with a review to be undertaken after the first five years of operation at which time consideration be given to extending that moratorium.
- » During the first year of transition a licensee may apply for an Extended Hours Trading Authority at a nominal cost.
- » Transitional arrangements should be developed to ensure, as far as practicable, existing licences are transitioned into appropriate new categories supported by relevant trading authorities to preserve any existing rights during the transition period. Such provisions will enable an existing licensee to choose to relinquish existing rights should they choose.
- » Existing restrictions applicable to a licence relating to hours of trade, product types or quantities should be transitioned to the new categories. For example where a takeaway licence currently restricts trading hours, those restrictions shall continue to apply to the new category.
- » Given the significant disparity with current categories we acknowledge transitional arrangements may not be straight forward. It will be necessary to give the licensing authority appropriate powers to determine transitional arrangements in certain limited circumstances.
- » Transitional arrangements must ensure licensees are subject to annual risk based licence fees during the transitional period.

Recommendations:

- 2.5.16 The following categories or licences be established:
- On-premises Liquor Licence
 - Club Licence
 - Takeaway Liquor Licence
 - Restaurant and Catering Licence
 - Liquor Producer Licence
 - Major Event Licence
 - Limited Licence
 - BYO Licence
 - Interstate Supplier Licence
- 2.5.17 Transitional arrangements ensure that licensees are subject to annual risk based licence fees during the transitional period.
- 2.5.18 A condition be imposed on all extended hours authorities, prohibiting the sale of beverages with a high alcohol content (>5 per cent), and rapid consumption beverages such as shots/shooters.
- 2.5.19 Store licences transitioning to takeaway licences be subject to a condition restricting liquor sales to 15 per cent of the gross annual sales of the business, and a seven year sunset period in which time the licensee obtains a takeaway licence and the transitional licence will cease to operate.
- 2.5.20 The Northern Territory Government imposes an immediate moratorium on issuing new takeaway licences to allow for the new framework to be established and take effect and because such licences have reached saturation point. A review be undertaken after the first five years of operation when consideration be given to extending the moratorium.
- 2.5.21 An independent review be undertaken on the effectiveness of the categories at five years from commencement and further modification of categories be considered where necessary.

Transfer of a liquor licence, substitution of premises and variations of conditions

Transfer

The *Liquor Act* currently allows for the transfer of a liquor licence to a new owner. It is not uncommon for businesses to be restructured or sold and the transfer provisions allow for this to occur while ensuring there is minimal or no interruption to trading. It is also appropriate for an application to transfer to be made and for the licensing authority to have regard for the probity of the proposed transferee to ensure they are a fit and proper person to hold a licence, and also for the licensing authority to ensure the licence continues to meet the requirements of the public interest. Given the range of probity checks that apply to the transfer application, we do not consider it necessary to have a public notice published regarding the transfer of ownership of a liquor licence, unless the licensing authority considers it is in the public interest to do so as is the current practice.

A number of submissions raised concerns about the transfer process, particularly for licences that are transferred and subsequently operated under a substantially different business model.

The introduction of licence categories as proposed elsewhere in this report will address this as transfers will only be available for like-for-like categories of licence. For example, a business that operates a restaurant licence can only be transferred as a restaurant licence, and therefore only used by the transferee as a restaurant licence. The transfer provisions will not allow the licence to change to any other category of licence. If the transferee wishes to operate a different type of business than that allowed by the existing licence they must apply for a new licence of the appropriate category.

We note that the current fee attached to an application to transfer a liquor licence is \$2 which we consider to be completely inadequate⁵³. Transfer fees in other jurisdictions range from \$203.80⁵⁴ (Victoria) to \$849⁵⁵ (Western Australia). An increased fee should be imposed for an application to transfer a licence. This fee would more realistically reflect the licensing authority's administration costs to process the application and record the transfer.

Recommendations:

- | | |
|--------|---|
| 2.5.22 | Approval for transfer of a liquor licence only be granted within the same licence category and will be subject to appropriate probity, public interest and community impact requirements. |
| 2.5.23 | Fees for a transfer application should be set at an appropriate level. |

Substitution

Section 46A of the *Liquor Act* provides that a licensee may apply to substitute a licence to alternative premises from that currently nominated in the licence. Up until 2004 section 46A included a specific reference to substitution to alternative premises in *close proximity* to the premises specified in the licence. When this section of the Act was amended the public interest test was introduced to apply to applications for substitution.

Throughout the review concerns were raised regarding the application of the substitution provisions. Although the intent of the substitution provisions is to enable a business to continue trading where it wishes to move its operations to new premises, the intention of this section has been abused and used to 're-purpose' licences for uses that were not originally intended when they were issued.

Substitution should not be available to remove the need to apply for a new licence or to circumvent moratoriums that may be in place from time to time.

Any application to substitute a licence to alternative premises should be treated as a new application under the *Liquor Act*, unless the Commission determines a particular application relates to a substitution of similar premises in close proximity to the premises identified in the licence, there is no significant change in the nature of the business and no other concerns are raised. Given the nature of this type of application, we consider it necessary that a public notice be published seeking public comment and allowing objections to be made. Where objections are received the licensing authority should hear the matter in public.

At present no fee is attached to a substitution application. The imposition of an appropriate fee is required. The approach to relocation of a liquor licence in other jurisdictions does vary, as does the fee for the application. We note that New South Wales takes the approach that we have recommended, which is that a substitution or 'relocation' of a liquor licence is treated as a new application, and as such the fee applied is the same as a new application.

53 <https://publications.qld.gov.au/dataset/bcf03d20-ff59-4678-bdc7-2adfce2ee520/resource/a622ec53-72e8-4812-a7b7-f159899df608/download/liquorlicensingfeesandcharges.pdf>

54 https://www.vcgf.vic.gov.au/sites/default/files/uploadLiquor_Licensing_Fact_Sheet_-_Liquor_licence_fees_from_1_July_2016_.pdf

55 <http://www.rgl.wa.gov.au/liquor/liquor-applications/fees-and-charges>

Recommendations:

- 2.5.24 The *Liquor Act* be amended to require applications for the substitution of premises to be treated as a new application under the Act and be subject to the same requirements including consideration of the public interest and community impact test.
- 2.5.25 The licensing authority have the discretion to authorise a substitution without the new application process being undertaken where the premises to be substituted is in close proximity to the premises identified in the licence; there is no significant change in the nature of the business; and no other concerns arise.
- 2.5.26 Public notice of any substitution application be required.
- 2.5.27 No change to a licence category be made through the substitution process.
- 2.5.28 Fees for a substitution application should be set at an appropriate level.

Variation of Licence Conditions

Section 32A of the *Liquor Act* provides that a licensee may apply to vary the conditions of their licence. We have heard that the ability to seek such variations has led to what is referred to as 'licence creep'; for example, a licence originally advertised as a restaurant evolves over time to operate as a bar. With the introduction of formal categories, standard conditions and authorities, we believe licence creep will not remain an issue and that variations of licences will rarely be required.

We do, however, see the need for a licensee to have the ability to seek a variation of a licence condition provided it is in the same category of licence they hold. Where it is in the public interest to do so, an application to vary a licence should be advertised by a public notice to allow the public to raise objections.

In addition to a licensee being able to seek a variation, the licensing authority must be able to vary conditions of licences, whether they be standard conditions that apply to a particular licence category, or to a specific licence where there is a need to do so. Elsewhere in this report we discuss the introduction of harm minimisation audits, alcohol management plans and local and regional liquor supply plans, all of which may prompt the need for variations to licences.

Recommendation:

- 2.5.29 An application to vary a licence within the terms and conditions of a category be permitted, however, variation that moves a licence from one category to another not be permitted.
- 2.5.30 The licensing authority retain the power to vary licence conditions, including standard conditions, when considered necessary.
- 2.5.31 All variation applications be subject to the public interest and community impact test.

Liquor Accords

Liquor Accords are voluntary agreements between a range of stakeholders in a particular area, such as industry, police, the relevant liquor licensing authority, local government, business groups and members of the community to reduce harm arising from liquor sales and consumption.

In the Northern Territory, Part XA of the *Liquor Act* provides for the development of local liquor accords to prevent or reduce alcohol related violence, and are approved by the Director-General. According to the Director-General of Licensing 2015/16 Annual Report, and the AHANT website, there are currently a number of accords operating across the Northern Territory, including:

- » Katherine Liquor Accord
- » Casuarina Business Precinct Liquor Accord
- » Tennant Creek Liquor Accord
- » Kakadu Liquor Accord
- » Nhulunbuy Liquor Accord
- » Darwin Packaged Liquor Accord
- » Alice Springs Liquor Accord
- » Darwin City Late Night Liquor Accord

The Director-General of Licensing has provided a number of the accords to the panel for information, however we note that these were not available on the regulator's website.

Industry submissions advocated strongly for industry involvement in the development of alcohol policy, pointing specifically to their lead in establishing and expanding the number of accords operating across the Northern Territory⁵⁶. There is certainly some contention between public health organisations and industry as to the role industry should play in the development of government Alcohol Policy, with some organisations supporting the World Health Organizations position that Industry should

56 AHA Northern Territory Submission page 5

not participate⁵⁷. We believe industry does have a role to play, particularly in improving self-regulation and encouraging better compliance through the accord process. Accords allow key stakeholders to participate in a joint effort to come up with local solutions, and this makes licensee participation desirable.

Some submissions suggested that the evidence does not support the effectiveness of Liquor Accords, particularly in terms of harms such as Police reported assaults or emergency department attendances⁵⁸. Despite these submissions, we believe the Northern Territory does have a history of demonstrated success in relation to accords. This predominately relates to restrictions on the availability of alcohol, which have, in turn, resulted in amendments to licence conditions to reflect voluntary restrictions⁵⁹.

Notwithstanding our view, we do consider there are some limitations to the effectiveness of the current approach to accords that ought to be addressed. The AHANT in its submission noted some difficulties with a particular accord due to commercial and competition issues. Currently there is no mechanism to require a licensee in an accord area to participate in the accord process. We can see how the failure of a licensee in a particular accord area to participate would negatively impact on the effectiveness of the accord. While we accept the provisions in the accord are voluntary in nature, we do not think participation in the accord process should be.

The New South Wales *Liquor Act* includes a provision that empowers the Secretary (the administrative arm of government tasked with administering the *Liquor Act*), to direct a licensee to participate in an accord, and provides that a failure to do so may constitute grounds for disciplinary action. Further, the Act requires the licensee to contribute to the costs associated with the operation of the accord, and again where a licensee fails to do so voluntarily, they can be directed to do so.

Under the New South Wales *Liquor Act* there is also a positive duty on the Secretary to endeavour to ensure that local accords are prepared for, and apply to, all areas of the State⁶⁰. We consider that a more proactive role from the licensing authority would be beneficial. It is desirable that a local liquor accord lead to an alcohol supply plan and, possibly, variations to liquor licensing conditions.

In considering the various accords it is apparent that they are not reviewed frequently. A more robust review and

evaluation process should be included, if not legislated, as a condition of the accord. Further, we note that in some instances, the conditions of the accord appear to merely reflect the requirements that otherwise exist either as a licence condition or as an obligation under the Act. There appears to be a strong focus on responsible service of alcohol. While this is a critical issue, consideration should be given to a broader range of strategies, with more guidelines provided by the licensing authority.

For example we note that in Queensland there have been identified three broad topics that may be considered, including responsible service of alcohol, improved safety and security and commitment to being good neighbours, with a range of sub-topics contained within each. Another example from New South Wales was a suite of posters that were developed, including the 'ask for Angela' initiative⁶¹ which is part of an accord promoting no more violence against women, and providing a support mechanism when someone felt they were not safe.

Recommendations:

- | | |
|--------|--|
| 2.5.32 | That liquor accords continue to be an element in the regulatory framework for liquor licences. <ul style="list-style-type: none"> allow the licensing authority to give a direction to a licensee requiring participation in a liquor accord and noting that failure to comply will constitute a breach impose a positive duty on the administrative arm of the licensing authority to establish liquor accords. |
| 2.5.33 | The <i>Liquor Act</i> be amended, in relation to accords, to: |
| 2.5.34 | The licensing authority undertake evaluation and monitoring to inform regular reviews of all accords. |
| 2.5.35 | The licensing authority publish the contents of all accords. |

2.6 Density of liquor licences and the size of liquor outlets

A key matter we have been asked to consider is the density of liquor licences and the size of liquor outlets.

Overall there is strong and consistent evidence of an association between outlet density and alcohol-related harm, both internationally and in Australia⁶². Particularly over the

57 NTCOS page 9, AMITY page 4 submissions

58 Deakin University Centre for Drugs, alcohol and addiction Research (CEDAAR) Submission and Amity Community Services

59 Alice Springs takeaway restrictions

60 See section 133(3).

61 <http://www.liquorandgaming.nsw.gov.au/PublishingImages/Signage/ask-for-angela-generic-coaster-90x90.png>

62 W Gilmore, W Liang, P Catalano, R Pascal, A Broyd, E Lensvelt, G Kirby and T Chikritzhs 2015 Off-site outlets and alcohol-related harm 2015 <http://www.ndlrf.gov.au/sites/default/files/publication-documents/monographs/monograph-56.pdf> page 11

past seven years a number of Australian studies have looked at the relationship between outlet density, for both on and off premises categories, and alcohol related harms.

The literature supports the assertion that density contributes substantially to alcohol-related harms, especially violence. The way the various studies determine density is restricted to measuring outlet density by counting numbers of outlets and then converting them to a rate (eg per resident, per unit geographical area, per road miles) while excluding measures that quantify alcohol sales made by these outlets⁶³. A limitation inherent in count-based models (even in longitudinal studies) is that they cannot account for variation between outlets and their variable capacity to influence alcohol availability in the communities in which they operate.⁶⁴

The research papers appear to measure alcohol outlet density in three ways:

- » a simple raw count of the number of licensed outlets per local government area (LGA)
- » the number of licensed outlets divided by the total land area in the LGA
- » the volume of wholesale alcohol purchases made by retail outlets located in the LGA (not specifically related to the density of outlets)⁶⁵.

Recent Australian studies have considered the relationship between outlet density, in the context of the numbers of outlets and volume of sales in a particular LGA or postcode, and alcohol related harms. The most recent study has shown that off-site outlet alcohol sales and the total volume of alcohol sales within a region are important predictors of assault. On this basis, it is reasonable to conclude that policy decisions that ultimately increase total alcohol sales within a community or that increase numbers of on-site outlets (e.g. hotels/nightclubs or restaurants) are more likely to exacerbate, rather than ameliorate, harms associated with alcohol.⁶⁶

The evidence clearly shows density, as defined by the number of outlets and the volume of sales, for a particular geographical area or region, are essential considerations in assessing the public interest. In considering density, it is not sufficient to simply look at the number of outlets.

63 W Gilmore, W Liang, P Catalano, R Pascal, A Broyd, E Lensvelt, G Kirby and T Chikritzhs 2015 Off-site outlets and alcohol-related harm 2015 <http://www.ndlerf.gov.au/sites/default/files/publication-documents/monographs/monograph-56.pdf>

64 Liang W & Chikritzhs T 2011. Revealing the link between licensed outlets and violence: Counting venues versus measuring alcohol availability. *Drug and Alcohol review* 30(5): 524–35. doi:10.1111/j.1465-3362.2010.00281

65 Tanya Chikritzhs, Paul Catalano, Richard Pascal, Naomi Henrickson; Predicting alcohol-related harms from licensed outlet density: A feasibility study; <http://www.ndlerf.gov.au/publications/monographs/monograph-28>

66 W Gilmore, W Liang, P Catalano, R Pascal, A Broyd, E Lensvelt, G Kirby and T Chikritzhs 2015 Off-site outlets and alcohol-related harm 2015 <http://www.ndlerf.gov.au/sites/default/files/publication-documents/monographs/monograph-56.pdf>

A consideration of density must necessarily extend to the volume of alcohol sales of particular categories of licences.

The difficulties we have with calculating density in the Northern Territory are three fold:

- » the licensing database has limited, and at times incorrect, geographical data available for the location of licences
- » a lack of proper categories of licence
- » a lack of data relating to the alcohol sales volume of the licensee.

Notwithstanding the difficulty in accurately calculating density, we agree with the majority of the submissions received, including from industry, that there are currently too many outlets people can purchase takeaway alcohol from, and in some areas, such as the Darwin central business district, there are too many on-premises outlets.

In relation to the size of off premises venues (ie takeaway), the relationship between the size of the outlet and any increase in harms is less clear. Some recent research seeks to draw a correlation between the size of a takeaway outlet and alcohol related harms⁶⁷. However, as presently informed, we think the evidence rather demonstrates the relationship between low price alcohol, alcohol sales volumes and alcohol harms rather than the size of the outlet alone⁶⁸.

If it be accepted that larger outlets are likely to be able to buy larger quantities of alcohol at more competitive prices than other retailers, and therefore are able to sell alcohol at lower prices, it does not necessarily follow that limiting the size of an outlet to any particular maximum will necessarily reduce harms.

The business model associated with larger sized takeaway liquor outlets is linked to the purchasing power that results in a capacity to retail low cost alcohol. The introduction of a floor price affects this business model, and is a more powerful policy than introducing floor space restrictions to takeaway liquor outlets. Therefore, the issue of large floor space venues ceases to have the same importance. The issue is not the floor space but the volume of alcohol sold into the community.

There is strong evidence supporting the proposition that an on-premises licensed venue that has larger capacity (i.e. patron numbers) tends to be associated with more

67 W. Liang & T. Chikritzhs Revealing the link between licensed outlets and violence: Counting venues versus measuring alcohol availability *Drug and Alcohol review* (September 2011), 30, 524–535; Michelle Hobday, Tanya Chikritzhs, Wenbin Liang & Lynn Meuleners The effect of alcohol outlets, sales and trading hours on alcohol-related injuries presenting at emergency departments in Perth, Australia, from 2002 to 2010: Addiction Research Report r_281

68 Christopher Morrison Karen Smith Disaggregating relationships between off-premises alcohol outlets and trauma May 2015 funded by FARE

offences⁶⁹. In addition, increasing the density of on-premises outlets and the extended hours of trade also leads to increased harms⁷⁰. We have dealt with these risk factors through the risk based licensing fee regime.

Recommendations:

- 2.6.1 The *Liquor Act* provide that density (however described) is a matter to be taken into account when considering the public interest and community impact.
- 2.6.2 The *Liquor Act* provide that the volume of alcohol to enter the community be taken into account when considering the public interest and community impact.
- 2.6.3 The *Liquor Act* provide that to assist with assessing density, licensees should be identified by clearly defined geographic and population areas.
- 2.6.4 The Licensing database be updated to ensure information relating to the location of a venue is accurate.
- 2.6.5 Licensees be required to provide regular returns (six monthly or yearly) reporting the volume of alcohol sales from their premises.

2.7 Compliance and Enforcement

It is readily apparent that without an effective compliance and enforcement regime any system of licensing will fail or, at least, fall into disarray. A strict and rigorous compliance and enforcement regime delivering swift and certain sanctions for breaches is necessary to ensure the integrity of the licensing regime. To ensure this is so, 'enforcement activity should be frequent, unpredictable, strongly publicised and ongoing'⁷¹

Many of the submissions received, both during public forums and in writing, have been critical of the licensing authority's approach to compliance and enforcement. Of

particular interest is the submission of Northern Territory Police Fire and Emergency Services which raised concern about perceived inaction on breaches. In a similar vein the Australian Hotels Association Northern Territory expressed concern regarding what it termed "the apparent 'light touch' approach to liquor licence conditions that has served to further encourage abuse of the on licence' and store categories of liquor licence"⁷². In response the Director-General points out that the information contained in the Annual Reports does not record all action taken by Licensing Northern Territory or the Director-General with respect to liquor compliance matters. Notwithstanding the response provided by the Director-General, it is significant that those in a position to be aware of compliance actions (which is not limited to the two bodies referred to above), have made these observations.

Although compliance and enforcement activities are related, it is important to note the distinction between the two activities. 'Compliance' refers to a set of circumstances in which regulated entities act in accordance with their regulatory obligations. 'Enforcement' refers to a regulator moving through a range of 'compliance-seeking strategies and sanctions', which traditionally may include a regulator issuing warnings or seeking sanctions for breaches.⁷³

Best practice compliance and enforcement approaches involve moving between encouraging compliance on the one hand and enforcement activities with sanctions on the other. Regulators should be managing information, changing incentives, and continuously assessing and revising the effectiveness of their activities, including revising the balance between compliance and enforcement. In some instances, where a licensee is unable or unwilling to comply with their obligations, cancelling the licence may be the only reasonable response. In others it may be more effective to promote compliance through educating the licensee.⁷⁴

Education and support for the liquor industry

We recognise the importance of providing support for licensees, particularly those with lower levels of skill who may work in smaller premises and some not for profit clubs or organisations that may only operate special and short term licences. The importance of such support was recognised in the recently released 'Bowchung Report into Licenced Clubs in remote communities'⁷⁵ which stressed the importance of strong support for such organisations if

69 Alcohol-related harms and the operation of licensed premises; A report to the Department of Justice (Victoria) by the Allen Consulting Group July 2009 page 50 https://assets.justice.vic.gov.au/vcglr/resources/67906f13-93a3-417a-a4d4-a3f79d8d9c5d/report_alcoholharmstudy.pdf;

70 Wilkinson, C, Livingston, M & Room, R 2016, 'Impacts of changes to trading hours of liquor licences on alcohol-related harm: A systematic review 2005–2015', *Public Health Research & Practice*, vol. 26, no. 4 (online); Miller, P 2013, *Patron Offending in Night-Time Entertainment Districts (POINTED)*, monograph series no. 46, National Drug Law Enforcement Research Fund, p. 220; Manton, E, Room, R & Livingston, M 2014, 'Limits on trading hours, particularly late-night trading', in Manton, E, Room, R, Giorgi, C & Thorn, M (eds.) 2014, *Stemming the tide of alcohol: liquor licensing and the public interest*, Foundation for Alcohol Research and Education, pp. 122-36; Miller, P, Tindall, J, Groombridge, D & Lecathelinais C, 'Effective measures for dealing with alcohol and the night-time economy (DANTE)', in Manton, E, Room R, Giorgi C & Thorn, M (eds.) 2014, *Stemming the tide of alcohol: liquor licensing and the public interest*, Foundation for Alcohol Research and Education, pp. 196-210.

71 Submission of Public Health Association Australia and research referred to at notes 51 and 52.

72 Submission of AHA Northern Territory page 27.

73 New South Wales and Victorian government compliance and enforcement policy

74 *ibid*

75 *Managing Alcohol Consumption – a review on licensed clubs in remote Indigenous communities in the Northern Territory, Bowchung, 2015 G Shaw, M Brady and P d'Abbs.*

they are to be effective in managing alcohol-related harms. The educative function is not limited to remote social clubs and is required on an 'as needs' basis. The broader community also needs to be made aware of the legal constraints on licensees, particularly those that support responsible service and the right of licensees to refuse service in some cases. The importance of education around licensee obligations is obvious.

Information provided to the review reveals that, at present, Compliance Officers are employed within Licensing Northern Territory and hold appointments as Inspectors under the *Liquor Act*, in addition to specific appointments under other relevant Acts administered within the division. Compliance Officers are based in Darwin, Katherine, Tennant Creek and Alice Springs and undertake activities regarding risk assessment, compliance history and inspection targets. Non-scheduled compliance activities are said to be both proactive and reactive and may involve Compliance Officers working with licensees, providing assistance and education to ensure positive and long-term compliance outcomes. There are currently 11 Compliance Officers allocated to liquor compliance across the Territory, however we understand those officers are also responsible for duties associated with the complementary portfolios of community gaming and tobacco.

The Director-General has advised that the fundamental objective of every response to an instance of non-compliance is to achieve the best compliance outcome this ensures that licensees are operating within the law and within the terms of the licence – both in the interests of the public and for the industry as contemplated in the objectives of the Act, and focusing on the creation of incentives for improved long-term compliance.

Action taken by Compliance Officers appointed as Inspectors may be by way of advice, guidance or directions given to licensees where identified compliance issues are considered minor in nature and can be immediately rectified. Examples might include infractions like inadequate procedures to ensure compliance with boundaries of temporary licensed areas, inadequate regulation of outdoor smoking areas and inadequate signage relating to liquor matters. Serious matters where 'on the spot' action is not appropriate to deal with non-compliance will be subject to inquiry or investigation. Such matters might be breaches such as serving alcohol to a person who is intoxicated or permitting minors' on premises.

It would appear that awareness, visibility and transparency of these activities are problematic which, in turn, causes their effectiveness to be called into question. If it is happening as intended, this is not obvious to many in the industry or to interested observers. It would seem that the

licensing authority is not communicating effectively with those who should be aware of actions being taken.

Further, an education program is required to ensure the people of the Northern Territory are informed of the law surrounding service of alcohol. We understand there were effective campaigns and resources developed by the Living with Alcohol Program with the specific intent of informing the community of licensing laws and making compliance by licensees easier. These campaigns were developed in collaboration with Industry and the then Liquor Commission and included 'Fair Go for Bar Staff' aimed at refusing service for intoxicated drinkers and underage drinkers and 'Keep your Health Together' aimed at underage drinking and the 18+ Card proof of age card. We also understand that during the Program, two positions were created with officers dedicated to working with industry and supporting responsible service and compliance. One of these officers developed education strategies for licensees and patrons and the other assisted Aboriginal groups in remote communities with licensing issues, including compliance.⁷⁶ These types of targeted campaigns do not appear to be currently undertaken.

When compared with other jurisdictions, there does not appear to be much information being developed to support and educate licensees, or indeed the public, about liquor laws in the Northern Territory. If some of this information is available, it is difficult to locate. Other jurisdictions provide a diverse range of materials covering a suite of topics such as:

- » compliance check lists
- » patron and staff safety
- » refusal of service and banning problem patrons
- » minors and underage drinking on-premises
- » security and monitoring for licensed venues
- » noise restrictions and management for licensed venues
- » trading hours
- » product restrictions
- » licence catchment areas
- » alcohol advertising and promotions
- » approach to compliance and enforcement, including fines and penalties for non-compliance
- » application processes including objections.

76 Northern Territory Alcohol Framework Interim report page 173-74

Recommendations:

- 2.7.1 A more rigorous and publicised approach should be taken to the compliance and enforcement regime to ensure compliance with the requirements of the licence and the *Liquor Act* and that failures are met with consequences that deter the Licensee and others from similar conduct. Consequences of breaches should be both financial and reputational and be seen as part of broad cultural change in relation to alcohol.
- 2.7.2 More information needs to be made available to both licensees and the public about liquor licensing regulation in the Northern Territory. In respect of licensees, this information should be in a format that can be easily incorporated into induction and training programs for new and existing staff to encourage and improve licensee compliance.

Complaints

Liquor licensees are subject to numerous obligations under the *Liquor Act* and the individual licence conditions with which the licensees must comply. The *Liquor Act* allows for complaints to be made against a licensee on several grounds including a contravention of a provision of the *Liquor Act*, or a licence condition⁷⁷. Prior to 2012 the *Liquor Act* provided for a much broader basis for complaint, with a person able to make a complaint regarding any matter arising from the conduct of the business at licensed premises⁷⁸. The change to specific grounds was said to be made to improve the efficiency of the complaints process. The second reading speech notes the following in respect of the amendment:

The Commission's role will be supported by a more clearly defined and wider formal enforcement role for the Director of Licensing within the Licensing Regulation and Alcohol Strategy division of the Department of Justice. Currently, all complaints and breaches must go to the commission if any form of punishment or disciplinary action is considered necessary other than those dealt with by the director through education or in formal warnings. This means that the Commission is often

forced to deal with relatively minor matters and first time matters which can clog up its workload and distract the Commission from conducting its core business. The Director of Licensing is best positioned to make the initial decisions on the severity of the breach in the context of each situation and whether it should be dealt with at a lower level or elevated to the commission. This ensures approaches that are commensurate with a level of offending in each given situation.

Although the grounds for making complaints did not change when the Licensing Commission was abolished in 2015, the two tiered approach did, with all complaints being dealt with by the Director-General of Licensing or a delegate.

Complaints must be in writing and are the primary mechanism available to the community to formally raise issues of concern. Prior to the Licensing Commission being abolished, when a complaint was made in writing to the Director of Licensing, he or she would investigate the complaint and prepare a report for the Licensing Commission. In some instances the Licensing Commission would decide to take no further action on the breach, however in others, it would hold a hearing to determine if the complaint was made out, and what action should be taken.

The change in 2015 to the Director-General altered this two tiered approach. Part VII of the Act deals with complaints and disciplinary proceedings. A complaint is defined to be a complaint made against a licensee under section 68, however as discussed above, compliance activity does not always lead to a disciplinary outcome.

The Director-General advised that information is regularly received by Licensing Northern Territory from various sources, however, the receipt of that information does not in and of itself constitute a written complaint for the purposes of section 68. The sources of information are varied and can include: referral through Support Link (the police referral system); information received directly from police; information referred by members of the public and also from Inspectors⁷⁹ who may independently refer information following scheduled inspections or targeted operations.

Once sufficient information is obtained, the matter will be considered with reference to the matters set out in section 68. Not all matters referred to Licensing Northern Territory will result in a complaint being made or accepted or a breach or disciplinary action being taken. This process is in addition to the general compliance activity undertaken by Inspectors discussed above.

77 Section 67(3) *Liquor Act* and also includes other matters that can constitute a ground for complaint including breach of an enforceable undertaking, or a direction given as a disciplinary action among others.

78 S48 *Liquor Act* as in force 1 January 2011 provided (2) A person may make a complaint regarding any matter arising out of the conduct of the business at licensed premises or the conduct of a licensee in relation to the business of a licensee, or that a licensee is not a fit and proper person to hold a licence.

79 Appointed under section 18 of the *Liquor Act*

The Director-General advised that in the 2016/17 financial year, 1864 operational compliance visits were undertaken. During the visits licensed premises were checked for compliance with licence conditions and the relevant legislation including the *Liquor Act*, *Private Security Act*, *Gaming Machine Act* and *Tobacco Control Act*. In addition 151 inquiries were made into information received, which resulted in 25 complaints being lodged by Inspectors. At present 31 complaints are under investigation (this appears to be carried over from previous years), seven determined that no further action was warranted, one licence was suspended and two received monetary penalties.

In determining breach matters, the Director-General is not bound by normal rules of evidence. However, disciplinary or other action against a licensee is not a perfunctory administrative action and an adverse determination as to whether or not a licensee has committed a breach must be based on evidence.

During the public meetings, and through written submissions, it became clear that there is a perception of both the community and industry that little (or no) compliance and enforcement activity is undertaken in respect of liquor licences. While the material provided by the Director-General of Licensing suggests this is not the case, we are of the view that the level of activity is not sufficient and the public awareness of such activity as there is, is also lacking.

The lack of activity may be due to there being insufficient Inspectors appointed under the *Liquor Act*. In support of this view, we note that the Department of Justice Annual Report 2010/11 makes reference to 15 Liquor Inspectors undertaking specific inspector training. It would seem there were more liquor licensing Inspectors appointed in 2010 than currently exist, despite the number of active liquor licences increasing. The number of Liquor Inspectors appointed in 2004 was also 15⁸⁰. We note from the Director-General of Licensing's submission that there are currently 11 Inspectors but given their responsibilities in the areas of gaming and tobacco it is unclear how much time they are able to devote to alcohol compliance activity.

Although the number of appointed Inspectors under the *Liquor Act* appears to have decreased, it is the position, and has been for some time, that all Police Officers are vested with the same powers as Inspectors. Section 19(10) of the *Liquor Act* specifically provides that the functions conferred on Inspectors of licensed premises apply to a Police Officer as if the Officer were an Inspector. Police may also exercise any power to instigate prosecution for offences under the Act that exists pursuant to the *Police Administration Act*.

We have discussed elsewhere in this report the need for the licensing authority to be able to use mediation and conciliation to resolve complaints where it is able to do so, and we reaffirm that position here.

Coordination and cooperation between Liquor Inspectors and Police

We have discussed the roles of Inspectors appointed under the *Liquor Act* and accountable to the Director-General of Licensing, and Northern Territory Police Officers. In certain circumstances the Police have greater powers than Inspectors, particularly in relation to the possession and consumption of alcohol in regulated and other public spaces.

This concurrent responsibility is important for compliance and enforcement activity in remote communities where there are licensed premises on the community or nearby. In these circumstances compliance and enforcement is dependent on the approach adopted by local Police, supplemented by visits by Inspectors. At present, with only 11 Inspectors operating across the Northern Territory visits by Inspectors to remote communities are likely to be infrequent.

From time to time joint operations are undertaken, particularly in the Darwin CBD. However, it is apparent that there are significant challenges in the way Police and Licensing Northern Territory work together. While we could explore the reasons we feel it is sufficient to identify the issue and recommend there be a significant improvement in the coordination and planning of enforcement between Police and Licensing Inspectors. This is not a new issue for the two enforcement bodies. The 2004 Northern Territory Alcohol Framework Interim Report also noted that improvement in this area was needed at that time. The authors noted that, while Inspectors and Police will have different roles, responsibilities and strategic priorities, it was not clear that those differences were well articulated and understood within each agency, or by licensees or the public⁸¹.

Although there does appear to be a process established to improve coordination and cooperation, such as referral of information via Support Link and regular meetings through accords or other groups, it is our opinion that there is still a way to go. The joint approach should be better defined and reported on in the strategic plans of the two agencies.

Section 48A of the *Liquor Act* currently gives the Director-General the power to suspend a licence for up to seven days, or impose a variation or condition on a licence in an emergency, or pending the investigation

80 Northern Territory Alcohol Framework Interim Report page 179

81 2004 Northern Territory Alcohol Framework Interim Report page 177

of a complaint. In practice this power has been used to suspend the operation of a licence to protect public safety, or to promote social harmony or wellbeing and to avoid death and injury that is connected with the use of alcohol. Examples include where a suicide has occurred, or a sensitive social or cultural event is being held in a community, such as a funeral. The Police should also have this statutory power, for up to 48 hours, in which time a complaint could be made to the Commission and further action taken.

Recommendations:

- 2.7.3 The Department of the Chief Minister to oversee a review of current processes with the Commissioner of Police and the licensing authority as they relate to planning, information gathering, staff training, liaison and secondment, joint operations and any other measure, and make necessary changes to improve compliance and enforcement outcomes.
- 2.7.4 The *Liquor Act* be amended to empower police with similar powers to suspend a licence as those provided to the licensing authority under section 48A of the *Liquor Act*, save that such powers are to be limited to suspension for a 48 hour period.

Compliance activity

As mentioned above, the Director-General confirmed that in the 2016/17 financial year, 1864 operational compliance visits were undertaken, during which licensed premises were checked for compliance with licence conditions and relevant legislation including the *Liquor Act*, *Private Security Act*, *Gaming Machine Act* and *Tobacco Control Act*. While the Director-General advised this was more activity than in previous years⁸², and appears to be an improvement in planning, it seems the approach is often ad hoc and reactive to incidents and complaints. The perception remains that liquor compliance and enforcement activity is inadequate.

The introduction of risk based categories of licence, together with better coordination and cooperation with Police, will allow for a more proactive and considered approach to compliance issues. Better directed intelligence gathering, using data from a range of sources, such as the Department of Health and Police, will improve the ability to proactively plan compliance activity, which will

improve compliance but also may increase the amount of enforcement activity.

We understand the current approach to compliance and enforcement looks strictly at the licensees' conditions of licence and at offences created by the *Liquor Act*. We also note that the *Liquor Act* does not allow for a review of a particular licence without a complaint. In addition, submissions made to the review have suggested that the compliance and enforcement approach currently undertaken does not give due consideration to, or indeed apply, the objects of the Act, including any consideration of the public interest. It is our view that compliance and enforcement activity should be undertaken with specific reference to the objects of the Act and the public interest, and if this is not sufficiently legislated at present, amendments must be made.

We note that the 2004 Alcohol Framework Report made recommendations to introduce a new function of the licensing authority (specifically the Director of Licensing) to undertake harm minimisation audits. The rationale for introducing such audits is that there needs to be a formal mechanism, other than the complaints process, to monitor whether licensees are complying with their responsibilities and meeting the objects of the Act.

Such audits will assist licensees to comply with the legislation, provide a transparent framework for compliance, and pre-empt problems that might occur in operating a licence. Stakeholders such as industry, health agencies and police should have the opportunity to contribute to harm minimisation audits.

The Director of Licensing should undertake harm minimisation audits and be given the power to require a licensee to cooperate in the process. The Director of Licensing should also be able to refer the outcomes of the audit to the licensing authority for a decision regarding suspension, revocation or amendment of the licence.

A harm minimisation audit should investigate issues such as:

- » the responsible service of alcohol
- » control of intoxicated people at or in the vicinity of licensed premises
- » prevention of underage drinking
- » patron care
- » dispute resolution
- » the impact of the licence on the local neighbourhood (noise, litter, criminal and antisocial behaviour connected with alcohol consumption)
- » responsible promotion of alcohol
- » any other relevant issues.

82 Budget papers from 2012/13, 2013-14 both showing output requirements for 1000 operational visits, and 2014/15 requiring 1500 visits, with a further reduction in 15/16 back to 1000,

RSA Compliance

Another area requiring significantly improved compliance and enforcement activity relates to the responsible service of alcohol (RSA).

We have noted that Queensland has a specific 'mystery shopper program' as part of its compliance activity. In 2014/15 the Queensland regulator introduced mystery shopper trials covering a range of licensed venue types and environments, including entertainment precincts and suburbs. The success of the trial led to the program being extended into 2016 targeting the high-risk venues that had been identified as more likely to experience RSA issues in the 2014/15 trials. Overall, some RSA issues were identified in 54 per cent of these venues in Queensland during the 2016 program.

Key findings of the trials included:

- » patrons showing no signs of intoxication were able to purchase alcohol for an intoxicated friend
- » in 79 per cent of tests in venues with multiple bars open for service, a patron refused service at one bar was able to purchase alcohol at another bar in the same venue a short time later
- » unduly intoxicated women were more likely to be served than their male counterparts
- » issues were more common in venues where a supervisor or manager was not visible
- » venues where bar, security and floor staff were monitoring the venue by watching or observing patrons were less likely to have RSA issues
- » environmental factors, such as poor lighting, higher noise levels and higher levels of crowding inside a venue negatively affect RSA compliance⁸³.

Such a program carried out in the Northern Territory would give the regulator critical information on the issues that affect effective RSA practice and outcomes, and in our view, should be part of the regulator's compliance program.

Recommendations:

- | | |
|-------|---|
| 2.7.5 | Licensing be appropriately resourced to undertake a broad range of compliance activity under the <i>Liquor Act</i> . |
| 2.7.6 | Licensing prepare an annual audit and compliance plan for liquor licences. Outcomes to be reported in the licensing authority's annual report. |
| 2.7.7 | The <i>Liquor Act</i> be amended to allow for harm minimisation audits to be conducted periodically in respect of licences, with the ability for the licensing authority to make a decision regarding suspension, revocation or amendment of the licence depending on the outcome of the audit. |
| 2.7.8 | Licensing be sufficiently resourced to regularly undertake covert 'mystery shopper' programs, similar to those used in Queensland. |

Enforcement

Although compliance can be encouraged through education, information and practical support for licensees, the importance of targeted enforcement and the resultant risk of prosecution and financial loss is an important component of an effective compliance and enforcement framework. Part VII of the *Liquor Act*, which establishes the enforcement provisions for licences and special licences, notes that the object of the Part is to create mechanisms for the enforcement of the requirements of the Act that are imposed on a licence. This object is achieved by empowering the Director-General of Licensing to:

- » deal with a complaint against a licensee
- » enter into an enforceable undertaking with a licensee
- » take disciplinary action against a licensee.

Enforcement action can only be taken when a complaint is made against a licensee. In contrast to compliance activity, enforcement activity may result in a formal sanction for the licensee for having breached the *Liquor Act* or a condition of the licence, ranging from a formal warning or an infringement notice to disciplinary action as defined in section 67(2). Disciplinary sanctions range from varying the conditions of a licence to imposing a monetary penalty to suspending or cancelling the licence (among others).

83 <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/liquor/training/rsa/mystery-shopper/results>

Looking at the type of enforcement action taken by the former Licensing Commission, and more recently under the Director-General of Licensing, the instances of disciplinary action taken varies significantly year by year. By way of example, the following shows the number of licences suspended as a result of breaches of licence conditions:

Year ending 30 June	Number of licences temporarily suspended
2009	10
2010	9
2011	11
2012	0
2013	0
2014	0
2015	1

The reason for the drop in activity between 2012 and 2015 is unclear however supports our concern that insufficient compliance activity has occurred.

We also note that there is little information on what prosecutions have occurred through the courts against licensees for breaches of the *Liquor Act*.

Licensees have expressed concern that they could be punished for the same offence twice; that is, through prosecution in court followed by a complaint to the licensing authority. To say this is to misunderstand the situation. If the licensee is dealt with in the Courts that is because he or she is alleged to have committed a criminal offence. If that conduct also constitutes a breach of the terms of the licence, then the licensee may also suffer a sanction from the regulatory body in relation to the breach.

This is as it should be and applies to all who operate under a licensing regime. For example, a medical practitioner, a lawyer or a teacher who commits a criminal offence will also be liable to disciplinary action by the relevant regulatory authority governing their profession. As a matter of sentencing practice the Courts will take into account any additional penalty the offender suffers from a regulatory body.

Because enforcement is a relatively high-cost strategy, expected outcomes from enforcement activities should be clearly identified. This was also identified in the 2004 Northern Territory Alcohol Framework Final Report, which stated a more systematic approach to enforcement was needed, which includes:

- » improved use of intelligence about liquor sales and supply practices to plan and target enforcement
- » shared training on licensing issues for licensing inspector and Northern Territory Police

- » increased consultation with the liquor industry and involvement in the development of processes such as alcohol accords.

Infringement Notices

Infringement notices can be issued under the *Liquor Act*, however only after a formal complaint is laid and determined by the licensing authority. Inspectors are not empowered to issue infringement notices as an immediate compliance and enforcement tool. This restriction does not apply to police. The Regulations provide for a range of offences for which Police are able to issue infringement notices.

Given the concerns around compliance and enforcement we consider there is merit in the *Liquor Act* being amended to provide for the immediate issue by Licensing Inspectors of an infringement notice for certain breaches.

While the Liquor Regulations currently provide for some offences to be dealt with by way of infringement notice, we consider that the number of offences that may be dealt with in this way should be reviewed and where appropriate expanded.

Recommendation:

- 2.7.9 The number of offences that may be dealt with by infringement notice under the *Liquor Act* be reviewed and, where appropriate, expanded.
- 2.7.10 The *Liquor Act* be amended to authorise Licensing Inspectors to issue infringement notices in the same circumstances as are allowed for police.
- 2.7.11 The *Liquor Act* be amended to allow Licensing Inspectors and police to issue on the spot infringement notices.

2.8 Responsible Service of Alcohol

It is a requirement in every licence authorising the retail sale of alcohol on and off the premises (i.e. takeaway), that all staff directly involved in the sale, service or supply of alcohol to the public or the supervision of these activities, hold or obtain a Responsible Service of Alcohol (RSA) Certificate within one month from commencement of employment. The RSA certificate must be obtained from an accredited service provider in Australia and an RSA register must be maintained on the premises at all times.

A concern expressed in a number of written submissions, and during the public meetings, related to the supply of liquor to intoxicated persons contrary to the requirements of RSA. This concern related mainly to the service of alcohol on-premises, however in our view it is a concern that also extends to takeaway sales, albeit in a slightly different way.

During one public meeting an example was given of a sobering up shelter called by a licensee to collect a patron who had been drinking at their venue. The question posed by the sobering up shelter staff member was how did the individual get to such a state of intoxication, given the obligations for responsible service of alcohol and the offence against serving or supplying alcohol to a person who is drunk.

Although a number of submissions from industry groups suggested that the introduction of a universal RSA qualification had been one of a number of harm minimisation initiatives applying downward pressure on alcohol consumption, we consider the training, application and enforcement of RSA could be more effective.

Responsible service of alcohol does play a critical role in minimising risk and harms arising from excessive consumption and misuse of alcohol, particularly at venues licensed for the consumption of alcohol on the premises. The obligation to ensure staff are RSA trained is contained in the conditions of a liquor licence rather than being a requirement of the *Liquor Act*. Surprisingly, the application of RSA does not apply stricter requirements for what would be considered higher risk licences. The same condition applies regardless of the type of licence that is held (e.g. a restaurant condition is the same as that applied to a late night venue or takeaway licence.)

Responsible service strategies are more likely to be effective for controlling consumption on licensed premises than for takeaway sales. Takeaway licensees and employees can only influence alcohol related behaviour at the point of sale.

The effectiveness of the RSA initiative, in our view, depends on four things:

1. the quality of the training
2. the actual competency that is gained by staff as a result of the training, particularly that which is relevant in the context of the Northern Territory
3. the commitment of licensees to building a culture of effective RSA in their business
4. Importantly, appropriate and effective enforcement mechanisms of RSA.

What is the training?

The current national accredited unit is 'provide responsible service of alcohol – SITHFAB002'. It is required to be delivered by a training organisation registered with the Australian Government Department of Education and Training. Although the myskills.gov.au website suggests the average cost of the course is \$83 with an average course duration of four hours, information received suggested the course can be completed in less than an hour. The on-line assessment allows applicants multiple chances to answer a question correctly and, as is the risk with all on-line training, gives no guarantee that the person who receives the accreditation is the individual who completed the training. In any event it is a course of short duration.

The unit outline provides, among other things, the following description of the course:

*This unit covers the RSA skill and knowledge requirements common to all States and Territories. Some legislative requirements and knowledge will differ across borders. In some cases after completion of this unit, state and territory liquor authorities require candidates to complete a bridging course to address these specific differences.*⁸⁴

There is inconsistency across the states and territories as to what requirements apply for RSA. While the national unit of competency is accepted in the ACT, South Australia, Tasmania, Western Australia and Queensland, a number of these states have also mandated a refresher course to be undertaken after three or five years, and some require the training provider to be registered with the local liquor regulator as well as with the Australian Government. Victoria and New South Wales have both developed their own specific RSA training packages, with Victoria mandating the initial training to be face-to-face. In addition New South Wales requires not only the initial training qualification but also that staff obtain a competency card which must be renewed every five years.

84 <https://www.myskills.gov.au/courses/unit?Code=SITHFAB002>

We believe that generic online training is not as effective as face-to-face classroom training tailored to Northern Territory issues. We would like to suggest an approach similar to the Victorian model, however we acknowledge that it may not be practical to require such an approach in the Northern Territory given the distances involved and the transient nature of staff in the hospitality industry. Nevertheless, we consider there should be a greater focus on the importance of RSA in the licensing regime and that the system should be reviewed by the Licensing Regulator with a view to increasing its effectiveness.

In the meantime we recommend that the *Liquor Act* be amended to require RSA training, in line with the national unit of competency, as well as a refresher course to be undertaken at least every three years. The possession of such a certificate should be a pre-requisite to employment.

Interestingly, we note that the responsible service of gaming training required under the Code of Practice for responsible gaming requires an annual refresher, and requires training to be undertaken not only by those staff that are involved with gambling activities, but also management to develop and encourage an organisational culture of responsive and responsible service of gambling.

Commitment by Licensees to managing the risk of alcohol-related harm

While industry submissions stated their commitment to RSA the current legislative framework does not impose a positive duty on licensees to implement a continuous improvement of competency approach for RSA. Some licensed premises are, by their nature, at a higher risk of irresponsible service of alcohol, including venues operating with high patron numbers and in the late night environment. As such, a simple requirement of an RSA certificate, which may have been obtained some time ago or online is not sufficient to manage the risk. Other liquor regulators have mandated a risk management approach to these types of high risk licences. In other regulatory frameworks, such as work health and safety and the environment, risk management plans are required as a means of continually assessing and applying reasonable steps to prevent or reduce the likelihood of risk associated with a particular activity.

It is our view that a risk management approach to RSA should be mandated and implemented through the *Liquor Act* and supported by appropriate codes of practice. This approach would allow flexibility for licensees to implement a management plan that is specific to the risks of their business. It is an appropriate way of improving and demonstrating the commitment the industry says it has towards RSA. Such a risk management plan may include additional requirements in respect of staff training, pre-

shift check lists or ongoing staff development sessions. These requirements need not be costly or time intensive, but rather short and concise ongoing training provided to staff to cover RSA, updates on relevant liquor licensing matters and legislation and possibly providing information on incidents that may have occurred and addressing how they could be avoided in future. Other matters that could be dealt with in such a plan include, but are by no means limited to:

- » dealing with minors on the premises - describe management practices for preventing minors on-premises where appropriate and dealing with minors found on the premises
- » dealing with intoxicated and disorderly patrons on the premises - describe the methods employed by staff to deal with intoxicated and disorderly patrons
- » how the impact of the business on the amenity of the community will be limited - provide detail on how the premises will mitigate noise and patron behaviour in and around the licensed premises particularly when leaving the premises.

The licensee should be required to maintain appropriate records to demonstrate compliance with any such approved plan. This is not dissimilar to what is required under work health and safety legislation, and should not represent a significant cost or time impost on licensees. In any event, the benefit of any improvement in RSA, leading to a reduction in excessive consumption of alcohol, would outweigh any cost. The regime should provide that a failure to develop, maintain and demonstrate the implementation of such a plan would be a breach of the licence.

Appropriate and effective enforcement mechanisms of RSA.

Regardless of the obligations imposed on a licensee, if there is no effective and responsive regulatory compliance and enforcement, the effectiveness of RSA as a harm minimisation mechanism will always be questionable. We discussed the mystery shopper program under the Compliance and Enforcement section of this report and reiterate here that the program should be introduced and appropriately resourced.

Recommendations:

- 2.8.1 The *Liquor Act* be amended to include RSA requirements as a statutory condition of a liquor licence to elevate its importance.
- 2.8.2 The *Liquor Act* be amended to include the requirement to hold an RSA certificate on commencement of employment, thereby removing the one month grace period that now applies.
- 2.8.3 An RSA refresher course must be undertaken every three years, with the course content and delivery being approved by the licensing authority.
- 2.8.4 High risk licences (such as major event licences or licences that operate an extended hours authority) must develop and implement an amenity and patron safety plan which includes an element for RSA.
- 2.8.5 Specific compliance and enforcement activity relating to RSA, such as the 'mystery shopper' program, be introduced and administered by the licensing authority.

2.9 Signage in licensed premises

The AHANT suggested the introduction of a Northern Territory Code of Practice for Patrons. It argued that this would address what it saw as an imbalance of responsibility between the licensee and individual patrons.

The relationship between a licensee and its clientele is largely a matter for the licensee. There is no impediment to individual venues developing, publishing and implementing their own code of conduct for patron behaviour. Indeed, a code of behaviour is to be encouraged to assist in the responsible consumption of alcohol. Such a code of conduct would, ideally, form part of the risk management plan (as referenced in the RSA discussion). We do not see a need for any legislated requirement for a certain standard of conduct on the part of patrons beyond that already in existence.

However, the submission raised the issue of the extent to which signage referring to responsible service of alcohol requirements is currently mandated in venues. There appears to be no requirement. In other jurisdictions liquor legislation requires licensees to display such signage around the licensed premises. The content of the signs and the design of the signs differ from place to place but all are intended to raise awareness.

We consider signage to be a useful tool for reminding staff, and informing patrons, of the legal requirements surrounding the responsible service of alcohol. Signs can draw attention to the penalties for breaking the law. Signs can be used as one of the tools to bring about a better culture around alcohol consumption and service.

Further, we believe that appropriate signage can convey to patrons staff's obligations and support staff in refusing service. Staff can point out these signs when enforcing RSA laws. Signage can be developed that is specifically directed to staff, as well as signage directed to patrons.

We are of the view that the *Liquor Act*, or preferably, the Regulations, should mandate the placement of signs that are approved by the licensing authority. While it would be expected there would be a standard range of signage applicable to all licensed venues, the regime should enable the licensing authority to require specific signage for particular venues depending on, and relevant to, their risks.

It is our view that signs should also include specific health information relating to alcohol, such as the Chief Health Officer's recommendations for the responsible consumption of alcohol and the risks of drinking while pregnant.

In addition to compulsory signs, we suggest the licensing authority be able to approve signs that, whilst recommended are not mandatory, for placement in a venue. It may be that such signs would display voluntary measures undertaken by the venue, such as checking identification for those under 25 or providing information on drug and alcohol counselling services.

The mandated signage should contain concise messages to raise awareness of the purpose of the sign, with appropriate colour graphics to draw attention. They should be required to be strategically placed at the licensed premises to ensure they are visible to patrons and/or staff.

Matters we consider are appropriate to be covered by signage include (where appropriate), but are not limited to:

- » developing an effective RSA culture in the venue
- » providing information regarding RSA and refusal of service to patrons
- » patron and venue safety by raising awareness of CCTV and the role of security
- » providing information regarding the venue's BYO and takeaway alcohol rules
- » dealing with minors including underage drinking, access and false ID
- » noise restrictions

- » the Chief Medical Officer's recommendations for responsible consumption of alcohol
- » drinking during pregnancy.

Recommendation:

2.9.1 The *Liquor Act* be amended to provide for mandatory signage, as approved by the licensing authority, be displayed in licensed premises.

2.10 Promotion and Advertising

The advertising and promotion of alcohol occurs in many ways across various media, including on-premises promotions and advertising in newspapers and on radio and television. The regulatory framework for alcohol advertising and marketing is governed by a mix of Territory and Commonwealth legislation, as well as self-regulatory codes.

Many submissions pointed to research that shows that the exposure of young people to alcohol advertising increases their consumption. They pointed in particular to advertising associated with sporting events⁸⁵. In addition to the link to youth drinking, the La Trobe University referred to several papers that go so far as to suggest that advertising can play a role in reinforcing attitudes towards gender roles and stereotypes, which can at times be at odds with the prevention of domestic violence and violence against women⁸⁶.

Territory Regulation

Alcohol advertising and promotion is regulated to some degree by section 31(4) of the *Liquor Act* which provides:

It is a condition of all licences that a licensee:

- (a) must not take any action that, in the opinion of the Director-General of Licensing, would induce the irresponsible or excessive consumption of liquor on licensed premises;*
- (b) must not publish or cause to be published, in any media, an advertisement which, in the opinion of the Director-General of Licensing, could be construed as inducing the irresponsible or excessive consumption of liquor on licensed premises; and*
- (c) where a code of conduct or code of ethics or rules (by whatever name it is called) relating to the advertising of liquor is approved by the Director-General of Licensing and is accepted and promulgated by the Minister by notice in the Gazette, a licensee shall abide by that code or rules.*

The first Code of Practice issued in respect of the responsible promotion of alcohol was issued by the then Licensing Commission in 1996⁸⁷. The current version issued by the Director-General of Licensing, entitled the Responsible Promotion of Alcohol Code of Practice, provides examples of what is considered to be acceptable and unacceptable promotional activities⁸⁸. The Code of Practice and section 31(4) of the Act, apply to the promotion of alcohol for consumption on-premises.

Industry self-regulation

According to the Alcohol Beverages Australia submission, alcohol advertising in various media in Australia is self-regulated with industry developing the Alcohol Beverages Advertising Code (ABAC) to guide and monitor its marketing and advertising. The ABAC scheme introduced the ABAC Responsible Alcohol Marketing Code which is governed by a management committee comprising representatives from the Brewers Association of Australia and New Zealand, the Winemakers Federation of Australia, the Distilled Spirits Industry Council of Australia, the Communications Council, and a government representative⁸⁹.

Complaints regarding a breach of the Code can be made to the Advertising Standards Bureau, but they are ultimately referred to the Alcohol Beverages Advertising Committee.⁹⁰ ABAC's adjudication panel is headed by Professor the Hon Michael Lavarch AO. The panel has two health members and two general members. To ensure independence none of the panel members are permitted to have been employed by the alcohol industry in the last five years. In 2016 the panel considered 35 complaints⁹¹. The Alcohol Beverages Australia Submission also referenced the Industry established and funded DrinkWise Australia organisation which runs numerous campaigns to promote responsible drinking.

While it is commendable that the Industry is taking proactive steps to address alcohol advertising, and the drinking culture, we take the view that there are shortcomings with this approach, including:

- » being industry funded there is a perception of bias in favour of the industry
- » the system appears to be voluntary, and not all areas of the industry are covered
- » although there is a system of complaint, there does not appear to be a power to impose a penalty for a breach of the code.

85 APO Northern Territory Submission page 53; FARE submission to the review of alcohol policies and legislation: Alcohol harm reduction framework page 27

86 La Trobe University Centre for Alcohol Policy Research Submission page 12

87 Northern Territory Alcohol Framework Interim Report 2004 page 164

88 <https://nt.gov.au/industry/hospitality/responsible-promotion-of-alcohol-code-of-practice>

89 <http://www.abac.org.au/about/>

90 <https://adstandards.com.au/complaint-process>

91 Alcohol Beverages Australia Submission page 1

We understand that in response to concerns about the effectiveness of alcohol advertising regulation under the ABAC scheme, the Alcohol Advertising review Board was established by the McCusker Centre for Action on Alcohol and Youth and the Cancer Council of Western Australia. Unlike the ABAC system, the AARB is free of alcohol and advertising industry involvement. Complaints can be made to the AARB, however as with the ABAC, determinations made by it are not enforceable.

Commonwealth Regulation

Alcohol advertising on television is regulated by the Commercial Television Industry Code of Practice, which restricts the times alcohol advertising can be shown on television. This typically applies to television between the hours of 8:30 pm and 5 am, however, and significantly, exemptions allow advertisements to be shown during live sporting broadcasts at any time of the day.⁹²

Alcohol Promotion in Sport

Many submissions made recommendations that alcohol advertising during sporting events and sponsorship of sporting events should be prohibited. This is a matter that affects not only Territorians but people in all other states and territories in Australia. Advertising in this context occurs in at least two ways, first the actual advertisements that run during the broadcast, and second, the passive advertising derived from sponsorship logos, billboards and product placement.

There is a significant number of sporting teams and events, both in the Northern Territory and nationally, that are sponsored by the alcohol industry. The value of such sponsorship is obviously important to sporting bodies and events, and we acknowledge that many events, particularly in the Northern Territory, may not be possible without this sponsorship or some substitute for it. However, as with the replacement of tobacco sponsorships in sport, other sources are available.

This is an area where it would be difficult for the Northern Territory to proceed alone. It is a matter that requires a national strategy with a uniform approach across Australia. The issue of alcohol advertising during telecasts of live sports events must necessarily be considered at a national level. We also recommend that all forms of alcohol advertising and sponsorship in sport be dealt with at a national level.

92 Australian Communications and Media Authority, Commercial Television Industry Code of Practice, December 2015 part 6.2 http://www.acma.gov.au/~media/Broadcasting_per_cent20Investigations/Regulation/pdf/Commercial_Television_Industry_Code_of_Practice_2015_per_cent20pdf.PDF

We wish to make specific mention of the positive comments made to us regarding the initiative of the Australian Government known as Good Sports. This program works directly with community sporting clubs to help create healthy environments and ensure positive and sustained social change. It was described as a “simple yet effective program”.⁹³

Recommendations:

- 2.10.1 The Northern Territory Government advocate at the national level for independent, legislated control on the content, placement and volume of all forms of alcohol advertising and promotion. There should be a comprehensive code and enforceable decisions with sanctions that genuinely act as a deterrent to inappropriate alcohol advertising.
- 2.10.2 The Northern Territory Government advocates that the issue of alcohol advertising during telecasts of live sports events be considered at a national level, with a view to prohibiting, or at least restricting, such advertising.
- 2.10.3 The Northern Territory Government advocates nationally for initiatives that provide for alternatives to sports sponsorship by the alcohol industry.
- 2.10.4 The licensing authority endeavour to ensure the Good Sports program or similar programs are incorporated into future accords and alcohol management plans to promote the health and safety of those associated with sporting clubs.

Advertising by Takeaway Licensees

In its submission the AHANT raised particular concern regarding the external advertising of alcohol by some licensees whose principal business is the sale of groceries. The AHANT submitted that ‘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’.

Consistent with the nature of the licence the sale of alcohol is supposed to be a convenience and ancillary

93 Submission of Aboriginal Peak Organisations Northern Territory at page 51

to the grocery business, not a major drawcard. For this reason external advertising of the sale of alcohol should be prohibited for businesses with a current store licence that will be transitioning to a takeaway licence.

In addition to this type of advertising, and in relation to the holders of what will become takeaway licences, we are concerned by the range of promotional activities that are heavily centred on price as an enticement to purchase. For example, we note the FARE Annual Alcohol Poll revealed that in 2017, almost one in five (23 per cent) of Australian drinkers bought a particular product because of a shopper docket, an increase from 16 per cent of drinkers in 2015⁹⁴. Other undesirable price related promotions include two for one offers, and free gifts. While the introduction of an alcohol floor price will have an impact on such promotions, we are of the view that steps should be taken to prohibit promotions of the type seen on shopper dockets.

Advertising by On-premises Licensees

The concern regarding advertising of liquor expressed above, extends to on-premises advertising and promotions as well. We have seen a number of promotions at on-premises venues that promote price discounts for bulk purchases and are clearly designed to encourage the purchase of increased volumes of alcohol⁹⁵.

Although not raised frequently, we are also concerned about the use of social media and other mediums, particularly by on-premises venues, as a means of advertising and promotions.

Recommendations:

- 2.10.5 The *Liquor Act* be amended to make clear the power of the licensing authority to control, restrict or prohibit undesirable promotional activity in relation to both on-premises licences and takeaway licences.
- 2.10.6 The legislation make clear that promotion (by whatever means) of alcohol by reference to harmful price discounts is prohibited.
- 2.10.7 The *Liquor Act* be amended to make clear the power of the licensing authority to restrict or prohibit the sale of undesirable liquor products in relation to both on-premises licences and takeaway licences.

- 2.10.8 The *Liquor Act* be amended to provide for the licensing authority to specifically prohibit certain types of promotional activities, such as shopper dockets.
- 2.10.9 External advertising of the sale of alcohol be prohibited for businesses with a current store licence that will be transitioning to a takeaway licence until a takeaway licence is obtained.
- 2.10.10 All external advertising on licensed premises should comply with the Advertising Code of Practice as approved under the *Liquor Act*.
- 2.10.11 The Advertising Code of Practice be reviewed to ensure it conforms with harm minimisation principles.
- 2.10.12 The Northern Territory Government bans alcohol advertising on publicly owned assets such as buses and building

2.11 Alcohol and Vessels

The issue of boat safety, particularly for recreational users, was raised during our consultations. It is not within the scope of this review to consider the suggestion that a general system of boat registration should be introduced into the Northern Territory. It is within the terms of reference to consider whether attention should be directed towards the operation of a vessel while the operator is under the influence of alcohol.

Although it is arguable that the legislative provisions of the *Traffic Act* have application to the operators of vessels, this is far from clear. The definition of 'vehicle' within the Act may be broad enough to include a 'vessel' but, as far as we are aware, that has never been tested.

We are not aware of any data relating to alcohol consumption on vessels because, it seems, there is no recording of such information. However, there can be no doubt that alcohol is consumed on vessels and, at times, to levels where the operator of the vessel can be described as being under the influence of alcohol in the sense that term is understood in the *Traffic Act*. It is also readily apparent that such conduct is likely to create situations of danger for those in the vessel and others on the water. In our view there is no good reason why the operation of vessels by people who have been consuming alcohol should not be regulated in much the same way as vehicles under the *Traffic Act*.

Legislation should be introduced to explicitly make it an offence for a person to operate or navigate a vessel with a breath or blood alcohol content above a prescribed minimum. This could be achieved through

94 FARE submission page 27 footnote 114

95 FARE submission page 27

the *Traffic Act* or through the *Marine Act*. While the definition of 'vehicle' in the *Traffic Act* could be amended to include a 'vessel' careful consideration would need to be given to the consequential effects of so doing. The *Marine Act* specifically deals with marine safety and the proposed amendments may therefore sit more comfortably within that legislation. Any amendments would need to be the subject of advice from the Legal Policy division of the Solicitor for the Northern Territory. In addition, consideration must be given to making related amendments such as giving Police powers to stop vessels and carry out breath tests, similar to those provided by the *Traffic Act* in respect of motor vehicles.

Recommendation:

2.11.1 The Northern Territory Government legislate to make it an offence for a person to operate or navigate a vessel with a breath or blood alcohol content above a prescribed minimum in a manner similar to the requirements of the *Traffic Act* in relation to vehicles.

2.12 Restricted Areas

- » Alcohol Restricted Areas
- » General Restricted Areas and Alcohol Protected Areas
- » Public Restricted Areas
- » Private Restricted Premises
- » Alcohol Management Planning (AMP) and Liquor Supply Plans (LSP)
- » Social Clubs in remote Aboriginal Communities
- » Secondary Supply (sly grog/grog running)

Alcohol Restricted Areas

The *Liquor Act* establishes a framework that supports the safe use of public space in both urban areas and remote communities. The framework can, broadly speaking, be split into two categories:

1. creating geographical areas for the purposes of prohibiting the possession and consumption of liquor entirely or for periods of time, often referred to as restricted areas or 'dry' areas⁹⁶
2. declaring designated areas from which a person can be banned or excluded.

A range of offences exist for each of the areas, with varying enforcement powers that can be exercised by authorised Inspectors, the police or both. In addition it is also possible

⁹⁶ Specifically General Restricted Areas, Public Restricted Areas and Regulated places

to declare private premises as restricted premises, meaning that alcohol cannot be supplied, possessed and consumed in the home.

General Restricted Areas and Alcohol Protected Areas

Since the early 1980s, the *Liquor Act*⁹⁷ has made provision for the licensing authority to declare an area to be a General Restricted Area (GRA), also known as a 'dry' area. The *Liquor Act* provides that the Director-General of Licensing may issue a permit to a person to take into, possess or drink alcohol in a restricted area. Restricted areas may take a number of forms including those where:

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

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

Stronger Futures in the Northern Territory Act (Cth)

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

⁹⁷ *Liquor Act* Part 8

The SFNT Act created a range of offence provisions that relate to Alcohol Protected Areas and which are to be read into the *Liquor Act*⁹⁸. The Alcohol Protected Areas are to be treated as if they are GRAs declared under the *Liquor Act*. More than 500 Aboriginal communities have been declared Alcohol Protected Areas as a result of this process, and are treated as General Restricted Areas under the *Liquor Act* to the extent that the *Liquor Act* is amended by the SFNT Act. These APAs (treated as GRAs) will remain in force until the SFNT Act ceases to operate in 2022, at which time, in the absence of further legislative intervention, those communities that were not declared as GRAs under the *Liquor Act* will cease to be treated as such.

GRAs declared under the Liquor Act

As a general principle, the ability for a community to seek a general restricted area declaration is sound and promotes the capacity of communities to control the use of alcohol in the community, providing effective local decision making and ownership. Having said this however, setting aside the approach to alcohol restrictions introduced by the NTERA in 2007, an ongoing criticism has been that such a declaration results in people who would normally reside in restricted areas leaving those areas to drink in other places. It has been long identified that a consequence of dry communities includes high rates of alcohol related road accidents as people travel between 'wet' and dry areas, and an increase in anti-social behaviour in major centres such as Alice Springs, Katherine and Darwin⁹⁹.

The declaration of GRAs has resulted in effective harm reduction in communities, particularly those that are geographically isolated such as Groote Eylandt. This demonstrates it is an effective harm reduction strategy, however we also saw examples of unintended consequences that cause harm. During our community consultations we heard frequent and consistent stories of people who have chosen to leave dry communities, for the purpose of accessing alcohol. The stories relate to people leaving their communities either permanently or for extended periods of time, often resulting in the person becoming an itinerant in a major centre, or leaving to purchase large amounts of alcohol which is then consumed on the way back to the community, or at unsafe drinking areas at the edge of the communities¹⁰⁰. We know this is happening and we know it is putting people at risk and causing death¹⁰¹.

This fact arises not because of the declaration of the GRA itself, but because of the lack of opportunities to drink alcohol in or near a person's place of residence in the restricted area, through mechanisms such as a licensed

social club, or through the establishment of permit systems. We discuss these mechanisms further in this section.

Alcohol Protected Areas under the Stronger Futures in the Northern Territory Act

In 2016 KPMG was engaged by the Department of the Prime Minister and Cabinet (DPMC) to conduct an independent review of the first three years of operation of the SNFT Act with a focus on the effectiveness of the special measures under that Act, including tackling alcohol abuse among others. This review found that there were insufficient data available to the reviewers to evidence comprehensive and robust links between the Act and changes in key indicators of alcohol related harm over the 2012 to 2015 period. While some positive changes in patterns of consumption occurred contemporaneously with the Tackling Alcohol Abuse measures, it is problematic to attribute such outcomes to the operation of the Act¹⁰².

Some Aboriginal 'town camps' (or community living areas) have been caught in an anomalous situation under the SFNT Act in that they have been declared dry areas within a municipal setting where alcohol is otherwise freely available. Tangentyere Council recommended that the Alcohol Protected Area status of the Alice Springs town camps should be lifted in favour of an extension of Public Restricted Areas to town camp common areas. Further, it recommended that the development of community led interagency responses to alcohol-related harm be guided by local decision making. The panel accepts that in this context local decision making is more likely to achieve positive outcomes than remote decision making.

The view of many people we spoke to during our public consultation, in addition to a number of submissions, has been that the unilateral decision to ban the supply, possession and consumption of alcohol in Aboriginal communities as a result of the NTERA and the subsequent SFNT Act has been discriminatory and detrimental to effective community driven alcohol reduction measures¹⁰³. The approach taken by the NTERA in declaring significantly more communities 'dry' in the manner it did, exacerbated the issues discussed above relating to people leaving their community, or establishing unsafe drinking areas.

98 See s 8 SFNT Act

99 *Saggars S and D Gray 1998 Dealing with Alcohol; Indigenous Usage in Australia, New Zealand and Canada*

100 APONT submission page 39; North Australian Aboriginal Justice Agency submission page 17

101 For example Inquest into the death of Z Namundja [2010] NTMC 031

102 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *review of the Stronger Futures in the Northern Territory Act (2012)* page 6

103 Tangentyere Council Aboriginal Corporation Submission page 11

Recommendations:

- 2.12.1 No changes be made to the dry status of an area/community without local decision making and local ownership over alcohol management.
- 2.12.2 Consultation commence now with communities on the subject of an Alcohol Protected Area declaration under the SFNT Act as to the future management of alcohol in that community when the SFNT Act ceases in 2022.
- 2.12.3 The Northern Territory Government convene meetings with the Australian Government and representatives of each of the Alice Springs town camps to formulate an alcohol management plan relating to supply for the particular circumstances of the individual town camps.

Public Restricted Areas

The *Liquor Act* establishes a complex framework that restricts the consumption of alcohol in public space. There are a number of variants that can apply to public restricted areas, and this is combined with the frequent overlap between regulated places (commonly referred to as the two kilometre law) and designated areas which creates confusion and inconsistency. In addition to this, the offences created for each area, the penalties that relate to the offences and the person who has enforcement powers, creates a system that, as identified in the submission form Police Fire and Emergency Services, is confusing for the community, tourists and enforcement officers¹⁰⁴.

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

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

The 2km Law

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

Different powers and offences are created for the different areas discussed above, which include search and seizure powers, tipping out alcohol and fines.

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

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

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

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

At present significant areas in all major centres are covered by Public Restricted Areas, the two kilometre law, Designated Areas or a combination of these.

We agree with the submission of Northern Territory Police that the complexity of the different restricted areas contributes to the difficulties with effective enforcement. It also creates public uncertainty about where it is lawful to consume alcohol. In order to resolve the confusion we recommend that all public space in urban areas should be

restricted, with the ability for exemptions to be applied in appropriate cases. The effect would be that the areas that are now restricted would remain restricted and those areas where it is appropriate to allow the consumption of alcohol would be declared exempt. Such exemption may be declared time limited.

Recommendations:

- 2.12.4 The present confusing array of Restricted Areas be abolished and all public space in urban areas be restricted, with the ability for exemptions to be declared in appropriate cases. Such exemptions may be time limited.
- 2.12.5 The licensing authority, or the local government authority, be responsible for granting exemptions on its own initiative or on application from appropriate bodies. All exemptions must have regard to the public interest and community impact.

Private Restricted Premises

Section 101C of the *Liquor Act* allows for an application to be submitted for a home or private premises or a privately owned premises that is open to the public (i.e. church, hospital, shopping centre or other business) to be declared a restricted premises. Currently applications may only be made by certain identified persons.

An issue raised with us during a number of public meetings was the limitations the private restricted premises approach has in respect of public housing. The issue arises primarily in respect of public housing complexes, and the inability for Territory Housing to apply for a private restricted premises declaration. Although Territory Housing is able to have common areas within the grounds declared public restricted areas, they are only able to apply pressure through the tenancy agreement when there is repeated anti-social behaviour arising from alcohol misuse.

The ability to declare a restricted premises is an important measure in addressing alcohol related anti-social behaviour and improve community amenity. This provision should be strengthened by broadening the list of the people eligible to apply for a private residence (land or house) to be declared a restricted premises. This should include Public Housing Safety Officers, Public Housing Officers and Police as it relates to public housing. The ability to declare an individual residence as restricted within a broader housing (unit) complex should also be included.

Recommendation:

- 2.12.6 The *Liquor Act* be amended to provide the authority for Public Housing Safety Officers, Public Housing Officers and Police to make an application for a public housing residence to be declared as restricted premises.

Alcohol Management Plans (AMP) and Liquor Supply Plans (LSP)

What are Alcohol Management Plans (AMP) and Liquor Supply Plans (LSP)?

An AMP is a plan developed following community engagement and is intended to cover the following three pillars of effective alcohol management specific to the community:

- » harm reduction
- » demand reduction
- » supply reduction.

An LSP differs in that it focusses on matters relating to supply such as product restrictions or restrictions to hours of trade.

Generally a local AMP results from alcohol reference groups, or other alcohol management committees, combining with representatives from government agencies, industry, community members, and key service providers in areas such as health, alcohol treatment and education, to formulate and introduce a plan. Many of those involved will have key roles in delivering the initiatives identified as part of the AMP.

An LSP may also use community alcohol reference groups, or similar committees, however it is the licensing authority that will implement an LSP either through voluntary accords or variations to the licence conditions in that region.

AMPs

Alcohol management planning has been a key strategy in dealing with the supply and consumption of alcohol, not only in remote communities but also in regional centres, for a number of years. The first AMP's were announced in September 2006 for Alice Springs and Groote Eylandt. The 2006 Alice Springs AMP was created following recommendations in the 2004 Alcohol Framework Final Report that local and regional alcohol management plans be developed with the support of the Office of Alcohol Policy and Coordination, and that all government agencies

be actively engaged in the process.¹⁰⁵ Critical to the success of these AMPs was community level support and engagement that led to specific strategies and covered matters such as the declaration of general restricted areas, the establishment of permit systems and introduction of product and trading hour restrictions.

Following the 2007 Australian Government intervention, the enactment of the SFNT Act in 2012, established legislated standards for the development and approval of AMPs by the Federal Minister. Funding under a National Partnership Agreement was established to assist in the development of the AMPs for remote communities.

The Department of Health submission reported that the development of AMPs was an intensive Territory wide strategy undertaken between 2010 and 2015, with 35 communities having participated in the process. Notwithstanding most of the communities having developed and endorsed their own AMPs, Titjikala was the only community AMP approved by the Minister with the approval of numerous others being specifically declined.

Since 2015 the Northern Territory Government and the Australian Government have agreed to move away from the standards and approval process for AMPs and focus on the development of Alcohol Action Initiatives (AAI)¹⁰⁶. In recognition of this change of approach, in 2016 the Northern Territory Government and the Australian Government renegotiated the National Partnership Agreement on the community driven projects referred to as AAls. The purpose of AAls is to provide short term funding to support community action to minimise the nature and extent of harm caused by the consumption of alcohol through community identified supply, demand and harm reduction strategies¹⁰⁷.

Community engagement and Community based action

Community engagement and community driven action in response to alcohol misuse is vital to the success of initiatives, particularly for remote communities. The use of Community Development Officers working with remote communities through the Living with Alcohol program¹⁰⁸ demonstrated the benefit of such an approach. Similarly, the AMP developed in Groote Eylandt and driven by the community, was a success.

105 2004 Alcohol Framework Final Report Recommendation 17

106 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *review of the Stronger Futures in the Northern Territory Act (2012)* page 12

107 Department of Health Submission page 8

108 2004 Alcohol Framework Final Report- page 45 submission from Northern Territory Treasury

Numerous submissions¹⁰⁹ have emphasised the importance of local, community based actions and strategies as a crucial component of effective alcohol policy. The majority of submissions received from organisations that work with communities, either in remote areas or in town camps, endorsed the principles of community control and self-determination as underpinning the delivery of services and programs related to alcohol consumption in the Northern Territory. Alcohol management planning, at both local and regional levels, is a key to achieving success.

In our view AMPs provide an important means for a community to identify particular issues relating to alcohol misuse and abuse, and to develop initiatives that can be initiated in response. The importance of effective engagement with the community, service providers (both government and non- government) and industry is critical to the development of an effective AMP. The Northern Territory Government's commitment to local decision making means it is possible to incorporate AMP consultation into an existing framework.

Recommendation:

2.12.7 In line with the commitment to local decision making, the Northern Territory Government use the partnership between the Regional Network Group in the Department of the Chief Minister and APONT, to reinvigorate the AMP process with communities.

LSPs

The Alcohol Framework Final Report 2004 considered it appropriate to distinguish between AMPs and LSPs – we agree.

By their nature AMPs have a broad focus on designing and delivering services and programs tailored to the community or region that are integrated and complementary across both the government agencies and NGOs. On the other hand LSPs provide a framework for the development, implementation, evaluation and review of specific local and regional liquor supply restrictions.

It is particularly important that LSPs have a regional focus in the Northern Territory because of the demonstrated willingness and ability of community members to travel significant distances to access alcohol from outlets that may not be bound by restrictions. Throughout the Northern Territory there have been successful examples

109 Including but not limited to Aboriginal Peak Organisations of the Northern Territory – APO NT; Tangentyere Council Aboriginal Corporation; Jesuit Social Services; Gunbang Action Group;

of local supply restrictions that have had an impact on the control of alcohol in the local area, such as Tennant Creek, Alice Springs, Katherine and Nhulunbuy. However, the effectiveness of these restrictions is challenged when community members travel hundreds of kilometres to purchase alcohol in greater quantities than their community otherwise allows.

Concern was expressed to us regarding the inappropriate supply of alcohol by Wayside Inns and Roadside Inns to people from surrounding communities. We consider that these concerns are best addressed by an LSP directed to the particular circumstances and concerns in the region.

We propose that a legislative system be created for the development and implementation of local and regional supply restrictions. We agree with Recommendation 15 of the 2004 Alcohol Framework Final Report and reproduce it below with some modifications.

Recommendations:

2.12.8 The *Liquor Act* be amended to specifically empower the licensing authority to inquire into and promulgate local and regional LSPs. The Act should directly, or through regulations, specify in detail the powers and obligations of the licensing authority as well as the local community in developing such plans.

2.12.9 The regime should:

- define a regional Liquor Supply Plan as a set of provisions that apply to a particular geographic area
- include provisions which specify
 - areas within the LSP area where liquor licences may not be issued
 - areas subject to specific restrictions such as a General Restricted Area declaration
 - types of business that may or may not be operated in conjunction with a liquor licence in the area and identify pre-requisites additional to those in the Act or Guidelines for a business to be licensed

- standard conditions for the area that may impose further restrictions on the conditions applicable to licence categories (for example, hours of operation, types of liquor and types of container)
- matters that relate to particular controls on the behaviour, or limits on the rights of individuals, provided that the proposed controls or limits conform with community expectations, are likely to reduce alcohol related harm and are consistent with the objects of the *Liquor Act* - this would include things such as the introduction of a permit system¹¹⁰
- the collection of data and other information concerning the resulting effects of the plan
- the establishment of a local or regional alcohol management committee or the use of an already established group/committee to undertake this function.

- provide that, where the licensing authority is satisfied there is likely to be a public benefit, a plan may also specify for a given period, no greater than three years, the number of licences generally, or in particular categories, that may be issued in the locality or region
- specify that the licensing authority may, having regard to the objects of the Act, the public interest and any request, submission or other information that has been provided to it, determine that a Liquor Supply Plan should be developed for an area and determine the process that will apply to develop the plan
- entitle specific organisations or people to apply to the licensing authority for it to determine that a Liquor Supply Plan should be developed for the area. Such organisations and people would include but not be limited to community members, regional councils, health services and local police officers, or the licensing authority itself
- provide that, unless the licensing authority is satisfied, after consideration of any material provided by the applicant or any other person, that development of a Liquor Supply Plan would not advance the objects of the Act, that such a plan should be developed unless there is an overwhelming reason not to
- provide that the licensing authority may determine that all or some elements of a plan are to be trialled for a specified period of time, no longer than 12 months, and that the licensing authority should provide for a process to evaluate the trialled elements
- provide that licensing authority may determine the procedures to be followed to develop the Liquor Supply Plan, but also provide that any person may make a submission in writing, that the licensing authority will provide assistance to people who wish to provide an oral submission to turn it into writing, and that the

110 2004 Alcohol Framework Final Report pages 47 - 50

licensing authority will in the first instance use informal procedures to promote agreement among licensees and community members about the content of plan. The legislation should also provide that, where no agreement is reached, the licensing authority may conduct a hearing where it may appoint counsel assisting the licensing authority. At the hearing any licensee, local government body, the Commissioner of Police, any existing alcohol management committee (or equivalent committee tasked with LSP related coordination functions) and any government or community-based health, welfare or legal service provider may as of right, and any other person may with leave of the licensing authority, attend and give relevant evidence

- provide that a Liquor Supply Plan should specify a period of time not less than two years and not more than five years after which the plan must be reviewed by the licensing authority
- provide that the licensing authority should be empowered to establish and support ad hoc or permanent local advisory committees to assist it in gaining detailed input from community interests.

Alcohol Service Provision in Remote Communities

Permit Systems

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

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

An important perceived benefit associated with permit schemes in these communities is that permits provided a safe alternative to unsupervised drinking in unofficial drinking areas. The addition of communities now treated as GRAs has resulted in an increase in unsupervised and unofficial drinking areas outside of the GRA, many of which

are located in places exposed to vehicle traffic and out of the range of support and communication from home communities.

The operation of the SFNT Act means that new permit schemes in GRAs require the support of the Federal Minister for Aboriginal Affairs. Since 2007, and the subsequent commencement of the SFNT Act, the Australian Government has had the power to amend the licence conditions or permit conditions operating within a GRA. Submissions received during the course of this review claimed that the AMPs under the SFNT Act were not approved by the relevant Federal Minister due to concerns that strategies contained in the AMP would increase alcohol consumption and therefore harms. We understand that a number of these AMPs sought to develop and establish permit systems as a means of introducing a controlled ability to possess and consume alcohol but these were not accepted by the responsible Federal Ministers.

A consistent message throughout our public meetings and in a number of written submissions, was the importance of local decision making and, in this context, giving remote community populations the ability to decide for themselves whether to permit people to drink in their own homes should the community choose to endorse it.

A number of submissions pointed to the inconsistent and, at times, discriminatory manner in which permits operate, and called for a more consistent approach. The need for consistency in the approach to the development and implementation of permit systems was supported by the report titled 'review of Liquor Permit schemes under the Northern Territory *Liquor Act*' (permit report) – prepared by the Menzies School of Health Research and released by the Department of Health during the course of this review.

We have considered the permit report, in the context of our review. In light of the detailed discussion in the permit report we do not need to revisit those issues in this review. We conclude that permit systems are capable of playing an important role in alcohol management in remote communities provided the relevant community is supportive of a system being introduced. The introduction of permits in GRAs (particularly those that are also APAs) where this is supported by community, may constitute an important step towards managing alcohol in communities when the SNFT Act ceases to operate in 2022.

The Northern Territory Government must commence developing clear action plans for managing alcohol in communities as we move towards 2022, and the AMP process, including permits, can play a vital role in that process.

Permit Recommendations:

- 2.12.10 The Northern Territory Government develop clear action plans for managing alcohol in communities as we move towards 2022 and the cessation of the SFNT Act, and that the AMP process, including permits, is a part of that process.
- 2.12.11 A comprehensive set of guidelines be developed providing for the core requirements of a permit system for the guidance of communities in which such systems exist and for communities considering such a system.
- 2.12.12 Government acts on the recommendations of the review of Liquor Permit Schemes under the Northern Territory *Liquor Act* (permit report) – prepared by the Menzies School of Health Research. Those recommendations appear at Appendix E to this report.

Social Clubs in remote communities

Social Clubs with liquor licences operate in some communities that have been declared GRAs. The Social Clubs sell food and alcohol. However, following the Intervention in 2007 significant restrictions were imposed on the types of alcohol that may be sold, the days and hours of trade that the clubs can operate, and on the sale of takeaway alcohol.

The public consultation has demonstrated considerable support by some residents of remote communities for social clubs in those communities provided their introduction resulted from a community led decision making process.

The 2015 Bowchung report titled *Managing Alcohol Consumption – a review on licensed clubs in remote Indigenous communities in the Northern Territory*, was released in 2017. This report undertook an extensive evidence based review of the impact licensed social clubs have had in remote communities.

Social Club Recommendations:

- 2.12.13 The introduction of licensed social clubs, or changes to conditions of existing licensed social clubs, only occur following extensive consultation with communities through a local decision making framework.
- 2.12.14 Licensed social clubs be encouraged to emphasise the social aspect of the club rather than be simply a place to consume alcohol.
- 2.12.15 Governments act on the recommendations of the Bowchung Report, *Managing Alcohol Consumption – a review on licensed clubs in remote Indigenous communities in the Northern Territory*. Those recommendations appear at Appendix F to this report.

Secondary Supply – Grog Running / Sly Grog

There is a serious issue of secondary supply of alcohol, often referred to as grog running or sly grog, into GRAs, including those declared via the NTERA and continued under the SFNT Act. It has been suggested that the APAs have contributed to an increase in secondary supply. We heard stories from community members who were aware of sly alcohol being sold for up to ten times the ordinary cost, and we were given photos demonstrating the large amounts of alcohol intended to be sold as sly grog.

The *Liquor Act* currently provides a range of provisions that seek to enforce the provisions of GRAs and prevent sly grog. The provisions:

- » make it an offence to take liquor into, or possess, consume or supply liquor in a restricted area. The maximum penalty for a first offence is 100 penalty units (being \$15,400 or six months imprisonment)¹¹¹
- » provide Liquor Inspectors, including police, with extensive powers of search and seizure where satisfied there exist reasonable grounds for believing an offence has been committed¹¹².
- » provide for the seizure and forfeiture of vehicles, vessels or aircraft involved in an offence¹¹³.

The issue of grog running is not a new one. While there is a general consensus that the increase in dry areas has contributed to an increase in grog running, the provisions, or the enforcement of those provisions, has not been sufficient to deter this type of secondary supply.

111 *Liquor Act* section 75, however the *Liquor Act* has been amended by the SFNT Act to insert additional offenses

112 *Liquor Act* section 95

113 *Liquor Act* sections 96 to 99.

The prospect of forfeiture of vehicles, including vessels and planes, places a positive incentive on some businesses (especially airlines) to ensure they do not transport alcohol into a restricted area. Such businesses require proactive policies and practices to ensure they do all things reasonably necessary to prevent the transportation of alcohol into these areas.

The penalties applicable to this style of offending appear to be appropriate although they have not deterred continued criminal activity. Increasing the penalties is unlikely to have any additional deterrent effect. Rather, increased enforcement of the provisions is called for. At present it seems only a small percentage of those offending are being apprehended. Increased rates of detection and prosecution are likely to provide a greater deterrent than increased penalties.

People in the relevant communities are aware of the identity of the offenders but do not report them, or if they do make a report, they are frustrated by the lack of enforcement. In those circumstances we suggest that targeted education programs be conducted in relevant communities to demonise this behaviour and encourage reporting. We have discussed this elsewhere in this report.

When offending is reported it must be followed up by appropriate investigation and prosecution. This will involve an increase of police resources in affected areas.

We note that Licensing Inspectors have the same powers as police in respect of the enforcement of provisions relating to GRAs. We consider the number of Licensing Inspectors suggests that the majority of the enforcement activity in respect of GRAs would in fact fall with police. We have not been provided with any statistical data about the number of prosecutions for offences relating to GRAs, however we did see evidence of police action in respect of seized alcohol. In contrast there were a number of communities that raised concern with the lack of action, or at the very least a significant reduction in targeted action, around sly grog and other offences in GRAs. There was also a consistent concern raised with the number of remote Police stations being manned, and the accessibility to remote Police, which we consider affects the ability to effectively enforce the GRA provisions.

Recommendations:

- | | |
|---------|---|
| 2.12.16 | A specific education campaign be conducted in remote communities to raise awareness of the problems that sly-grogging causes, and encourage people to 'dob-in-a-grog-runner'. |
| 2.12.17 | Additional police resources be made available to remote communities to provide appropriate law enforcement including measures to restrict secondary supply of alcohol. |

3. CHAPTER 3 Harm Prevention

3.1 Volumetric Taxation

Claims that a volumetric tax on alcohol would assist in reducing alcohol related harm in the Northern Territory have been made throughout the review consultations. As we point out in the discussion about fixing a floor price, a range of authoritative studies have convincingly demonstrated that pricing measures are an effective tool available to governments to reduce harm associated with alcohol consumption. It seems that, despite calls to do so, the Australian Government is reluctant to address the need for a volumetric tax.

The complexity of, and confusion surrounding, the objectives of Australia's current alcohol taxation regime has been highlighted in various reports including the 2009 *Australia's Future Tax System review* (commonly known as the Henry review)¹¹⁴ and the 2017 Senate Select Committee on Red Tape (Red Tape Committee) review on *The effect of red tape on the sale, supply and taxation of alcohol*.¹¹⁵

Australia currently has two systems for the taxation of alcohol, that provide for 16 tax rates and various concessions. The two systems are the excise and excise equivalent customs system and the wine equalisation tax (WET) system.

Excise duty is a form of volumetric taxation that is levied on alcohol manufactured or produced in Australia (excluding wine). It is a commodity-based tax where liability for payment arises at the point of manufacture/production. There are different rates of excise duty, which are indexed biannually according to the Consumer Price Index. Excisable alcohol goods include beer, spirits and brandy. Excise equivalent customs duty is also a commodity-based tax that applies to imported alcohol (except from countries exempted under free trade agreements) at a rate equivalent to the excise rate that would have applied had the imported alcohol been manufactured or produced domestically. Volumetric taxation is tax that is imposed at a fixed rate per unit of volume. For alcohol excise, this is dollars per litre of alcohol content¹¹⁶.

WET is an ad valorem or value-based tax that applies to domestic and imported wine. This means wine products are currently taxed on the basis of value rather than alcohol content. The rate of WET is 29 per cent of the wholesale sale price of wine.¹¹⁷

The WET tax effectively encourages wine producers to produce wine products on a low value high volume basis, which has encouraged the production of cheap cleanskin and cask wine products using excess wine. This in turn, has led to an unfavourable impact on alcohol consumption levels.

These different tax systems mean alcoholic beverages are taxed at different rates depending on their alcohol volume, type of packaging, whether it is produced for commercial or non-commercial purposes and, in the case of wine, based on its value not its alcohol content. As noted in the Henry review this inconsistency in the tax treatment of different alcoholic beverages creates unintended trends in the consumption of alcohol.

Many respondents to the above reviews and to our review argue that alcohol taxation should target alcohol content and they advocate for the introduction of a volumetric tax for all alcoholic beverages.

In its submission to the Red Tape review the Northern Territory Government argued that,

*‘.this Inquiry provides an excellent opportunity for the Federal government to consider the introduction of a volumetric tax on all alcoholic beverages which would complement the initiatives that state and territory governments have taken within their own regulatory framework around the sale, supply and consumption of liquor and the harms that can result’*¹¹⁸

The Henry review observed that ‘raising revenue is a by-product, not the goal, of taxing alcohol’. It concluded that:

1. *A common volumetric tax on alcohol would better address social harm through closer targeting of social costs. A rate based on evidence of net social costs would help balance the benefits from alcohol consumption with its social costs. Moreover, by removing the distinction between different manufacturing processes, the compliance and administration costs of the existing excise system would be reduced; and*

114 Australia's Future Tax review, Final Report, 2009 p431 (the Henry review)

115 Senate Select Committee on Red Tape – Effect of red tape on the sale, supply and taxation of alcohol – 29 March 2017 – http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Red_Tape/Alcohol/Interim_report

116 Senate Select Committee on Red Tape - Effect of red tape on the sale, supply and taxation of alcohol – 29 March 2017 – http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Red_Tape/Alcohol/Interim_report

117 Senate Select Committee on Red Tape - Effect of red tape on the sale, supply and taxation of alcohol – 29 March 2017 – http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Red_Tape/Alcohol/Interim_report

118 Senate Select Committee on Red Tape – Effect of red tape on the sale, supply and taxation of alcohol – 29 March 2017 – http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Red_Tape/Alcohol/Submissions

2. *In the short term, several specific changes should be made to address the more pressing social costs of alcohol consumption, and to remove structural anomalies in the system of alcohol taxes. The transition to a common alcohol tax should be phased in over a longer term to ensure that producers and consumers have time to adjust to the changes.*¹¹⁹

The introduction of a volumetric tax was also supported in the more recent Red Tape review which stated (recommendation 1):

The committee recommends that the Australian Government:

- *provide leadership on the issue of alcohol taxation by establishing clear policy objectives for the taxation of alcohol; and*
- *progress the reform of alcohol taxation, including:*
 - *introduction of a single volumetric tax rate across all alcohol products, to be phased in to allow reasonable adjustment.*¹²⁰

We support the above recommendation and urge the Northern Territory Government to continue to lobby for appropriate reform in this area.

Recommendation:

3.1.1

The Northern Territory Government continue to vigorously lobby the Australian Government in relation to the implementation of a single volumetric tax rate across all alcohol products and for the abolishment of the current WET tax for wine products.

3.2 Floor Price

A range of studies have convincingly demonstrated that pricing measures are an effective tool available to government to reduce harm associated with alcohol

consumption.¹²¹ Such measures also constitute a cost-effective intervention.¹²²

As we will discuss shortly, increasing the price of alcohol by whatever means has the potential to have a significant impact on consumption. The report of the first four years of the Northern Territory's Living With Alcohol program found that a tax increase of only five cents on a standard drink containing more than three per cent alcohol was one contributor to an average reduction in consumption of around 22 per cent per capita¹²³.

Further, the 2002 trial restricting cask wine in Alice Springs saw a significant fall in market share for this product (from 24.6 per cent to four per cent). The consequent dramatic rise in cheap fortified wine (from 2.3 per cent to 21.5 per cent of the market) while other products remained relatively constant demonstrated three things:

1. price sensitivity
2. the folly of not including all cheap forms of alcohol in the ban
3. the cynicism of some sections of the industry.

121 *Key studies/research noted below:*

- Foundation for Alcohol Research and Education (FARE) (2015). FARE submission on the Re:think tax discussion paper. Canberra: FARE. Retrieved from <http://fare.org.au/wp-content/uploads/submissions/FARE-submission-on-the-Rethink-tax-discussion-paper-1-June-2015.pdf>
- Livingston M (2011) A longitudinal analysis of alcohol outlet density and domestic violence *Addiction* Vol 106, Issue 5, May 2011, pp 919-925
- Babor T (2010) Alcohol: No ordinary commodity – a summary of the second edition *Addiction* Vol 105, Issue 5, May 2010 pp 769-779
- Foster, J., Harrison, A., Brown, K., Manton, E., Wilkinson, C. & Ferguson, A. (2017). Anytime, anyplace, anywhere? Addressing physical availability of alcohol in Australia and the UK. London and Canberra: Institute of Alcohol Studies and the Foundation for Alcohol Research and Education.
- Western Australia Department of Racing, Gaming and Liquor (2015). *Licence Types, government of Western Australia*. Retrieved June 15, 2017: <http://www.rgl.wa.gov.au/liquor/liquor-applications/licence>
- Chaloupka, F. J., Grossman, M., & Saffer, H. (2002). The effects of price on alcohol consumption and alcohol-related problems. *Alcohol research and health*, 26(1), 22-34. Retrieved from <https://pubs.niaaa.nih.gov/publications/arh26-1/22-34.htm>.
- Babor, T. (2010). *Alcohol: no ordinary commodity: research and public policy*. Oxford University Press.
- Wagenaar A, Salois M & Komro K.(2009). Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Addiction*, 2009; 104:179-90
- Anderson P, Chisholm D & Fuhr DC.(2009). Alcohol and Global Health 2: Effectiveness and cost-effectiveness of policies and programmes to reduce the harm caused by alcohol. *Lancet* 2009; 373:2234-46
- Stockwell, T, Zhao, H, Giesbrecht ,N, Tomas, G, & Wettlaufer, A.(2012). The raising of minimum alcohol prices in Saskatchewan, Canada: Impacts on consumption and implications for public health. *American Journal of Public Health* 2012; 102(12):e103-e110
- Stockwell, T, Auld, M, Zhao, J, & Martin, G. Does minimum pricing reduce alcohol consumption? The experience of a Canadian province *Addiction* 2012; 107: 912-920

122 *Babor T and Caetano R, Alcohol: no ordinary commodity*. 2010, Oxford: Oxford University Press

123 The public health and safety benefits of the Northern Territory's Living with Alcohol Program, T Stockwell et al (2001)

119 Australia's Future Tax review, Final Report, 2009 p431 (the Henry review)

120 Senate Select Committee on Red Tape - Effect of red tape on the sale, supply and taxation of alcohol - 29 March 2017 - Recommendation 1 - Page 29

We have discussed above the nature of a volumetric tax and noted such a tax has been widely recognised as the most effective pricing measure available to governments¹²⁴. However, the ability to impose a volumetric tax on alcohol rests with the Australian Government and therefore is not an available option for the Northern Territory Government. The imposition of a floor price is, however, a matter for the Territory.

What is a floor price?

It is necessary to explain what “floor price” means for the purposes of this report. Mandating a floor price is the process of setting a minimum unit price below which a standard unit of alcohol cannot be sold. It targets only the cheapest alcohol products while leaving the price of other products unchanged. The effect is to increase the price of the cheapest alcohol products and incidentally affect the discounting and product bundling of more expensive products. It restricts the use of alcohol by retailers as a ‘loss leader’ and guarantees product will not be discounted below a certain price.

The issue was discussed in a range of submissions to the review and these revealed some support for the setting a minimum unit price on alcohol in the Northern Territory¹²⁵. Submissions generally supporting a minimum unit price were received from some within the alcohol industry¹²⁶. In addition, the setting of such a price was a central recommendation in the report of the House of Representatives: *Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander Communities* and also in the report of the Northern Territory Select Committee on

Action to Prevent Foetal Alcohol Spectrum Disorders.¹²⁷ The major opposition to such a policy was expressed by Alcohol Beverages of Australia.¹²⁸

Much of the following information has been drawn from the submissions provided by the Foundation for Alcohol Research and Education entitled: ‘The Price is Right, Setting a floor price for alcohol in the Northern Territory’, by the Central Australian Aboriginal Congress and by the Alice Springs based People’s Alcohol Action Coalition. The full submissions can be found on the review website.

Research reveals that the heaviest consumers of alcohol, and those most at risk of harm, disproportionately rely upon the cheapest alcohol. The authors conclude that any increase in price will reduce consumption and consequently alcohol-related harm. Further, research reveals that young people are particularly sensitive to the price of alcohol and it may be expected that with a price increase dangerous consumption will be reduced for those people¹²⁹. Interestingly, other research has indicated that harmful drinkers are more price sensitive than moderate drinkers¹³⁰.

The effectiveness of imposing a minimum unit price for alcohol in the Northern Territory was tested in 1995 with the imposition of a levy under the Living with Alcohol Program. The imposition of the levy was part of a range of initiatives introduced at the time. The levy was eventually abandoned for constitutional reasons following a High Court decision. Subsequent investigations into the effectiveness of the program, and in particular the levy, found it to have been effective in reducing harms from alcohol to a marked degree.¹³¹ For example a four per cent reduction in overall consumption was found

124 House of Representatives Standing Committee on Indigenous Affairs. (2015). *Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities: Alcohol, hurting people and harming communities*, p. 40, [3.17].

- Doran, C. M., Byrnes, J. M., Cobiac, L. J., Vandenberg, B., & Vos, T. (2013). Estimated impacts of alternative Australian alcohol taxation structures on consumption, public health and government revenues. *Medical Journal of Australia*, 199(9), 619-622.
- Cobiac, L., Vos, T., Doran, C., & Wallace, A. (2009). Cost-effectiveness of interventions to prevent alcohol-related disease and injury in Australia. *Addiction*, 104, 1646-1655.
- Babor, T., Caetano, R., Casswell, S., et al. (2010). *Alcohol, No Ordinary Commodity: Research and public policy* 2nd edition, Oxford University Press .
- Sharma A, Vandenberg B, & Hollingsworth B.(2014). Minimum Pricing of Alcohol versus Volumetric Taxation: Which Policy Will Reduce Heavy Consumption without Adversely Affecting Light and Moderate Consumers? *PLoS ONE*. 9(1):e80936.

125 Menzies School of Health Research, FARE, Central Australian Aboriginal Congress, Public Health Association of Australia, PAAC, APO Northern Territory, NDLERF, AMSANT, Amity, Alcohol Policy Coalition and more

126 AHANT, ClubsNT, Hibiscus Tavern, Humpty Doo Tavern, Beachfront Hotel, The Tap Bar, Palmerston Sports Club, Glen Helen Lodge.

127 Affairs., H.o.R.S.C.o.I., Alcohol, hurting people and harming communities: Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities. 2015, Parliament of the Commonwealth of Australia: Canberra.
Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder, The Preventable Disability. 2015, Northern Territory Legislative Assembly: Darwin.

128 Others included LSANT, Endeavour Group, Aurora Hotels, ALH Group, Katherine Club.

129 Australian National Preventive Health Agency. (2012). Exploring the public interest case for a minimum (floor) price for alcohol. *Alcohol Tobacco and Other Drug Association*. Retrieved from: <http://www.atoda.org.au/wp-content/uploads/ANPHA-Minimum-floor-price-for-alcohol-paper.pdf>
Farrell, S., Manning, W. G., & Finch, M. D. (2003). Alcohol dependence and the price of alcoholic beverages. *Journal of Health Economics*, 22(1), 117-147.

130 Northern Territory Government. (2017). *Responsible promotion of alcohol code of practice*. Retrieved from <https://nt.gov.au/industry/hospitality/responsible-promotion-of-alcohol-code-of-practice>

131 Northern Territory Government (2017). *Buying takeaway alcohol*. Retrieved from <https://nt.gov.au/law/alcohol/buying-takeaway-alcohol/takeaway-alcohol-in-the-katherine-region>

Northern Territory Government (2017). *About dry areas*. Retrieved from <https://nt.gov.au/law/alcohol/about-dry-areas>

to be attributable to the levy¹³² and, further, alcohol attributable deaths were significantly reduced in the period 1992 to 1997 as a result of the levy and the other programs put in place in that period.¹³³

A further example of the effectiveness of price measures in the Northern Territory occurred with the introduction of the Alice Springs Liquor Supply Plan in 2006. The sale of wine and fortified wine in large containers ceased under the Plan, effectively increasing the average price of a standard drink from \$0.80 to \$1.10. A study by the National Drug Research Institute¹³⁴ found that this led to a significant decrease in alcohol consumption in Central Australia. There was a consequent reduction in alcohol-related harm as measured by hospital admissions and Emergency Department presentations (particularly for assaults) as well as a reduction in alcohol-related antisocial behaviour¹³⁵. There was an overall reduction in alcohol-related crime of 12 per cent¹³⁶. It was claimed that the plan halted an alarming rate of increase in assaults suffered by Aboriginal women¹³⁷. The plan was a voluntary arrangement and, unfortunately, not all licensees participated¹³⁸.

Similar exercises have been carried out in all Canadian Provinces with consequent significant reductions in alcohol harms being reported. Studies revealed that Saskatchewan experienced an 8.9 per cent reduction in acute alcohol attributable admissions associated with reductions in consumption. Columbia experienced a 31.7 per cent reduction in wholly alcohol attributable deaths.

There was an overall reduction in consumption in each of those locations¹³⁹.

We acknowledge that the introduction of a floor price may give rise to concerns in some quarters and opposition has been expressed in some submissions from within the alcohol industry.

It is probable that moderate drinkers among low income families will be affected by a floor price because cheap alcohol is likely to represent a larger proportion of the alcohol they consume¹⁴⁰. They may be expected to be more responsive to price changes and the consumption of

139 References:

- Babor T and Caetano R (2010). *Alcohol: no ordinary commodity*. Oxford, Oxford University Press, Stockwell T,
- Auld M, Zhao J and Martin G (2012). "Does minimum pricing reduce alcohol consumption? The experience of a Canadian province." *Addiction* 107(5): 912-920.
- Donnelly, N., Menéndez, P., & Mahoney, N. (2014). The effect of liquor licence concentrations in local areas on rates of assault in New South Wales. *Contemporary Issues in Crime and Justice* No. 81. Sydney: New South Wales Bureau of Crime Statistics and Research (BOCSAR).
- Livingston, M. & Victorian Health Promotion Foundation (VictoriaHealth). (2011). *Using geocoded liquor licensing data in Victoria: The socioeconomic distribution of alcohol availability in Victoria*. Retrieved from the VictoriaHealth website: www.vichealth.vic.gov.au
- Livingston, M. (2012). The social gradient of alcohol availability in Victoria, Australia. *Australian and New Zealand Journal of Public Health* 36(1): 41-47.
- World Health Organization (WHO) (2006). *WHO facts on: Child maltreatment and child abuse*. Retrieved: www.who.int/violence_injury_prevention
- Northern Territory Department of the Attorney-General and Justice (nd). *Licensing, regulation and alcohol strategy*. Retrieved June 26, 2017, from <http://notes.nt.gov.au/nt/dibrglllr.nsf/WebByLicenceStatus?OpenView>
- Northern Territory Department of Business. (2012). Northern Territory Licensing Commission 2011-12 Annual Report. Retrieved from https://justice.nt.gov.au/_data/assets/pdf_file/0006/387627/Annual-Report-2015-2016-Director-General-of-Licensing.pdf
- Northern Territory Department of Business. (2016). Director-General of Licensing Annual Report 2015-2016. Retrieved from https://justice.nt.gov.au/_data/assets/pdf_file/0006/387627/Annual-Report-2015-2016-Director-General-of-Licensing.pdf
- Anderson, P., De Bruijn, A., Angus, K., Gordon, R., & Hastings, G. (2009). Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies. *Alcohol and Alcoholism* 44, pp. 229-43.
- de Bruijn A, et al. (2012). Report on the impact of European alcohol marketing exposure on youth alcohol expectancies and youth drinking. AMPHORA.
- Wagenaar, A.C., Salois, M.J., & Komro, K.A. (2009). Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Addiction* 104: 179-190.
- Stockwell, T., Auld, M.C., Zhao, J. & Martin, G. (2012). Does minimum pricing reduce alcohol consumption? The experience of a Canadian province. *Addiction* 107: 912-920.
- Foundation for Alcohol Research and Education (FARE). (2017). Annual Alcohol Poll: Attitudes and Behaviours. Canberra: FARE. Retrieved from: http://fare.org.au/wp-content/uploads/FARE-ANNUAL-ALCOHOL-POLL-2017-REPORT-FINAL_DIGITAL.pdf
- Jones, S.C., & Smith, K.M. (2011). The effect of point of sale promotions on the alcohol purchasing behaviour of young people in metropolitan, regional and rural Australia. *Journal of Youth Studies* 14(8): 885-900.

140 Giorgi, C. & Ferguson, A. (2014). *Shopper dockets: The OLGR investigation*. Retrieved from www.drinktank.org.au

132 Northern Territory Government (2017). *Buying takeaway alcohol*. Retrieved from <https://nt.gov.au/law/alcohol/buying-takeaway-alcohol/takeaway-alcohol-in-the-katherine-region>

Northern Territory Government (2017). *Buying takeaway alcohol*. Retrieved June 29, 2017, from <https://nt.gov.au/law/alcohol/buying-takeaway-alcohol/takeaway-alcohol-in-alice-springs-and-central-australia>

133 Northern Territory Government (2017). *About dry areas*. Retrieved from <https://nt.gov.au/law/alcohol/about-dry-areas>

134 Symons M, et al., *A longitudinal study of influences on alcohol consumption and related harm in Central Australia: with a particular emphasis on the role of price*. 2012, National Drug Research Institute, Curtin University: Perth, Western Australia.

135 *Ibid*.

136 Symons M, Gray D, Chikritzhs T, Skov S, Siggers S, Boffa J and Low J (2012). *A longitudinal study of influences on alcohol consumption and related harm in Central Australia: with a particular emphasis on the role of price*. Perth, Western Australia, National Drug Research Institute, Curtin University.

137 Central Australian Aboriginal Congress – submission.

138 Aboriginal Peak Organisations Northern Territory – submission.

alcohol within the group may be expected to fall if a floor price is introduced. This factor is to be weighed against the significant benefits that will accrue to those people and to the community as a whole. One study observed that:

... Drinkers of lower socio-economic status have even more to gain than do those of higher socio-economic status from the most effective public health alcohol policies – namely, increasing alcohol taxation, setting a minimum unit alcohol price, and reducing alcohol availability. This inference should undermine any opposition to raising alcohol taxes because of the notion that this policy would have socially inequitable effects on drinkers of lower socio-economic status.¹⁴¹

Another concern identified in the public hearings was that a minimum floor price may extend a windfall benefit to licensees to the extent of the difference between the wholesale cost of the cheap alcohol and the minimum price. Of course the windfall may not eventuate because there is likely to be a reduced demand for such cheap alcohol sold at a higher price. In addition, the recommendations made by the panel elsewhere in this report will impose increased costs for licensees and any windfall will be offset by those costs.

Importantly, the possibility of a windfall to some licensees should not prevent government taking a step that delivers a widespread and evidence based benefit to the whole community. To deny the prospective benefit to the wider community because some licensees may also benefit would be perverse.

It was argued by Alcohol Beverages Australia that the demand for alcohol by heavy drinkers is not responsive to price with the implication that drinkers would spend more on alcohol and less on necessities such as food if the price increased. While that may be so for some hardened drinkers it will not be so for many. In support of its position it claimed, among other things, that 'reasons for excessive drinking do not relate to the availability of alcohol'. That assertion is inconsistent with the vast array of expert opinions provided and is not accepted by us. To the contrary, the evidence strongly supports a conclusion that reducing the availability of alcohol through increasing its price (economic availability) and/or reducing physical availability reduces consumption and consequently reduces harm including ill health, injury, accidents, family violence and antisocial behaviour.¹⁴² In our own backyard the experience of the Alice Springs Liquor Supply Plan supports the effectiveness of reducing economic availability.

141 Hall W, *Socioeconomic status and susceptibility to alcohol related harm*. The Lancet Public Health, 2017.

142 Babor T and Caetano R, *Alcohol: no ordinary commodity*. 2010, Oxford, Oxford University Press.

Setting a minimum price may lead to licensees increasing advertising and promotion in relation to other aspects of the business rather than price to attract customers. That would be a welcome change of approach. The measures proposed elsewhere in this Report regarding inappropriate advertising and promotion should be designed to reduce any negative impact of a change of promotional focus resulting from the imposition of a floor price.

The imposition of a floor price must be accompanied by appropriate enforcement of the new regime in both on-premises and off-premises settings. The floor price must apply to all beverage classes and to all retailers. Penalties that may include loss or suspension of licence should be sufficient to act as a true deterrent.

The setting of a floor price will be a matter for detailed assessment at the time such a price is set. The price should be targeted at reducing harmful consumption while having minimal impact on moderate consumers. The submissions included a suggestion of a floor price of \$1.50 as an appropriate minimum for a standard unit of alcohol in the Northern Territory. The reasoning behind this suggestion was exposed in the submissions and the arguments in support, which seemed compelling, should be considered at the time the price is set.

Once set, it is the view of the panel, that the price should be indexed in order to ensure no gradual erosion occurs in relation to the ongoing impact of the measure.

Establishing a floor price should be a priority for government. The initiative should not proceed alone but as part of a suite of measures designed to reduce alcohol harms. However, there is no reason why it cannot be the first of the many steps to be taken.

Recommendations:

- 3.2.1 A minimum unit price (floor price) for all alcohol products of approximately \$1.50 per standard drink or such other figure as may be determined after appropriate review, in recognition that raising the price of alcohol is a cost-effective way to reduce alcohol-related harm.
- 3.2.2 The minimum unit price apply to all sales and supply of alcohol in the Northern Territory including all outlets conducting on-premises and takeaway sales. This figure be indexed against average ordinary time wages to ensure its effect is not diminished over time.
- 3.3.3 The impact of the introduction of a minimum unit price be rigorously evaluated after three years on its impact on consumption and alcohol related harms.

3.3 Safe and Vibrant Entertainment Precincts

We have dealt with public open areas that are regularly used by the community for entertainment, elsewhere in this report. We now move to deal with late night entertainment precincts and major events.

To ensure the Territory continues to provide for safe and vibrant entertainment precincts the chance for people to become engaged in anti-social and unsafe behaviours needs to be minimised. There are a number of reasons why people engage in these sorts of behaviours with the primary reason being intoxication.

The evidence, research and data provided to the panel indicate that late night venues and large public events are contributors to alcohol related anti-social behaviours and alcohol fuelled assaults.

Late night entertainment precincts across Australia have developed into significant contributors to the Australian economy over the last 20 years. Although there is no local data, it is reasonable to assume that late night entertainment does contribute to the Northern Territory economy. However, it often comes at a cost, with an increase in late night alcohol related assaults casting a negative light on the industry.

In 2010, a Northern Territory Royal Darwin Hospital surgeon, Dr Mahiban Thomas, reported to the media that the hospital saw around 350 cases of broken jaws and noses every year, equivalent to around 17 per 10,000 in population, well above the rest of the world¹⁴³. Dr Thomas also reported that most of the breaks were caused by alcohol fuelled assaults with 88 per cent of the trauma patients being victims of alcohol-related assaults and most assaults occurring outside pubs and nightclubs on Thursday and Friday nights¹⁴⁴. The Australian Medical Submission to the review suggested that informal reporting from its members shows that 75 per cent of incidents resulting in people with fractured jaws presenting to Royal Darwin Hospital relate to the Mitchell Street precinct on Thursday, Friday and Saturday nights.

The Centre for Alcohol Policy Research, La Trobe University has recently published a study¹⁴⁵ that undertook a systematic review of the literature that considered the impact of policies that extended or restricted trading hours not only within Australia but internationally. The included

143 <http://www.abc.net.au/news/2010-01-07/darwin-revealed-as-worlds-broken-jaw-capital/1200966>

144 *ibid*

145 Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005–2015 September 2016; Vol. 26(4);e2641644.

studies were from Australia (seven), the UK (six), Canada (three), and one each from Germany, the Netherlands, Norway, Switzerland and the US.

The La Trobe study concluded that increasing trading hours tends to result in higher rates of harm, while restricting trading hours tends to reduce harm. The evidence of effectiveness is strong enough to consider restrictions on late-trading hours for bars and pubs as a key approach to reducing late-night violence in Australia.

Although we have not been presented with data specific to the Northern Territory, given the above, it is important that the regulatory framework applicable to late night precincts be designed to ensure patron safety while encouraging vibrant entertainment. The framework must minimise the risk of people becoming engaged in anti-social and unsafe behaviours, but should not be so burdensome as to unnecessarily affect the Industry.

It is vital that late night precincts remain first and foremost entertainment precincts and not become alcohol precincts. There must be an appropriate mix of licensed businesses, offering a variety of entertainment options suitable for a range of age groups and cultures within such precincts.

The initiatives and recommendations addressed throughout this report aim to reduce the overall level of alcohol related harm and will therefore contribute to providing safe and vibrant entertainment precincts and events.

Designated Areas

In 2010 amendments to the *Liquor Act*¹⁴⁶ enabled the Minister to declare an area of land to be a designated area where the Minister believed alcohol related violence had occurred in a public place in the vicinity of licensed premises and that this measure 'is reasonably likely to be an effective way of preventing or reducing the occurrence of alcohol-related violence in the area'. Since that time a similar approach has been taken in other jurisdictions¹⁴⁷ that have declared high density late night drinking precincts allowing consistent conditions and strategies to be implemented in those areas.

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

Declaring a designated area enables police to issue banning notices to persons they reasonably suspect have committed an offence. A notice can ban someone from

146 Particularly Part XAB, Division 2 of the *Liquor Act*

147 Including NSW and QLD

the designated area, or from licensed premises within the area, for up to 48 hours. The courts are also able to make an 'exclusion order' where a person is found guilty of an offence in a designated area, or on application by the Commissioner of Police, prohibiting that person from the area or licensed premises within the area, at specific times, for up to 12 months. Unfortunately, no data was available during our review to enable us to determine whether such banning notices are being used or if they are effective. The system should continue but must be assessed for its effectiveness.

We note that the current Darwin CBD designated area does not include the Waterfront precinct. With the number of licensed premises at the Waterfront, and the close proximity to the CBD, this raises the question why the designated area declaration has not been extended to include that area.

Lock out Laws

Lock out restrictions already exist in the Northern Territory and have done so for some time. They are contained in particular late night licence conditions rather than through legislation. We will discuss the present position in the Northern Territory after looking at the situation elsewhere.

'Lock out laws' have been a supply reduction strategy used in response to alcohol-fuelled violence in and around late night licensed premises and entertainment precincts across Australia. Lock out law measures are generally not limited to preventing patrons from entering late night licensed premises after certain times, but they often include prohibitions on the types of liquor that can be sold, and when last drinks may be sold before closing.

The research evidence¹⁴⁸ supports the use of lock outs in conjunction with a range of related measures as an effective strategy in curtailing alcohol-fuelled violence in and around late night licensed premises and entertainment precincts. It is vital to recognise the importance of using a range of complementary and support measures and strategies, rather than just lock outs in isolation.

Lockout Laws throughout Australia and Internationally

2008 – The Newcastle Solution

Prior to March 2008, Newcastle, the sixth largest city in Australia, had the highest rate of alcohol-fuelled violence in New South Wales. It also had the highest rate of drink driving charges and one of the highest rates of assault

148 Gordian WO Fulde; Myles Smith; S Lesley Forster: Presentations with alcohol-related serious injury to a major Sydney trauma hospital after 2014 changes to liquor laws; 'review of Amendments to the *Liquor Act*' 2007 (New South Wales), 13 September 2016, Ian Callinan AC

on emergency workers. Newcastle's CBD was attracting around 20,000 younger drinkers every weekend from up to 100 kilometres away.

In March 2008, the independent Liquor Administration Board imposed a mandatory, precinct-wide 3 am closure, a 1 am lock out and a package of other preventative measures regarding the supply of alcohol in all 14 late trading licensed premises, the majority of which were trading to 5 am.

An analysis of the impact of the 'Newcastle Solution', as it is often called, conducted in 2011¹⁴⁹ concluded that there was a 37 percent reduction in assaults between 10pm and 6am in Newcastle. A follow up review in 2014 concluded that restricted trading hours in Newcastle had an immediate and long term effect on reducing alcohol related harm.¹⁵⁰

The numerous reviews and the results of the Newcastle Solution have often been cited in support of reduction in trading hours and lock out laws.

2013 – South Australia Late Night Code of Practice

A Late Night Trading Code of Practice was introduced in South Australia in October 2013. The code imposed a higher standard of operation during late night trading hours, along with a range of restrictions after midnight, including:

- » no use of glassware
- » drinks marshals
- » queue management
- » no shots after 2 am
- » no entry to licensed premises after 3 am.

In December 2014 an independent review of the code was conducted and concluded the lock out should continue¹⁵¹. The recommendation was accepted by government.

In June 2016, the South Australia review was released and, along with many other issues, discussed lock outs from licensed premises in South Australia. It noted the earlier review and concluded the provisions should remain in force for a further two or three years and then assessed.

The South Australia review mentioned the issue of preloading (consuming alcohol at a private location prior to

149 Kypri K, Jones C, McElduff P. 'Restrictions on pub closing times on night time assaults in an Australian City.' *Addiction* 2011;106(2):303 - 10

150 Kypri K, Jones C, McElduff P, Miller P. 'Restrictions in pub closing times and lock outs in Newcastle Australia, five years on'. *Drug and Alcohol review* 2014;33(3):323-6

151 Internal Consultancy Services Group, review of codes established under the *Liquor Licensing Act* 1997.

attending a licensed premises) and recommended that the South Australian Act be strengthened in respect of offences relating to granting entry, selling or supplying or allowing an intoxicated person to be on the licensed venue.

2014 - Introduction of Lock outs in Kings Cross New South Wales
The New South Wales government initially took steps to curb late night alcohol related assaults in 2008 with the introduction of a mandatory six hour closure to address a number of 24 hour liquor licences that had remained under previous legislation.

Following a late night one punch assault on a young man in Kings Cross in early 2014, the New South Wales government took steps to introduce a comprehensive package of liquor reforms that included a 1:30 am lock out and 3 am last drinks for late night venues. This was done by establishing a late night entertainment precinct.

The full suite of measures, introduced through the *Liquor Amendment Act 2014* included:

- » Lock outs and last drinks: 1.30 am lock outs and 3 am last drinks at hotels, registered clubs, nightclubs and licensed karaoke bars. Small bars (maximum 60 people), most restaurants and tourism accommodation establishments are exempt.
- » Venues currently licensed to stay open after 3am can do so without alcohol service.
- » Temporary bans: of 48 hours for troublemakers.
- » Takeaway alcohol sales: stop at 10 pm for bottle shops, hotels and clubs. This law is New South Wales-wide.
- » Liquor licences: two year freeze on approvals for new and existing licences.
- » Revoking of competency cards and disqualifications: up to 12 months for bar staff breaching RSA requirements.
- » Licensee fines: of up to \$11,000 and/or imprisonment of up to 12 months, as well as strikes under the government's Three Strikes disciplinary scheme for failure to comply with the new laws.

To further complement the measures, free buses from Kings Cross to the CBD connected with existing NightRide services after 1 am on Fridays and Saturdays. New South Wales Police and Inspectors were used to facilitate the capacity for patrons to leave the precinct and minimise the potential for anti-social behaviour, alcohol fuelled assaults and violence after closing and to ensure compliance with the new measures.

The 2014 reforms attracted considerable criticism from the liquor and entertainment industry, with many opponents contending that the late night economy had been decimated. Numerous venues have closed since the introduction of the reforms.

A review of these reforms was recently conducted by former High Court Judge Hon. Ian Callinan AC QC¹⁵² and released in September 2016 (the Callinan review). While the Callinan review suggested that some relaxation of the laws could be implemented, it ultimately found the government's objective of reducing alcohol-and-drug-related assaults and anti-social behaviour were being achieved through the measures introduced.

2016- Queensland

In 2016 Queensland indicated its intention to introduce amendments to its liquor legislation to introduce 1 am lock outs in designated safe night out precincts. Ultimately, however, the Queensland government chose not to introduce a legislative 1 am lock out, instead allowing the Commissioner to impose lock outs through licence conditions, which, we understand, is currently set at 3am. What the Queensland government did do however was strengthen requirements around CCTV, security, incident reporting and ID scanning in these areas.

Queensland liquor licensees in safe night precincts (SNPs) that trade past midnight on a permanent basis are obliged to install an approved ID scanner at each entry to their licensed premises (unless exempt).

The amendments are part of the government's 'Safe Night Out Strategy' which is a comprehensive plan to reduce alcohol and drug-related violence, and to provide for safer and more supportive environments in entertainment areas.

SNPs were established to ensure effective local management of key entertainment areas. The precincts are managed by local boards, which operate as incorporated associations. The membership of these boards comprise of local stakeholders including liquor licensees in the area, local business owners and other local representatives including the local Chamber of Commerce.

Each local board has responsibility for addressing community safety issues including transport, lighting, public facilities and CCTV in the precinct. All boards work closely with government agencies, such as the relevant local council, Queensland Police Service, the Office of Liquor and Gaming Regulation and the Department of Transport and Main Roads

No Lock outs - Victoria and Western Australia

Melbourne and Perth have previously looked at lock out laws and trialled them in specific precincts. Both jurisdictions rejected the concept as it became apparent that simply imposing a lock out without sufficient other

¹⁵² 'review of Amendments to the *Liquor Act*' 2007 (New South Wales), 13 September 2016, Ian Callinan AC

measures, was not supported by either the licensees or consumers. Both cities have adopted more multi-faceted approaches to reducing alcohol-fuelled violence and anti-social behaviour using a range of measures managed by a consensus approach of stakeholders. Other measures that have been employed include:

- » more public transport including secure/supervised taxi ranks, with better lighting
- » more CCTV/camera surveillance and obvious police presence
- » prohibiting rapid consumption drinks like shots/shooters after set times and banning all shots/shooters that contain over 51 per cent alcohol content at all times
- » applying drink limits during happy hours and after midnight to prevent stockpiling of drinks
- » employing RSA Marshalls on Friday and Saturday nights to cover the later hours
- » employing crowd controllers with high visibility vests or uniforms to assist in the orderly movement of patrons
- » communication/radio linked licensed venues and including security staff and Police to co-ordinate and respond to incidents
- » developing promotional posters and campaigns using media, radio and TV advertising to deliver the messages of alcohol related rules and penalties to engender cultural change and education
- » using ID scanning at venues.

These approaches promote a range of alternative economic drivers to encourage venues and other traders, operating within key entertainment districts and in the late night time slot, to diversify their operations away from the nightclub monoculture focussed on drinking, where the sale of alcohol is the principle income generator and towards more engaging and family friendly entertainment and dining pursuits.

International Lock out Laws

The United Kingdom and Nordic countries have taken similar policy approaches to implementing lock out and last drink requirements in recent years.

What is happening in the Northern Territory

As we have observed above, lock out requirements in the Northern Territory already exist and have been dealt with by licence conditions rather than via the *Liquor Act*. Conditions that require the lock out of patrons only apply to venues that trade until 4am in the Darwin CBD Designated Area¹⁵³.

153 An area designated under section 210F of the *Liquor Act*.

Currently there are ten venues in the Darwin CBD Designated Area operating until 2am on Friday and Saturday nights. These venues do not have any lock out requirements. A further eight venues in the Darwin CBD Designated Area operate until 4am on Friday and Saturday nights, seven of which have lock out conditions from 3am.

Currently there are two venues operating in the Palmerston CBD Designated Area that operate until 2am on Friday and Saturday nights, and a further two that operate until 4am. None of these venues have conditions requiring a lock out of patrons.

Neither the *Liquor Act* nor any licence conditions in late night venues in the Darwin or Palmerston Designated Areas restrict the type of liquor that can be sold after a certain time.

In our view the present system of lock out requirements should be applied consistently across all venues operating until 4am in any Designated Area. Regulating lock out times for all late night traders to restrict access to venues past a certain time will help to reduce the occasions of alcohol fuelled violence in and around these venues. Such provisions should be considered as part of the core licence conditions for late-night venues.

In addition, we recommend a restriction on the sale of beverages with a high alcohol content (>5 per cent) and of rapid consumption beverages such as shots/shooters past a designated time. This will reduce the risk of patrons reaching unsafe intoxication levels and therefore reduce the risk of alcohol related harm to the individual and others.

The measures adopted in New South Wales, Victoria and Western Australia referred to above should be used to inform additional licence conditions applicable to our Designated Areas. It will be necessary for the licensing authority to consider the particular circumstances of each Designated Area to determine what additional conditions should be imposed upon all late night venues in that area.

Pre-loading

While this discussion has so far looked at the lock out of patrons from licensed venues, the impact of the culture of consuming alcohol before going out, or 'preloading', must also be considered as a contributing factor to late night alcohol-related violence.

Preloading will often result in patrons being intoxicated before entering a venue. It is acknowledged that the fact of intoxication can sometimes be hard to detect. Griffith University, Clinical Psychologist, Associate Professor Grant Devilly, conducted research in conjunction with

Queensland Police, by breath testing over 8,000 Fortitude Valley nightclub patrons for preloading. The average breath sample returned was 0.071 per cent indicating many patrons were significantly preloaded on arrival at venues. It was estimated that 80 per cent of patrons had preloaded before going out with the average arrival time to venues of 10.45pm¹⁵⁴. The research concluded that as most patrons were already intoxicated to some degree when they turned up at venues and the strategies were focussed on the wrong end of the night.

The 'Dealing with Alcohol-related Harm and the Night-time Economy Study'¹⁵⁵ conducted through Deakin University looked at alcohol-related nightlife crime. It found people were increasingly pre-loading before going out to avoid high alcohol prices in nightclubs and late night venues.

The study indicated that people who consumed six to ten standard drinks prior to going out compared with those who did not pre-load had double the risk of harm or getting into trouble. The report also indicated that some people had consumed more than 25 standard drinks before even reaching the venues with these people four times more at risk of harm.

The study recommended increasing alcohol prices in takeaway outlets through measures such as introducing a levy on packaged drinks as a solution to curbing the preloading problem. The study conceded that this measure alone would not solve the problem as many people drank in nearby pubs, or in their cars or homes. The study recommended restricting trading hours across all venues rather than imposing lock outs to stop people drinking all night and in one place.

Transport

A number of submissions raised concerns regarding the inadequate public transport and general passenger services throughout the Northern Territory. These submissions indicated that this was an issue in all regional centres in the Northern Territory. The submissions put forward the view that this lack of transport has had a major impact on increasing the potential for alcohol fuelled violence where many intoxicated persons are held in close proximity to each other while waiting for transport home. There was also the view that the lack of public transport options increased the temptation for, and incidents of, driving under the influence of alcohol¹⁵⁶.

While no specific evidence as to the precise impact of this was provided, given the potential impact on public safety, it is an issue that must be noted by this review. The panel is of the view that given this situation has the potential to lead to increased harm from violent behaviour, we recommend that the government review the availability of public transport options at late night venues and put in place strategies to facilitate the rapid dispersal of patrons after late night closing.

In some situations, particularly those relating to major events licences, we can see how the licensing process could require the applicant to address transport matters in their event management plan and this approach should be considered under the licence terms and conditions.

Recommendations:

- 3.3.1 A review be conducted of the statistical data about alcohol related harm experienced within the Darwin Waterfront precinct to assess whether the Darwin CBD Designated Area should be extended to include the Darwin Waterfront precinct.
- 3.3.2 All licences authorised to trade until 4 am include a condition that requires a lock out to be initiated from 3 am.
- 3.3.3 The *Liquor Act* be amended to require any licensee trading under an extended trading authority to install an approved ID scanner linked to the BDR at each entry to their licensed premises and those on the BDR be denied entry.
- 3.3.4 The licensing authority ensure that late night precincts remain first and foremost entertainment precincts and not become alcohol precincts (through the licensing process). The licensing authority should ensure there is an appropriate mix of licensed businesses offering a varied range of entertainment options.
- 3.3.5 The impact and effectiveness of declarations of Designated Areas under the *Liquor Act* be assessed.
- 3.3.6 The licensing authority investigate additional conditions to be imposed within particular designated areas as identified in this report.
- 3.3.7 The Northern Territory Government review the availability of late night transport options in designated areas.

154 <https://app.secure.griffith.edu.au/news/2016/11/23/last-drinks-preloading-project-recognised-for-reducing-violence-and-anti-social-behaviour/>

155 "Dealing with alcohol-related harm and the night-time economy" (DANTE)- Final report – Monograph Series No. 43, National Drug Law Enforcement Research Fund (NDLERF) HUNTER NEW ENGLAND POPULATION HEALTH (HNEPH) April 2012 A/Prof Peter Miller

156 AHA Northern Territory Submission page 32

3.4 Major Events

We acknowledge that a 'one-size-fits-all' approach to alcohol management at major events would not be suitable given the large array of such events held throughout the Northern Territory, such as cultural, sporting and music events, festivals and theatre and the widely different demographics of people attending them.

We also note the advice provided by the Department of Tourism and Culture that there are already measures in place to control the consumption of alcohol at major events and these requirements form part of the licence conditions for the event. They are tailored for a number of factors, such as the likely demographics of the patrons, past history of the event and the location and timing of the event. Such measures include a cap on the number of alcoholic beverages a person can purchase, restrictions on the type of beverages sold (i.e. light and mid strength beers only) and scheduled times for when last drinks can be served (such as 15 minutes in to the last quarter of an AFL game).

We support these measures and the tailored approach taken and believe that the introduction of a major event licence category, as discussed elsewhere in this review, will assist. In addition, we recommend that clear legislated powers be conferred on police, emergency management personnel and Licensing Inspectors under the *Liquor Act* to enable appropriate preventative action to be taken should an event be seen to have breached a condition of its licence, or if anti-social or violent behaviours are becoming an issue. The preventative action could, for example, include mandating that the licensee reduce the number of drinks available for purchase per serve or shutting down alcohol sales for a prescribed period of time.

As noted in the Changing the Culture section of this report, we urge government and other event companies to actively promote and support alcohol free events across the Territory to demonstrate that alcohol is not necessary for a successful event or to have a good time. Such events will encourage more families to attend and would help to support the delayed on-set of drinking among our youth.

Recommendations:

- 3.4.1 The *Liquor Act* be amended to include a provision enabling police, emergency management personnel and Licence Inspectors to initiate preventative action (such as restricting the amount of alcohol sold per service, or suspending alcohol sales for a prescribed period of time) at major events if breaches of licence conditions are observed or alcohol-fuelled anti-social behaviour is becoming an issue.
- 3.4.2 Transport management be addressed as a condition of the major event licence category.

3.5 Community Patrols (Night and Day Patrols, Community Safety Officers)

Community patrols (also known as night or day patrols) assist people at risk of alcohol-related (and other) harm by relocating them to a 'safe' environment, such as a sobering up shelter, hospital or home. They provide culturally safe interventions for intoxicated people by defusing potentially violent situations, intervening in situations of family violence, diverting intoxicated people away from the criminal justice system and providing information about, and referral to, support services such as Police, youth services and alcohol and other drug treatment services¹⁵⁷.

When the first community night patrols commenced in Tennant Creek in the 1980's, their aim was to reduce violence among Aboriginal people by resolving problems before they escalated. The patrols were staffed by volunteer community members and their success was underpinned by cultural authority¹⁵⁸. Since then, they have evolved into more structured and formal programs with paid staff who drive dedicated patrol vehicles.

Community patrols operate in many communities across the Northern Territory and are delivered by key Aboriginal organisations such as Tangentyere Council and Larrakia Nation. All community patrol services in the Northern Territory are currently funded directly by the Australian Government, as an outcome of an unpublished review on Julalikari and Kalano community night patrols conducted in 2014.

157 Australian Government, Australian Institute of Criminology, *Community Night Patrols in the Northern Territory: Toward an improved performance and reporting framework*, 2011

158 Australian National Audit Office Northern Territory Night Patrols. Audit Report No. 32 2010-2011. Attorney General Department, Commonwealth of Australia, 2011; and, Wright, A. Grog War, Broome, Magabala Books, 1997.

Although there is likely to be a clear definition of role and scope provided by the Australian Government when funding each of the community patrols, the panel found that there was not a clear understanding of the roles, responsibilities and limitations of the patrols in the communities. Education to provide role clarity to workers, as well as education for the whole community, needs to be improved. This should include police, local government and sobering up shelters to ensure everyone understands the role of a community patrol. Better networks should be established between these core community services to allow for a more coordinated approach to tackling the alcohol related problems in the community.

Throughout our consultations, we have been informed that community patrols that operate only at night are insufficient to meet the need. Submissions to the panel made it clear that harm from overconsumption of alcohol was not only occurring at night, but also during the day. Similarly, in some communities we heard that the majority of antisocial behaviour was occurring between Thursday and Saturday and would often occur late at night after the community patrol workers had already finished their shift. A suggestion was made that patrol hours should be expanded on these days. It was also repeatedly suggested that community patrols should have their hours extended to include day patrols.

A suggestion raised during community consultations was to give community patrol workers the power to confiscate and tip out alcohol. It was suggested this would help patrol workers to intervene and divert intoxicated people from the criminal justice system. This additional power would need to be included in the *Liquor Act* and patrol workers would need to undertake further training. It would create another level of policing and would need to be the subject of close scrutiny. The panel can see many problems with the idea including that it would significantly change the nature of the role of a community patrol worker. In our view a clear differentiation between the role of a community patrol worker and that of a Police Officer needs to be maintained.

During consultations, there was some discussion about the need for community patrol workers to patrol known drinking spots to ensure people get home safely, minimising the occurrence of driving while under the influence of alcohol. Depending on the circumstances there should be consideration undertaken to doing this, however the panel feels this should be at the discretion of the individual community patrols.

In our recommendations regarding sobering up shelters we called for a review to ensure the operating hours of the shelters reflect the demand for services. The operations of

community patrols should be a part of that review. There obviously must be coordination between the two.

Sobering up shelters rely on community patrol services to deliver clients to their service. As we have observed, a common complaint is that shelters are not always open at times that correspond with the times that patrol workers are picking up intoxicated people. This matter should be addressed through effective coordination and integration of the Australian Government funded services, such as the community patrols, with Northern Territory initiatives, such as sobering up shelters.

The operation of community patrols in the Northern Territory is a matter for the Australian Government however the panel makes the following recommendations.

Recommendations:

- 3.5.1 Steps be taken to improve awareness and understanding of the role and scope of Community Patrol Workers among workers themselves, police, sobering up shelters, local government and in the wider community.
- 3.5.2 The Department of the Chief Minister coordinate more effective collaboration between police, sobering up shelters, community patrols and local government to ensure a coordinated approach to tackling alcohol related problems in the community.
- 3.5.3 The operating hours/days of community patrols be re-assessed, on a community by community basis, and adjusted in accordance with demand.
- 3.5.4 The operating hours of community patrols align with the opening hours of the sobering up shelter in the region.
- 3.5.5 The number of community patrol workers employed be re-assessed, on an individual community basis, to ensure there are adequate staff to meet the demand.
- 3.5.6 The Department of the Chief Minister ensure effective coordination and integration of Australian Government funded programs (such as community patrols) with Northern Territory initiatives by maintaining effective communication, with the Australian Government.
- 3.5.7 The Department of Health works with community patrol providers to assess the need for further education of alcohol related harms in each community, and if appropriate develop culturally responsive educative information about alcohol harms and sources of assistance which Community Patrol Workers can disseminate as part of their engagement with drinkers.

3.6 Point of Sale Interventions (POSIs)

In 2012 Northern Territory Police introduced an ad hoc alcohol supply strategy at licensed premises in Alice Springs which became known as Temporary Beat Locations (TBLs). In 2014 this strategy was supplemented with the implementation of 'Operation Leyland' in Alice Springs which focussed on a permanent police presence at all bottle shops, with full coverage during takeaway opening hours¹⁵⁹. These became known as the point of sale interventions (POSI), and following the completion of the six week Operation Leyland, the strategy was extended to a number of other regional centres including Tennant Creek and Katherine.

The underlying premises of the POSI involves the Police Officer forming a suspicion that the customer has no fixed abode in which to consume the alcohol purchased, or is under an order that restricts the person's access to liquor, leading the Officer to the belief that consumption of the liquor will occur in a restricted area.

This approach is designed to reduce the illegal consumption of alcohol in the Territory's public areas including parks, beaches and the long grass.

The review heard there has been significant support for POSIs.

In addition to the community support, police data strongly suggested there was a significant reduction in violent crime and demand for police services after the introduction of POSIs.

We note that POSIs have not been implemented as a strategy in Darwin. We understand and accept that the success of POSIs in Darwin is less likely given the significant number of licensed takeaway outlets that do not operate with restricted hours, in addition to the more complex mix of public restricted areas that allow the lawful consumption of liquor between certain times of the day¹⁶⁰.

The re-introduction of the BDR is a significant point of sale intervention expected to have a positive impact on reducing alcohol harms, and we are of the view that the POSIs will complement the BDR. It is unlikely that the BDR alone will effectively replace the POSIs. Although POSIs have been extremely effective in reducing alcohol related harms, we do acknowledge the significant police resources that are required to continue the strategy¹⁶¹. To that end, we believe that POSIs should continue in the

regional centres. The question that then arises is how this successful strategy is to continue given its drain on police resources.

We recommend that the rewriting of the *Liquor Act* should include giving uniformed Licensing Inspectors the power to undertake this role. An assessment of how that may best be effected should be undertaken by Police and Licensing.

At a minimum it would be vital that these officers be, and are perceived to be, in a position of authority in order to carry out the functions formerly performed by the Police. Appropriate training must be provided to Licensing Inspectors. Ongoing evaluation and potential expansion should be a matter for the licensing authority.

We recognise this will require a significant increase in the number of Licensing Inspectors but will be offset by the savings effected through the reduced demand on Police resources.

In light of the success of POSIs and the importance of this role the Police need to continue to provide this service until the Licensing Inspectors are employed and trained.

Recommendations:

- 3.6.1 POSIs continue in regional centres after the commencement of the BDR until (and unless) it can be demonstrated that they are no longer required.
- 3.6.2 The *Liquor Act* be amended to empower uniformed Licensing Inspectors to undertake the POSI role.
- 3.6.3 Appropriate training be provided to Licensing Inspectors to enable them to undertake the POSI role.
- 3.6.4 Police continue to undertake the POSI role until Licensing Inspectors are employed and trained.
- 3.6.5 The POSIs regime be monitored and then evaluated to measure its continuing effectiveness and efficiency.

3.7 Foetal Alcohol Spectrum Disorder (FASD)

What is FASD?

The consumption of alcohol during pregnancy can result in birth defects and behavioural and neurodevelopmental abnormalities known as Foetal Alcohol Spectrum Disorder (FASD). FASD is an entirely preventable but incurable condition caused by a baby's exposure to alcohol in the

159 NTPFES Submission page 7

160 For example Vestey's Beach, Nighcliff foreshow and Mindle Beach

161 NTPFES page 7 notes the strategy requires 36 Police a day across 3 towns.

womb¹⁶². Foetal alcohol exposure can result in significant adverse health, behavioural, educational, social and legal outcomes for a child, as well as adverse effects on the families and communities of those affected. There is no effective cure. The central nervous system damage with which a FASD child is born is permanent and treatment is largely supportive.

The impact and extent of FASD in the Northern Territory is a major concern, with a number of key health organisations submitting to the review that priority action needs to be taken by the Northern Territory Government about this issue.

Preventing FASD

Given the fact that FASD is completely preventable, it makes sense that efforts to address FASD should be targeted at prevention. Prevention of FASD includes education (of both the public and professionals), treatment (for women who misuse alcohol) and evidence-based strategies to minimise risky drinking. Education should commence before puberty and continue throughout the teenage years.

Around 50 per cent of pregnancies in Australia are unplanned¹⁶³, so there is a risk with high levels of alcohol consumption across the population that women consuming alcohol in pregnancy will often do so inadvertently. This highlights the need for the messaging about harmful alcohol consumption to not only be targeted at pregnant women, but included in public education programs and integrated into school-based sexual health and alcohol and drug education programs, with particular programs developed for young women. Education programs on the harms of alcohol misuse, including those associated with alcohol consumption during pregnancy, are further explored in the Education section of this report. Such education programs should also be used to increase knowledge and understanding of the associated impacts of FASD by offering them to the judiciary, lawyers (including prosecutors and defence counsel) Corrections and Youth Justice officers so that they can be aware of and consider the impacts of FASD when dealing with their clients.

A number of studies have found higher rates of FASD among Aboriginal Australians than non-Aboriginal

Australians¹⁶⁴. Demand reduction strategies such as early intervention, providing alternative activities to drinking alcohol and providing treatment and ongoing care to reduce relapse rates are strategies that the Australian Institute of Health and Welfare (AIHW) has identified as having the potential to reduce alcohol related harms, particularly in Aboriginal Australians¹⁶⁵. Although these strategies have not been specifically evaluated for their effect on FASD rates, they are expected to have an impact on the overall drinking levels in the population and therefore assist with decreasing the risk of women drinking alcohol during pregnancy resulting in reduced rates of FASD.

The AIHW also lists supply reduction strategies such as increasing the price of alcohol, restricting trading hours, decreasing the number of outlets selling alcohol, dry community declarations and culturally sensitive enforcement of existing laws as some strategies to reduce alcohol related harms.¹⁶⁶ These matters are discussed at chapters 2 and 3. Similarly, the AIHW also lists harm reduction strategies such as community patrols and sobering up shelters as having been shown to reduce alcohol-related harm¹⁶⁷. These are discussed in the Community Patrols (Night and Day Patrols, Community Safety Officers) and Sobering Up Shelters sections of this report.

A population-level approach to reducing demand for alcohol includes alcohol product labelling to build community knowledge of harms associated with alcohol use, including the harms associated with drinking alcohol during pregnancy. While alcohol is classified as both a food and a drug under Australian and New Zealand Food Standards legislation, it is treated as a food. Thus, alcohol is subject to the food standards set by the independent statutory agency Food Standards Australia New Zealand (FSANZ) under the *Food Standards Australia New Zealand Act 1991*¹⁶⁸.

In 2011, an independent review of food labelling law and policy was conducted and involved the comprehensive examination of food labelling law and policy in Australia, which included alcohol labelling. A recommendation of the food labelling law and policy review, that was agreed to by the Australian Government, was that a warning message

162 The Parliament of the Commonwealth of Australia, House of Representatives Standing Committee on Social Policy and Legal Affairs, *FASD: The Hidden Harm*, 2012

163 D Mazza, C Harrison, A Taft, B Brijnath, H Britt, M Hobbs, K Stewart, S Hussainy 'Current contraceptive management in Australian general practice: an analysis of BEACH data' *Medical Journal of Australia* 2012; 197 (2): 110-114.

164 Australian Institute of Health and Welfare, *Fetal alcohol spectrum disorders: a review of interventions for prevention and management in Indigenous communities*, 2015

165 *ibid*

166 Australian Institute of Health and Welfare, *Foetal alcohol spectrum disorders: a review of interventions for prevention and management in Indigenous communities*, 2015

167 *ibid*

168 Thomas, M, Parliament of Australia, Department of Parliamentary Services *Background Note: Alcohol warning labels—do they work?*, 2012

about the risks of consuming alcohol while pregnant should be mandated on individual containers of alcoholic beverage. The alcohol industry was given two years to voluntarily place pregnancy warnings on labels of alcohol products. The impact of the voluntary alcohol labelling initiative was evaluated in 2013 and found that the number of products bearing health labels had increased over time, with the overall percentage (adjusted for market share) of products with pregnancy health warning labels at 62 per cent. There was a wide variability in uptake across product types ranging from 24.5 per cent (pre-mixed drinks) to 81.3 per cent (beer). A decision was made to evaluate the voluntary initiative in a further two years, and this was recently conducted by Siggins Miller consultants during 2017. The results are not yet available.

Many submissions to the review called for clear visual warnings to be placed on all alcohol products to increase public knowledge of the dangers of consuming alcohol while pregnant. Generally speaking, the evidence suggests that while warning labels may increase awareness of the risks associated with alcohol misuse, it does not necessarily translate to behavioural changes in at-risk groups.¹⁶⁹ Research suggests that warning labels need to be varied reasonably frequently and must be eye catching if they are to spur positive behavioural change¹⁷⁰. The panel agrees with this and strongly advocates for more eye catching and larger warnings to be placed on all alcohol labels. The panel acknowledges that alcohol labelling is only one way of increasing public awareness of the risks of alcohol consumption during pregnancy and to incite positive behavioural change, this needs to be in conjunction with a number of other demand, supply and harm minimisation initiatives.

After considering the submissions to the review, we conclude that further public health messaging campaigns on the dangers of consuming alcohol when planning pregnancy (for both men and women), during pregnancy and while breastfeeding, are still needed. A suggestion we received was that all licensed premises should display point of sale warning messages on the risks of consuming alcohol when pregnant. The panel agrees with this and it is discussed further in the Signage in Licenced Premises section of this report.

An integrated education program must be developed and implemented across a range of platforms, including schools, public health centres and justice diversionary programs. The need for public awareness campaigns is discussed in the Changing the Culture section of this report. The panel heard of the need for treatment services to be

169 *ibid*
170 *ibid*

specifically targeted at women. Treatment services are further discussed in the Treatment section of this report.

Diagnosing FASD

In May 2016, the Australian Guide to the diagnosis of FASD was released to assist clinicians in the diagnosis, referral and management of FASD. It contains the FASD Diagnostic Instrument which aims to facilitate and standardise the diagnosis of FASD in Australia. The FASD Diagnostic Instrument is currently being implemented across the Northern Territory.

The diagnosis of FASD is usually based on a multidisciplinary assessment. Depending on the needs of the child, this may include a paediatrician, speech therapist, psychologist (preferably neuropsychologist), occupational therapist and physiotherapist. Photographic analysis software is also used to assist with identifying the sentinel facial features that are associated with FASD (or at risk for FASD). If the child has all three of the sentinel facial features associated with FASD (short palpebral fissure, smooth philtrum and thin upper lip) and there is a confirmed history of alcohol use during pregnancy, a diagnosis of FASD can be made by a paediatrician without assessment by the other disciplines.

Whilst FASD is not currently recognised as a disability, the early detection and diagnosis of FASD in babies and children is important because early intervention can improve long term outcomes.

Prevalence of FASD

The prevalence of FASD in the Northern Territory is difficult to estimate without reliable data. There are no national estimates of the prevalence of FASD in Australia however a number of studies have found higher rates among Aboriginal Australians than other Australians¹⁷¹. In order to understand the extent of FASD in the Northern Territory, a prevalence study is needed.

Preliminary findings from a recent study conducted at Banksia Hill Detention Centre, a youth detention centre in Western Australia, indicate that up to 30 to 40 per cent of the young people detained are suffering from FASD¹⁷².

A recent Australian analysis of alcohol use in pregnancy indicates that, while women's consumption of alcohol in pregnancy has declined in recent years, those who use alcohol either weekly or those who engage in binge

171 Australian Institute of Health and Welfare, *Fetal alcohol spectrum disorders: a review of interventions for prevention and management in Indigenous communities*, 2015

172 Carol Bower, Raewyn Mutch, Rhonda Marriot, Rochelle Watkins, Stephen R. Zubrick, Carmella Pestell, James Fitzpatrick, Peter Collins & Jonathan Carapetis, *Banksia Hill FASD Project*, 2015

drinking are less likely to change their pattern of use in pregnancy as evidenced by the fact that 46 per cent of women in the study continued risky drinking patterns in pregnancy.¹⁷³

At their first antenatal visit, 142 Northern Territory mothers (four per cent) reported drinking alcohol during pregnancy in 2014. The prevalence of alcohol consumption was higher in Aboriginal mothers than non-Aboriginal mothers. Of the 1160 Aboriginal mothers in 2014, 103 (nine per cent) self-reported drinking alcohol during pregnancy at their first visit. In contrast, of the 2526 non-Aboriginal mothers, 39 (two per cent) of reported drinking alcohol during pregnancy at their first visit. Of those mothers who reported drinking alcohol during pregnancy at their first antenatal visit, Aboriginal mothers were less likely to have ceased drinking by 36 weeks gestation than non-Aboriginal mothers (39 per cent and 79 per cent respectively)¹⁷⁴.

What are we doing about it?

Antenatal alcohol screening has now become a standard component of midwifery care for Northern Territory women. In 2014, 3029 (79 per cent) pregnant women in the Northern Territory had their first antenatal visit during the first trimester of pregnancy¹⁷⁵, with non-Aboriginal women more likely to present during the first trimester than Aboriginal women. In 2014, 420 (34 per cent) Aboriginal mothers did not attend their first antenatal visit until the second trimester of pregnancy, with a further 108 (nine per cent) attending for the first time during their third trimester¹⁷⁶. The panel would like to see this increase to 100 per cent of all Northern Territory women having their first antenatal visit during the first trimester of pregnancy.

In 2012, the House of Representatives Standing Committee on Social Policy and Legal Affairs conducted an Inquiry into FASD in Australia. The committee found that there was little awareness of the risks of consuming alcohol during pregnancy among health professionals and the wider community. There was overwhelming evidence that women, men, families and communities needed to be made more aware of these risks¹⁷⁷. The primary recommendation of the report was that a FASD Reference Group should be established and a National Strategy developed.

As such, the 'Commonwealth Action Plan to reduce the Impact of Foetal Alcohol Spectrum Disorders (FASD)

2013-14 to 2016-17', was developed. The Commonwealth identified five priority areas for action to reduce the impact of FASD across Australia. A range of specific actions for the Commonwealth to lead have also been identified under each of these priorities. The Action Plan seeks to:

- » support a whole-of-government approach to the issue of FASD, given its relevance to a broad range of services and supports across portfolios
- » take a whole of population approach to the issue, noting that targeted approaches to prevention and management should be pursued for populations at greatest risk from FASD
- » recognise the preventable nature of FASD and support continuing efforts to prevent FASD building upon existing government program activity
- » support access by children and families affected by FASD to services based on need and level of functional impairment
- » to support the health and broader workforce to prevent FASD and to better respond to the needs of families affected by it.

The Legislative Assembly of the Northern Territory resolved on 26 March 2014 that a Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder be appointed. The Select Committee released its final report *The Preventable Disability*¹⁷⁸ as recently as February 2015. The Select Committee's recommendations addressed alcohol management and support services, sexual health, pregnancy support, early childhood support and education services, and FASD diagnostic and support services. Importantly the report also identified that the greatest gains are to be obtained through prevention, and the key to prevention is alcohol management and restriction of supply. We commend this report to government. It is of recent origin and contains considered and worthwhile recommendations that should be acted upon. There were 26 recommendations outlined in the report and we reiterate and adopt these recommendations with some minor modifications, as outlined below. It is unnecessary to repeat all of the arguments in favour of these recommendations as they are to be found in the report of the Select Committee.

We reiterate and adopt the recommendations of the Select Committee, some of which have been recommended elsewhere in this Report. We repeat the recommendations as modified by the panel below.

173 Anderson AE, Hure AJ, Forder PM, Powers J, Kay-Lambkin FJ, Loxton DJ, Risky Drinking Patterns Are Being Continued into Pregnancy: A Prospective Cohort Study, 2014

174 Source: Hall J, O'Neil L. Northern Territory Midwives' Collection. Mothers and Babies 2014. Department of Health, Darwin, 2016

175 Source: Hall J, O'Neil L. Northern Territory Midwives' Collection. Mothers and Babies 2014. Department of Health, Darwin, 2016

176 *ibid*

177 The Parliament of the Commonwealth of Australia, House of Representatives Standing Committee on Social Policy and Legal Affairs, FASD: The Hidden Harm, 2012

178 Legislative Assembly of the Northern Territory, Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder, *The Preventable Disability*, 2015

Recommendations:

- 3.7.1 The Department of Health develop a strategy for implementing the Australian FASD Diagnostic instrument, finalised in 2015. As part of that strategy development, the Department considers the cost effectiveness of multi-disciplinary paediatric teams.
- 3.7.2 The Northern Territory Government prioritises funding for early intervention services for FASD, including paediatric diagnosis, psychotherapy and other behavioural management measures, and early childhood support and education services.
- 3.7.3 The Department of Health promotes protocols for screening alcohol use before and during pregnancy to raise awareness of the risks or alcohol, assist expectant mothers with alcohol issues, and collect data in accordance with the Australian Institute of Health and Welfare's National Maternity Data Development Project.
- 3.7.4 Protocols for screening alcohol use during pregnancy include guidelines for support and referral for women struggling with alcohol use during pregnancy, including information on relevant local support services.
- 3.7.5 Alcohol screening include the use of other screening tools such as the Edinburgh Postnatal Depression scale, to assess the total environment of the pregnant woman.
- 3.7.6 The Department of Health review options for screening for FASD, particularly targeted screening of high risk populations, in line with the possible development of a national FASD screening instrument.
- 3.7.7 The Department of Health undertake audits of the current professional development needs of the health workforce in relation to FASD and develop a plan for ensuring an adequate level of awareness of FASD.
- 3.7.8 The government improve support for caring for children in the first years, particularly for at risk populations and:
- expand the Family as First Teachers program
 - explore options for promoting early childhood education programs, such as Abecedarian day care, across the Territory
- explore options for improving support to new mothers, including the Family Nurse Partnerships Program.
- 3.7.9 The Department of Education implements and strengthens its initiatives to address the needs of students with FASD, including the delivery of strategies, training and resources for teaching students with FASD and the establishment of a formal FASD reference group.
- 3.7.10 A multi-disciplinary diagnostic service be established to which child protection workers, legal practitioners, judicial officers and correctional staff may refer individuals suspected of having a cognitive impairment such as FASD. The service should be linked to government and community based treatment programs.
- 3.7.11 The multi-disciplinary diagnostic service maintain data on the prevalence of FASD individuals in contact with the criminal justice and child protection systems.
- 3.7.12 A FASD support service be established in the Department of Health to provide case management for FASD individuals and their carers through an appointed social worker.
- 3.7.13 Additional funding be allocated to the development of more residential secure care facilities for the delivery of behavioural management programs to the cognitively impaired, including FASD individuals.
- 3.7.14 Community based health organisations and social service providers be funded to provide evidence based behavioural management programs for FASD individuals. The programs should be linked to the FASD support service.
- 3.7.15 A high level FASD Working Group be established and coordinated by the Department of the Chief Minister with representatives from the Departments of Health, Education, Children and Families, Attorney-General and Justice, Corrections and Police, Fire and Emergency Services to develop and implement an action plan addressing:
- protocols for sharing information about persons diagnosed with FASD
 - training and awareness of FASD and related referral options for health

- teaching, child protection, police, justice and corrections professionals
- continuity and coordination of FASD services.

- 3.7.16 The Northern Territory Government continue to support the development and implementation of AMPs and that these be evaluated regularly to ensure their ongoing effectiveness (this recommend is subject to the recommendations regarding changes in relation to AMPs made elsewhere in this report).
- 3.7.17 The Northern Territory Government restricts the trading of alcohol at times when the greatest harm from alcohol consumption occurs as per recommendations made in the Categories and Terms and Conditions of Licences section with this report.
- 3.7.18 In line with recommendation 4.1.3 (in the Treatment section of this report), the demand study include a needs assessment for family rehabilitation facilities.
- 3.7.19 The Northern Territory Government ensures all children receive a culturally appropriate sexual health awareness program, such as the Adolescent Sexual Education Program and Core of Life.
- 3.7.20 The Department of Health ensures all training of health professionals includes information on FASD and the risks of drinking while pregnant, and that protocols for antenatal visits include discussion of the risks of alcohol and whether the woman is consuming alcohol.
- 3.7.21 The Department of Health implement programs to improve the awareness regarding, and availability of, contraception options.
- 3.7.22 The Department of Health assesses the need for intervention and support services for alcohol dependent pregnant women, particularly for rehabilitation services that provide for families and children, and alcohol free, safe accommodation

We received many submissions calling for the Northern Territory Government to implement the recommendations of the Northern Territory Legislative Assembly Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder report.

While we note the Australian Government is currently undertaking consultations across Australia, including with the Northern Territory Government, to inform the development of the National FASD Strategy 2018 – 2028, the Northern Territory Government should not wait for this to be concluded before it takes active steps to implement the recommendations of the 2015 report which we have endorsed.

Although not entirely clear, general indication from the Department of Health has been that a number of the recommendations are already being actioned, albeit in an ad hoc and apparently uncoordinated manner. Immediate steps should be taken to better coordinate the response to recommendations, by developing a Northern Territory FASD Strategy to be led by the Department of the Chief Minister. The Department of the Chief Minister should also advocate for additional funding at a national level for implementing the actions.

To support the Department of the Chief Minister, regional interagency networks should be established similar to those established in Central Australia to implement the Northern Territory FASD Strategy with a coordinated service response for children, young people and families affected by the disorder. The Central Australian network has membership including Department of Health, Alcohol and Other Drug treatment providers (both government and non-government), Northern Territory Council of Social Service, Central Australian Aboriginal Legal Aid Service, Central Australian Aboriginal Congress, paediatricians from Alice Springs Hospital, NPY Women’s Council and Aboriginal Medical Services Alliance Northern Territory. Similar membership should be sought for other regions.

In addition to those recommendations from the Select Committee report which we have adopted we also recommend that:

Recommendations:

- 3.7.23 Education programs be developed to increase awareness and effects of FASD (as per Chapter 3.8 education) should be offered to the judiciary, lawyers (including prosecutors and defence counsel) Corrections and Youth Justice Officers.
- 3.7.24 The Northern Territory Government advocates for warnings on alcohol labels to be larger and more eye catching and be varied regularly.
- 3.7.25 All licensed premises display clear visual warnings about the risks of drinking while pregnant.
- 3.7.26 The Department of Health commissions a prevalence study, using both antenatal and postnatal screening, to accurately assess the extent of FASD across the Northern Territory.
- 3.7.27 The Department of Health improves the proportion of pregnant women receiving antenatal care within the first trimester of pregnancy, with an aim to achieving 100 per cent.
- 3.7.28 A FASD regional interagency network committee be established in the Top End, similar to the Central Australian network committee.
- 3.7.29 A review of the Northern Territory FASD Strategy be undertaken and associated action plans developed in line with the National FASD Strategy 2018-2028 when it is released.
- 3.7.30 The Northern Territory Government advocate at a national level for additional and sustained funding to prevent FASD and support those affected by FASD.

3.8 Early Childhood and Education

Reducing the demand for alcohol is an important pillar of the principles of harm minimisation. Creating awareness of the harms associated with alcohol misuse through working with schools, families and communities to educate, impart knowledge and enable people to make informed decisions about alcohol, serve to build resilience and strengthen protective factors. An analogy the panel heard during consultations was that it was time to put the ambulance at the top of the cliff, rather than at the bottom. It is time to establish effective strategies to reduce the demand for alcohol where that demand leads to harm.

There is evidence to suggest that prevention is more cost effective than remediation in promoting well-being across the lifecycle.¹⁷⁹ While there are benefits to providing fact-based education programs focussed on preventing alcohol related harms, interventions that build social skills and increase connectedness within the family, school or community have shown greater evidence of effectiveness¹⁸⁰.

Research suggests that low maternal education levels increase a child's exposure to risks in the home, such as poor parenting, low levels of stimulation and poverty.¹⁸¹ The panel received submissions that presented research findings highlighting the links between poor development during the early years and the development of addictions later in life.¹⁸² Studies have demonstrated that positive developmental outcomes can be achieved, particularly for children of low income and undereducated families, through early educational intervention.¹⁸³

An initiative currently being implemented in identified sites across the Northern Territory is the Australian Nurse-Family Partnership Program (ANFPP). This program has a strong evidence base in primary prevention and is a nurse-led home visiting program that supports women pregnant with an Aboriginal/Torres Strait Islander child, with a particular focus on maternal health and early childhood development. Its objectives include improving each child's health and development by helping mothers to provide more skilled parenting. It also aims to improve overall maternal health and wellbeing.

Similarly, the Family as First Teachers (FaFT) program aims to strengthen parent engagement with their children and build strong relationships between families and wellbeing support services. This initiative is currently being expanded and will be delivered in 38 remote and urban sites across the Northern Territory by December 2017. This early intervention program is delivered to vulnerable and disadvantaged children aged from birth to the year before they commence preschool, and their families. It aims to enhance lifelong education, health and wellbeing outcomes of young children by working in partnership with a range of support programs. The program seeks to get parents and carers engaged in and supporting the children's learning and development from birth.

179 Conti, G and Heckman, J, *The Economics of Child Well-Being*, 2012

180 Teesson M, Newton NC, Barrett EL, *Australian school-based prevention programs for alcohol and other drugs: A systematic review*, Drug and Alcohol review 2012; 31: 731-736.

181 Cote et al, *The Role of Maternal Education and Nonmaternal Care Services in the Prevention of Children's Physical Aggression Problems*, 2007

182 Moffitt T E, Arseneault L, et al., *A gradient of childhood self-control predicts health, wealth, and public safety*, 2011

183 Ramey, C and Ramey, S, *Which Children Benefit the Most From Early Intervention*, 1994

The Strong Women, Strong Babies, Strong Culture program is an initiative that has been operating in the Northern Territory since 1993. This program recognises the value of the cultural knowledge that senior Aboriginal women can contribute during pregnancy and early parenting. The program involves the development of a partnership between Strong Women Workers, who become the teachers of traditional knowledge, and their non-Aboriginal partners, who are often midwives or other health workers at the local health clinic. This is similar to the model used in New South Wales where Aboriginal women who have undertaken or are working towards a Certificate IV in Aboriginal and/or Torres Strait Islander Health Care Training/Practice work in collaboration with registered midwives and medical officers to provide culturally focused care to Aboriginal mothers and their families. In South Australia, midwives and Aboriginal Health Workers collaborate to provide a culturally safe, women-centred, maternity service that is based on primary healthcare principles.

The panel commends programs such as these and recommends long-term and sustained investment in early childhood development programs. Such programs, of course, must be evaluated from time to time.

A range of submissions to the review, including those received from the alcohol industry, expressed a strong view that there is a need for further and more effective education about safe drinking practices as well as the harms of alcohol misuse. This education can be provided through a variety of methods.

Alcohol and drug education programs in schools

Submissions identified the need for the increased delivery of better school-based alcohol and drug programs. The need for education programs targeting young women was a particular concern expressed by many. We agree.

Consistent with the submissions, we suggest that these programs should employ a harm minimisation approach. Schools should be encouraged to select programs with evidence of success. Some programs recommended to the review included:

- a) School Health and Alcohol Harm Reduction Project (SHAHRP).

This program, which has a strong evidence base and has been evaluated in Australia and overseas, is described as a 15-lesson, two-phase model which is delivered over two sequential years of schooling. It is designed to build understanding of the harms of alcohol misuse and strengthen young people's skills and capacity to make safe or safer decisions about

alcohol use. This is done by focusing on age related normative use; harm assessment and prediction; and by teaching realistic age appropriate harm reduction strategies.

- b) The Climate Schools Course.

There are particular modules within this course to address alcohol education, which are designed to be easily implemented across one school term. The modules are made up of six core lessons with each lesson running for approximately 40 minutes and consisting of online cartoon scenarios and activities to reinforce the information in the cartoons and allow interactive communication between students. Teachers are given lesson outlines and implementation guidelines. The delivery of this course is currently being provided as a Professional Learning Session for Northern Territory teachers. The program and the associated resources are said to be appropriate for a Northern Territory urban setting, however, they should be modified to ensure they are suitable for rural and remote students, including Aboriginal students.

- c) The Drug Education in Victorian Schools (DEVS) program.

This model for drug and alcohol education is based on a whole school approach and uses research and evidence based practice, effective pedagogy and encourages a positive school climate with strong partnerships. This program recognises that drug education is more than delivering specific lessons on discrete subjects – it includes developing students life skills and protective behaviours, promoting relationships and ensuring connectedness within the school, family and community. This program is currently recommended as a resource for use in Northern Territory schools, however training/ professional learning is not delivered locally.

Any education program should be assessed by professionals for its effectiveness in the Territory. It is important that programs adopted are run and supported for sufficient time to determine their effectiveness. They should be presented on a long term and consistent basis rather than as a one off session. As with all programs they should be subject to continued assessment after appropriate periods.

Education programs for school aged children not in school

Regrettably some children do not attend school regularly and others do not engage with the school program. It was submitted that efforts should be made to engage with such

children, as well as other youth and families, in community settings. It was suggested that efforts at engagement should be made through community events such as cultural and sporting occasions. The opportunities provided should be seized to have AOD workers and teachers available to educate children, youth and families about alcohol and drugs. The nature of the educative program will need to be structured to fit in with the community event.

Dissemination of information to problem drinkers

Our community consultations revealed a general perception that there was a lack of educational material and information about the harms associated with alcohol misuse being provided to problem drinkers. It was suggested that community patrol workers should be disseminating this information, and information on the treatment options available, to members of the community while they are patrolling. Drinkers who are taken to sobering up shelters will be provided with such information at the shelter but an opportunity is being missed by not using the patrol officers who engage with drinkers as part of their work. We do not have detailed information on this issue but we recommend that the Department of Health and community patrol organisations explore the prospect of ensuring the opportunity for delivering assistance is not wasted.

There is a significant opportunity to raise awareness of the harms associated with alcohol misuse in the primary health care setting. In particular, this setting presents an opportunity to raise awareness of Foetal Alcohol Spectrum Disorder (FASD) and education campaigns and resources should be developed specifically for this purpose. As mentioned in the Treatment section of this report, the primary health care setting provides an opportunity for primary health care workers to identify and intervene with patients whose drinking may be harmful to their health.

¹⁸⁴ In particular, education about the harms associated with drinking alcohol when pregnant, or thinking about becoming pregnant, should be readily available and provided to women (and men) in this setting.

Public education campaigns

In order to generate cultural change (which is discussed further in the Changing the Culture section of this report), there is a need to educate the general population, not just those who drink or those who drink to dangerous levels.

The Living With Alcohol (LWA) program, which ran between 1992 and 2002, developed and implemented a range of strategies, including media campaigns, to raise awareness of the harms associated with alcohol misuse. Since the LWA program ceased, less attention has been given to preventative activities like social marketing

and awareness raising. During consultation, we heard that educating the community involved more than just putting up posters or running a media campaign. The LWA program designed and implemented a number of community development programs and a community education and research team was employed. It is apparent that reintroducing employment positions dedicated to community engagement and education of this kind would be a positive step. Further, and coincidentally, such opportunities may create employment in remote communities, as discussed in the Remote Employment section of this report.

The need for further public awareness campaigns was a constant theme in the community consultations. It was suggested that campaigns should be bold and 'in-your-face', in order to showcase the devastating effects that alcohol misuse can have on individuals, families and communities. Comprehensive public education campaigns should be developed to address specific harms such as those associated with drink driving, underage drinking (and supplying to minors) and, particularly, FASD. Public education campaigns that promote safe drinking, including raising the awareness of the National Health and Medical Research Council *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* would also be beneficial.

Specific campaigns targeting problematic behaviour

Programs directed towards particular problems in particular communities is also desirable. For example, the practice of selling alcohol without a liquor licence (sly-grogging) or carrying alcohol into a designated dry community (grog-running) is a problem in many communities across the Northern Territory. Often community patrol workers know the identity of individuals undertaking this illegal activity but feel powerless to do anything about it. We heard that when patrol workers ring police to report a known consignment of alcohol coming in to the community, the delayed response often results in a missed interception. There is also the risk of payback or retaliation for the informant, so patrol workers are reluctant to complain given the limited successful outcomes. It was suggested that community campaigns targeting and demonising this specific behaviour would be useful, particularly if the campaign encouraged anonymous reporting of behaviours like sly grogging. Similar observations can be made about other problems in different communities.

Minimising risk factors and building protective factors

While programs and campaigns to specifically educate people on the harms associated with alcohol misuse are needed, the panel was repeatedly informed of the importance of building protective factors to reduce the impact of particular risks.

184 Anderson, P, *Alcohol and primary health care*, 1996

Biological, psychological, family, community or cultural level risk factors can influence a person's chance of misusing alcohol or developing alcohol dependence. Protective factors are positive characteristics or events that reduce a risk factor's impact and might include positive self-image, resilience, self-control or social competence. It is important to understand that these factors are interrelated and the underlying causes and risk factors must be addressed in order to achieve a decrease in alcohol related harm.

As part of changing the culture, which is discussed further in the Changing the Culture section of this report, a long term education strategy needs to be developed to encourage safe drinking and raise awareness of the harms associated with alcohol misuse. The strategy should include the active promotion of more alcohol-free events across the Northern Territory to demonstrate that alcohol is not necessary for the success of an event. There should be less alcohol advertising in sport and less advertising of alcohol associated with tourism. Alcohol advertising is discussed further in the Promotion and Advertising section of this report.

Recommendations:

- 3.8.1 The Northern Territory Government commits to long term and sustained investment in early childhood development programs.
- 3.8.2 School-based alcohol and drug programs with evidence of success be delivered in all Northern Territory schools at appropriate ages, on a long term basis.
- 3.8.3 School-based alcohol and drug programs that are suitable for urban settings be assessed and, if necessary, modified to ensure they are appropriate for regional and remote settings of the Northern Territory.
- 3.8.4 Educative programs should be provided by AOD workers and teachers at key community events, to raise awareness of the harms of alcohol misuse.
- 3.8.5 The Department of Health develop education campaigns and resources to be delivered in a primary health setting, with a particular focus on women, to raise awareness of FASD.

3.9 Remote Workforce Development

A consistent message received during public consultations was that there were not enough services available in remote communities of the Northern Territory partly due to the lack of qualified staff in the regions and the lack of appropriate infrastructure including places for services to be delivered and housing for staff. At the same time complaints were made that there were few employment opportunities in such locations.

Recent research into the patterns of resident health workforce turnover and retention in remote communities of the Northern Territory¹⁸⁵ shows that the average annual turnover rates for Nurses and Aboriginal Health Practitioners (ATSIHPs) in the Northern Territory Government managed health clinics is 74.4 per cent for nurses and 37.8 per cent for ATSIHPs. This research also shows that only 20 per cent of nurses and ATSIHPs remain working at a specific remote clinic 12 months after commencing with half leaving within 4 months. However, average annual stability rates for ATSIHPs were significantly higher (76.3 per cent) compared to nurses (48.3 per cent). Anecdotal evidence points to similar results for nurses working in Aboriginal community controlled health services.

While this research points specifically to the health workforce, it is well known that remote staff retention is an issue across all services in the Northern Territory.

These high staff turnover rates lead to inconsistent and, sometimes, inequitable access to services resulting in poorer health outcomes. The use of non-resident (i.e. fly in fly out) staff is also very costly and takes up funds that could be better used if directed to the services themselves.

The above research also highlights that the lower turnover and higher stability rates for ATSIHPs, suggests that remote workforce stability may be better supported by greater career development and employment opportunities for local Aboriginal community members. An increase in the employment of a local workforce may similarly help provide improved overall outcomes in relation to access to services, quality of care, client and provider relationships and culturally appropriate service provision.

A possible partial solution to the lack of available locally based staff and the high cost of using non-resident employees on the one hand, and the lack of employment opportunities on the other, is for the government to invest more in training and developing a local workforce

185 Russel et al. Human Resources for Health (2017) 15:52 DOI 10.1186/s12960-0170229-9

to undertake more of the key roles. We have in mind roles such as Aboriginal and Torres Strait Islander Health Practitioners (ATSIHPs), Alcohol and Other Drug (AOD) Workers, aftercare and treatment support service workers, Public Housing Safety Officers (PHSOs) and Aboriginal Community Police Officers (ACPOs).

A locally trained workforce would assist in reducing staff turnover and provide consistency of service. Someone who has a personal connection (family, cultural etc) to a region is more likely to remain working in that region for a sustained period of time. Local workforce members also provide the added advantage of undertaking a cultural brokerage role for non-resident workers. This is particularly important in Aboriginal communities.

Along with the need for more support service workers in remote communities (such as ATSIHPs and AOD workers) policing in remote communities was also raised many times during consultations and in submissions to the review. Many complained that there are not enough Police Officers stationed in communities to adequately address and respond to issues. It was also noted that remote police are often responsible for large geographic areas and this meant it was difficult for them to respond to calls in a timely matter. Community members observed that this was a particular issue in relation to addressing the problem of 'grog running' as often community members (including Night Patrol Workers) would notify police when alcohol was being illegally transported and sold into a community however by the time police arrived the alcohol and offenders were gone.

There were concerns raised about the lack of sufficient ACPOs stationed in remote communities. Many felt that ACPOs are an essential requirement in communities to support Police Officers. Communities believed that ACPOs were necessary to enhance the police presence in communities and to provide cultural brokerage.

In response to queries raised by the panel in relation to ACPO numbers, Northern Territory Police advised that in many of the communities where there are established ACPO positions there is difficulty in recruiting appropriate people to these positions and appropriate accommodation is not always available. As a consequence, positions either remain vacant or are redirected to major centres. Police stated that the benefit of the work of ACPOs in protecting and serving the community is well recognised and they are reviewing how best to increase the number of applicants and recruits for ACPO positions by ensuring recruitment processes are culturally aligned with the Aboriginal community. A current round of cadets (ACPO squad 24) is due to graduate in April 2018.

In its submission the Department of the Prime Minister and Cabinet (PMC) outlined a number of initiatives currently being funded to enhance the presence of police in remote communities, improve the infrastructure and generally support remote policing in the Northern Territory. This includes funding over seven years through the Remote Policing Schedule of the National Partnership on Northern Territory Remote Aboriginal Investment to support community safety in remote communities. The PMC submission also advised that additional funding is being provided to support the police presence in Wadeye and to upgrade police facilities in Alyangula and Angurugu (Groote Eylandt) and support police operations¹⁸⁶.

The desire for a permanent presence of PHSOs in remote locations was also raised. It was noted that PHSOs play a key role in community safety and managing antisocial behaviour and would provide an additional level of support for other community based workers such as Night Patrol Workers, ACPOs and police. As noted in the Department of Housing and Community Development's fact sheet, one of the key roles of PHSOs is to work closely with other government agencies and community service providers to ensure a coordinated approach to tackling antisocial behaviour. PHSOs are required to engage with public housing tenants, neighbours and visitors to resolve and reduce antisocial behaviour in and around public housing. They can exercise certain powers under the *Housing Act* in order to achieve this, including tipping out alcohol; seizing dangerous items and directing people who are not tenants or recognised occupiers to leave a property.

It is our recommendation that the Department aims to increase the number of PHSOs to enable a permanent presence of this workforce in identified regions where the community need is evident.

Northern Territory Health, through the Back on Track Executive Committee, is undertaking a number of initiatives to support an increase in its Aboriginal workforce across all streams with a particular focus on ATSIHPs. The committee includes high level representatives from the Department of Health, Top End Health Service and Central Australia Health Service to ensure efforts are coordinated and consistent across Northern Territory Health. The Department also offers scholarships for ATSIHP Trainees and Nurses undertaking post-graduate studies.

We also note the Northern Territory Government's election commitment to 'have 500 more Indigenous people filling a role as a Teacher, Police Officer or Nurse

¹⁸⁶ Department of Prime Minister and Cabinet submission to the Northern Territory Alcohol Policies and Legislation review available on the website.

by 2026' and commend efforts to increase the numbers of Indigenous people in these important roles. We would urge the government to address the issue of infrastructure (particularly housing) in conjunction with this commitment.

While the above highlights that there is a targeted effort to increase opportunities for local employment we believe more focus needs to be given to increasing the capacity of remote residents to undertake the necessary training to fulfil these roles. This would include offering locally based training to reduce the burden on family members having to travel to complete their studies and be away for extended periods. Also of advantage would be offering community based foundation level training to build the numeracy and literacy skills and confidence of those wanting to undertake training.

Increasing the opportunities for remote area residents to engage in training will also support the government's local decision making agenda by building the capacity of residents to effectively engage in decisions affecting their region.

We were briefed on a current pilot program being undertaken by the Department of Health which is providing a flexible model style of training at the Certificate I (foundation skills) level, with elements of the training targeted at health concepts, and each training block being delivered in Wadeye. This program should be fully evaluated at its completion. If deemed to have met the objective of supporting local residents to engage in and successfully complete training, consideration should be given to replicating this program in other remote locations.

Recommendations:

- 3.9.1 The Northern Territory Government take expert advice on how best to ensure the appropriate training of local people and the transition of such people into identified areas of employment (having recognised the importance of providing employment opportunities in remote communities the government).
- 3.9.2 The Northern Territory Government invest in providing locally based training in remote areas with training targeted at health (ATSIHP, AOD and support services, such as treatment services), policing (ACPO) and other key support roles (PHSO, Night Patrol workers).
- 3.9.3 The Northern Territory Government increases support for people living in remote communities to undertake studies (by way of scholarships, traineeships, community based foundation level training, etc).
- 3.9.4 The Department of Housing and Community Development work towards increasing the number of PHSOs to enable the permanent presence of this workforce in regions where there is an identified need.
- 3.9.5 government addresses gaps in employee housing to support a local workforce.

4. CHAPTER 4 Managing Harms

4.1 Treatment

Alcohol consumption is an integral part of life in the Australian community. In different ways it is an important part of many of the cultures that have come to this country in the last 239 years. The many different cultural wine and food traditions have blended in a way that is positive, socially cohesive and enjoyable. Alcohol consumption was not part of the culture of the original inhabitants of Australia and its introduction has had at times a harmful effect which has compounded the impact of loss of country.

The majority of Australians of all backgrounds drink moderately and safely. Indeed, many for various reasons choose not to drink at all. There is a minority for whom alcohol is problematic leading to poor health and social outcomes and, at times, contact with the criminal justice system. It is for this reason that alcohol manufacture, distribution and sale is heavily (but variously) regulated in every jurisdiction in this country.

The Northern Territory has the highest consumption rate of alcohol of any jurisdiction in Australia and for that reason has the highest rate of associated harms. In order to reduce these harms it is necessary to reduce consumption.

How alcohol affects the brain and body^{187 188 189}

Factors such as gender, body size and composition, age, experience of drinking, genetics, nutrition and metabolism determine the biological response to alcohol, which varies between individuals. Because of this, there is no amount of alcohol that can be said to be safe for everyone.

Alcohol is a small simple molecule that is fat soluble. Cell membranes (especially brain cells) are composed mostly of fat so significant amounts of the drug dissolve in the membranes affecting permeability and hence all brain function (as well as other bodily function). There is also evidence that it acts on gamma-Aminobutyric acid (GABA) channels (GABA is an inhibitory neurotransmitter which means it decreases the firing of neurones) but an exact GABA binding site has yet to be found.

It is this depression of GABA which means alcohol acts as a depressant. Alcohol usually starts to affect the brain within about five minutes of consumption and reaches its peak about 30-45 minutes after the consumption of one standard drink. Because the depressant effect happens sequentially, the first impact is on the higher brain centres, leading to a loss of control of behaviour and disinhibition. These controls are less well developed in the adolescent brain so the disinhibition, and in fact all of the harmful impacts, are particularly concerning in the young. The removal of the controls can reveal underlying personality traits – this is known as 'lifting the lid off the id'. Feelings of anger and aggression are often barely controlled and alcohol can remove the controls completely, which explains the association between alcohol and violence.

Following the initial effects that alcohol has on the higher brain centres, increased dosage causes dysfunction of the motor system leading to slurred speech and staggering. Ultimately, if a person consumes alcohol in very large doses, this can then be followed by unconsciousness, respiratory depression and death.

Alcohol misuse is a worldwide problem and for this reason, the WHO has developed and endorsed a screening tool called the Alcohol Use Disorders Identification Test (AUDIT) which is provided at Appendix H of this Report. This tool uses the following categories¹⁹⁰ to define alcohol misuse:

Hazardous use is a pattern of alcohol consumption that increases the risk of harmful consequences for the user or others and is of public health significance despite the absence of any current disorder in the individual user.

Harmful use refers to alcohol consumption that results in consequences to physical and mental health. Some would also consider social consequences among the harms caused by alcohol.

Alcohol dependence is a cluster of behavioural, cognitive and physiological phenomena that may develop after repeated alcohol use. Typically, these phenomena include a strong desire to consume alcohol, impaired control over its use, persistent drinking despite harmful consequences, a higher priority given to drinking than to other activities and obligations, increased alcohol tolerance, and a physical withdrawal reaction when alcohol use is discontinued.

187 Fidalgo et al, *Psychometric properties of the Brazilian version of the Personal Experience Screening Questionnaire*, 2016

188 Wallner et al, *Ethanol enhances $\alpha 4\beta 3\delta$ and $\alpha 6\beta 3\delta$ γ -aminobutyric acid type A receptors at low concentrations known to affect humans*, 2003

189 National Health and Medical Research Council, *Australian Guidelines to Reduce Health Risks from Drinking Alcohol*, 2009

190 Babor et al, *World Health Organizations (WHO) The Alcohol Use Disorders Identification Test (AUDIT), Guidelines for Use in Primary Care, Second Edition*

These different categories of alcohol misuse require very different treatment modalities. The starting point of effective alcohol treatment services must be an expert assessment (using the AUDIT tool or similar) in order to achieve a diagnosis so that the appropriate treatment pathway can be determined.

While the review heard that the AUDIT tool is being used in the Northern Territory and has been written into the sobering up shelter guidelines, it is unclear whether this tool is being used in treatment services. A standardised assessment tool should be used across all health delivery services to ensure appropriate referral and continuity of care.

What are the treatment options?

Submissions to the review presented a broad range of prevention and treatment options. These can be categorised as follows:

- » health promotion such as actions to maximise health and wellbeing among the whole population, particular groups and individuals, identifying harms of excessive alcohol consumption, safe drinking levels, the risks of alcohol in pregnancy
- » early interventions that may be achieved through primary health care screening or other areas, that target people who have early signs and symptoms of problems with alcohol and aim to reduce the impact of those problems (generally appropriate for non-dependent drinkers)
- » residential and community based detoxification and treatment programs including clinical treatment
- » rehabilitation, both residential and community based
- » relapse prevention and aftercare support providing interventions to those in response to early signs of relapse
- » other interventions such as sobering up shelters and community patrols (which are discussed in other Chapters of this report).

In the Northern Territory, these programs are provided by a broad range of agencies, including:

- » community controlled Aboriginal health services
- » NGOs
- » primary care organisations
- » general practitioners
- » Northern Territory Government departments (e.g. Health, Education, Housing)

Service delivery is made complex because of the very broad range of service providers across the government, NGO and private practice arrangements. Although there has clearly been some attempt made, the review panel

was not presented with any documentation demonstrating that the need for alcohol treatment services has been effectively determined. Nor was there any evidence that the above agencies are working cooperatively on an agreed alcohol treatment services plan. This is not to say there are not significant dedicated individuals and organisations providing effective and high quality services, nor in any way to denigrate their work but there is no evidence of coordinated planning. Given that prevention and treatment of alcohol related disorders involves a full range of government and other agencies, it is important to have a whole-of-government coordinated approach. This is discussed further in the Whole-of-Government Approach section of this report.

What treatment services currently exist in the Northern Territory?

The Department of Health is the government agency responsible for the government's drug and alcohol program, and for funding the various alcohol treatment services offered throughout the Northern Territory. In addition, a number of services are funded by the Australian Government. The Department of Health submission provided an outline of the various treatment services that are currently funded by the Northern Territory Government:

- » Counselling, community information and education programs delivering interventions to individuals, groups and families. These programs are delivered by non-government services across the Northern Territory in Darwin, Tennant Creek, Alice Springs and a limited number of remote communities.
- » Withdrawal services in both the Top End and Central Australia Health Services. These services are provided in hospital and as an ambulatory service. Referral to residential rehabilitation programs is an adjunct to these services.
- » Residential rehabilitation services are operated by non-government organisations in Darwin, Katherine, Tennant Creek and Alice Springs. The treatment program does not usually exceed 16 weeks for each episode of care. These services provide a 24/7 fully supervised residential rehabilitation program.
- » Aftercare support and relapse prevention services are provided by St Vincent de Paul, which is specifically funded via the Australian Government's National Partnership Agreement for Remote Aboriginal Investment. The aim is to promote individual and community wellbeing and reduce relapse to substance abuse. Support ranges from therapeutic interventions to case management and care co-ordination. The Central Australian Aboriginal Congress (CAAC) is also funded to provide aftercare as part of its Social Emotional and Wellbeing Service. The Barkly Region

Alcohol and Drug Advisory Group (BRADAAG) operates a transitional aftercare and outreach program supporting families and individuals in the Barkly region. The panel is also aware that while not specifically labelled as aftercare services, the promotion of individual and community wellbeing to strengthen resilient connected communities that value and support the individual to overcome their AOD issues is something that occurs through Aboriginal health services and the remote AOD workforce.

It is acknowledged that the Northern Territory Government has recently abolished the Alcohol Mandatory Treatment Program (AMT), nevertheless it is worth making some limited comment on this mandatory approach. The panel heard there was little support (in particular from health and legal organisations) for the mandatory approach and most considered it to be ineffective as a treatment option. An evaluation¹⁹¹ of the AMT Program was undertaken and was unable to find that the program was effective, partly because it was difficult to evaluate with the limited availability of data. The claim does highlight the need for rigorous evaluation of programs which is best achieved through partnerships with suitable external research institutes and/or universities. Expertise and disinterest are critical to objective evaluation, as discussed in the Research/Data/Evaluation section of this report.

Treatment outcomes

It was put to the panel that, despite the current programs, alcohol related problems do not appear to be diminishing. Most of this evidence was anecdotal and hearsay based on real-life experiences.

It was the perception of many members of the community that resources were stretched and services did not have the capacity to manage demand.

We also heard that many current treatment programs were not effective. The lack of support for post treatment services to prevent relapse was of particular concern.

Concern was expressed repeatedly that the funding cycles were too short to adequately develop and assess programs for their effectiveness. All services strongly advocated for longer term funding cycles. This is also a recommendation of the Productivity Commission which in the June 2017 Draft Report¹⁹² recommended that default contract lengths be increased to seven years, and further increased to ten

years in remote communities. As detailed in the report, this would allow for 'greater market stability' and 'facilitates investment by providers in service quality and gives users more continuity of service.'

Barriers to Treatment in remote communities

The remoteness of many communities combined with the population dispersion across the Northern Territory is a barrier to treatment. We heard of the need for AOD workers to be permanently positioned in remote communities, and the importance of training and educating local community members to take up these roles.

The draft *National Drug Strategy 2016-2025* lists the approaches to addressing the needs of Aboriginal and Torres Strait Islander people that represent best practice. These include¹⁹³:

- » culturally responsive and appropriate mainstream programs
- » Aboriginal and Torres Strait Islander community-controlled services leading the planning, implementation and delivery of programs
- » services delivered by specialist Aboriginal and Torres Strait Islander drug and alcohol services with an understanding of their physical, spiritual, cultural, emotional and social needs
- » screening and brief intervention in primary care, Aboriginal health services and other relevant health services
- » services delivered in urban, regional and remote locations and in settings like prisons, hospitals and mental health facilities
- » involvement of families and communities where appropriate
- » addressing the social determinants of alcohol, tobacco and other drugs use, including homelessness, education, unemployment, grief/loss/trauma and violence
- » interagency collaboration and data sharing.

One of the objectives of the Remote Alcohol and Other Drugs (RAOD) Workforce Program is to establish and maintain a sustainable, culturally appropriate workforce that can address alcohol and other drug issues and associated harms in the community, and deliver evidence-based services within a primary health care model¹⁹⁴. The panel was advised that there are currently more than 55 remote AOD workers in primary health care services across some 30 remote communities. Although at face value this would appear to be ample, when considering periods of

191 PricewaterhouseCoopers Indigenous Consulting with Menzies School of Health Research, 2017, Evaluation of the Alcohol Mandatory Treatment Program.

192 Australian Government Productivity Commission, *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services*, June 2017

193 National Indigenous Drug and Alcohol Committee, *Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples*, 2014

194 Menzies School of Health Research, *Remote Alcohol and Other Drugs Workforce Program Evaluation*, May 2013

leave and unfilled positions it is likely that on any given day, this number is significantly reduced. The perception of those involved was that there were insufficient resources in remote communities and there was not enough support for clients returning to their communities post treatment. Often these concerns were raised by people in communities where the services provided by the RAOD workforce existed, so clearly there is also a need for better communication on the availability of these services within communities.

The RAOD workforce program was evaluated by Menzies School of Health in 2013 and found to be effective¹⁹⁵. A more comprehensive evaluation is currently being undertaken by PriceWaterhouseCoopers with a final report and recommendations expected in May 2018.

We are of the view that there needs to be a renewed focus on ensuring the RAOD workforce is adequately resourced and more visible in remote communities. This workforce needs to be proactive in establishing contact with clinic staff and community patrols. Such a workforce is important in Aboriginal communities to ensure cultural appropriateness and effectiveness of treatment as well as being community building in and of itself.

Some of the key barriers to building a local workforce are access to training close to home and the capacity of individuals to undertake Certificate IV level (or above) training due to numeracy and literacy levels. To successfully build a local workforce the government needs to consider ways to support capacity building in remote communities, such as offering foundation level skills training and conducting it locally.

It is widely acknowledged that by employing local people organisations can provide a more culturally responsive and safe service. In the Northern Territory, the Community Services (AOD) accredited training providers for certificate IV qualifications are; Charles Darwin University, RMIT University, BCA National Training Group and Transforming Training. It is important the Northern Territory Government works in partnership with these training providers to overcome the barriers to training remote workers.

Models in other jurisdictions involve partnering local Aboriginal health workers with more senior clinicians such as registered nurses to assist with studies and mentor students. Distance is a significant issue in attaining higher qualifications and there is no better learning environment than at the health centre sitting at the heart of the community where supervision can be provided by an experienced person and learning can occur 'on-the-job'.

195 *ibid*

An 'internship' for local Aboriginal people studying is conceptually little different to an internship for recently graduated doctors in public hospitals which is a mixture of work and learning.

In making this recommendation we are cognisant of the fact that alcohol treatment does not sit alone and that in these communities it may be appropriate for these positions to be more broadly based public health positions with additional expertise and function.

We also heard that people in remote areas experiencing alcohol misuse problems have to leave their community to access treatment in urban centres. Many people spoke of the need for additional voluntary treatment services to be made available in remote communities. We recognise that it is not a viable option to replicate residential rehabilitation programs in every remote community. Consideration should be given to establishing rehabilitation centres in selected larger communities based on identified need. The Department of Health has recently commissioned a feasibility study for an AOD residential rehabilitation facility for the Tiwi Islands. Identifying where there is a need for these services is a critical first step.

For many Aboriginal and Torres Strait Islander people, barriers to seeking treatment include the shame and fear of getting into trouble with the law and additionally for women, the fear of losing their children. Understanding these barriers and addressing them will make seeking treatment a more viable option¹⁹⁶.

Other barriers to seeking treatment raised through submissions and in consultations, particularly for women with children, were that there are very few treatment services that accept children or are family friendly. Again, we are of the view that the need for family friendly services across the Northern Territory has not been properly assessed.

What is the role of Primary Health Care services in treatment for alcohol misuse?

Close cooperation between treatment services and primary health care facilities is important because of the high level of comorbidities associated with excess alcohol consumption.¹⁹⁷

Primary health care workers are in a unique position to identify and intervene with patients whose drinking is hazardous or harmful to their health¹⁹⁸. We know the

196 National Indigenous Drug and Alcohol Committee, *Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples*, 2014

197 Babor et al, *World Health Organizations (WHO) The Alcohol Use Disorders Identification Test (AUDIT), Guidelines for Use in Primary Care, Second Edition*

198 Anderson, P, *Alcohol and primary health care*, 1996

harms associated with alcohol misuse affect not only the individual (health harms such as liver cirrhosis and certain cancers) but also the health of families and communities. Primary health care workers should address the causes of common physical and mental conditions including alcohol misuse¹⁹⁹. The need to better integrate alcohol and other drug interventions with primary health care was suggested throughout consultations and the panel agrees.

While the details of specific treatment approaches in primary health care are not a matter for the panel, submissions to the review suggested there was a need for local community-controlled health services to be funded to provide AOD services such as screening for alcohol-related health issues, brief intervention, assessment and care planning as well as assisted withdrawal services. This would encourage community buy in. There are a number of primary health care interventions existing, such as those that have been developed by the Central Australian Aboriginal Congress, including pharmacotherapies, psychological therapies and social and cultural support therapies. These should be considered and inform development of a multi-agency service plan. There was overwhelming agreement that social and cultural support to help the client make changes to their environment and situation were an absolute necessity.

The complexities of treatment

In the context of alcohol treatment, it is important to treat alcohol dependence as a medical condition and to recognise that it is a chronic relapsing condition. Relapse is the norm, and this needs to be emphasised and accepted. There are varying levels of severity of alcohol misuse and people seek treatment for different reasons and at different times in their lives, while others may not voluntarily seek treatment at all.

Those who do present for treatment often have complex and multiple needs. While a person's intoxication or alcohol use may be the initial treatment focus, it is often the case that more chronic conditions are identified which then take priority over the alcohol treatment and may require hospital admission. It is important that hospital discharge plans not only address the management of the chronic disease, but also include measures to treat the alcohol misuse that initially brought the patient there. Similarly, mental health issues including trauma and grief, cognitive impairment, legal, family and/or relationship issues including child protection, housing and unemployment are just some of the other areas that may need addressing concurrently. An integrated response to addressing these multiple issues is necessary, if treatment is to be successful²⁰⁰.

For AOD treatment to be effective with Indigenous groups it is important that cultural connectedness through family, land, spirituality and identity is included. 'Disconnection from cultural values and traditions have led to a painful and meaningless existence for many Aboriginal people who have turned to drugs and alcohol in an unsuccessful attempt to deal with their anxiety and pain'²⁰¹.

The panel acknowledges the importance of addressing the social determinants of harm, as discussed in the Report.

What we found

Demand for services will vary between regions and communities. It is for this reason that each community's needs should be assessed individually. These services need to be evidence-based and culturally safe. In particular, it was suggested that there was a demand for more non-residential treatment services, particularly day programs, to address client needs when on parole, working, caring for children or studying. We also heard that services for families and separate services for men and women should also be expanded. After considering submissions and conducting public consultation, it is our view that a demand study needs to be conducted to establish how many people in the Northern Territory have a problem with alcohol misuse. The prevalence of the disorder and the geographic distribution will determine the need for services. We heard that there is no 'one size fits all' approach to treatment and there is a need to offer a wider and more diverse range of rehabilitation services. It is for this reason that we have recommended a gap analysis be conducted to determine what the priorities are for additional services and the workforce and facilities required. The gaps in service delivery will be demonstrated by matching current services against demand.

We heard that there was a need for better aftercare services to be made available across the Northern Territory. These aftercare services must be properly planned and based on a strong, culturally appropriate evidence base. They should be available in remote communities, as well as in urban centres, and should be adequately staffed and financed. After care services should be linked to existing services available to the affected person in their community so there is a seamless transition between treatment phases. Treatment programs Northern Territory wide should include establishing peer support groups so that systems are in place to assist with post-rehabilitation support.

Once the need for treatment services has been established, an overall multi-agency service plan should be developed

199 Babor et al, *Brief Intervention For Hazardous and Harmful Drinking, A Manual for Use in Primary Care*, 2001
200 *ibid*

201 R McCormick, *Canadian Journal of Counselling* Vol. 34:1, *Aboriginal Traditions in the Treatment of Substance Abuse*, 2000, pg 25

with all current treatment services mapped to it to determine where the gaps are. This will allow the Northern Territory Government to get a clear idea of where additional services are needed and allocate the appropriate workforce and facilities to meeting that need.

Recommendations:

- 4.1.1 The Department of Health promotes the use of a standardised assessment tool (such as the AUDIT tool (or similar tool) across all health delivery services.
- 4.1.2 The AUDIT tool (or similar tool) be used to assess relevant individuals to stream them into the appropriate treatment for that individual.
- 4.1.3 The Department of the Chief Minister coordinates the development of a demand study for alcohol treatment services in the Northern Territory. This study should draw on ABS data, the Chief Health Officer's report, the Criminal Justice data collection, the Menzies School of Health Research data, emergency department presentations, hospital admissions, data from the Aboriginal Medical Services Alliance Northern Territory (AMSANT) and other relevant reports that have been presented to the review. The demand study should take into account the need to provide services locally where it is clinically safe and effective to do so.
- 4.1.4 The demand study should inform a multi-agency alcohol services plan which would meet the demand for alcohol treatment across the range of service types. This services plan should be developed by the Department of the Chief Minister and should include a workforce plan and an asset plan.
- 4.1.5 The Department of the Chief Minister should ensure all existing services from all agencies be mapped against the overall service plan and a gap analysis be conducted to determine priorities for additional services, workforce and facilities. Where existing services have no evidence base, consideration should be given to changing the service model or conducting a rigorous evaluation.
- 4.1.6 Where appropriate, external expertise should be sought to complete the demand study, mapping of services and gap analysis and evaluation of services.

- 4.1.7 That the Department of the Chief Minister closely monitors the progress of the demand study, gap analysis and development of the multi-agency service plan to ensure its progression.
- 4.1.8 That the Department of the Chief Minister ensures the implementation of the multi-agency service plan and monitors and reports on progress against the plan by ensuring each agency has clear targets about their actions which must be the subject of regular reporting.
- 4.1.9 Treatment programs have funding certainty for seven years (ten years in remote communities).
- 4.1.10 The Northern Territory Government work in partnership with AOD training providers to overcome barriers to remote workforce training.
- 4.1.11 The Northern Territory Government consider introducing 'internships' in remote communities.
- 4.1.12 The Department of the Chief Minister ensure effective coordination and integration of Australian Government funded programs with Northern Territory initiatives by maintaining adequate contact, and ensuring effective communication, with the Australian Government.

4.2 Alcohol and Other Drugs Court

Alcohol consumption is a key contributing factor leading to offending behaviour in the Northern Territory. Many jurisdictions across Australia, and internationally, have established courts that specialise in alcohol-related offending along with mental health and other drug issues. Such courts have been described as therapeutic courts or problem-solving courts. The courts endeavour to address underlying causes of offending and, in that sense, differ from the conventional criminal justice punishment based model.

In general terms such courts use the sentencing process as an opportunity to coordinate services to address the substance misuse of the individual offender and assist with his or her rehabilitation. By addressing the substance misuse and also problems with housing, health, education and/or employment the courts provide an intervention that is expected to decrease recidivism.

An important component of a successful drug and alcohol court is the provision of high quality clinical advice to the judicial officer. This is generally known as a Court Liaison

Service (CLS) which is usually provided by the Department of Health. In a CLS, a registered nurse or psychologist provides a report on the nature of the alcohol problem, other health issues, previous treatment and the available treatment options that can be brokered in the community or in custody. This enables the court to better access treatment and to make such treatment a condition of maintaining liberty. Progress of treatment can be monitored by the court.

While such courts appear expensive at first blush, national and international experience suggests they are both a cost-effective and a constructive alternative to incarceration.²⁰² An evaluation of the Drug Court of Victoria (DCV) conducted by KPMG noted that the court 'continued to deliver positive outcomes for the community and participants, as evidenced by improvements in health and well-being for the participants, and a reduction in recidivism by those who complete the program' and concluded:²⁰³

The DCV also offers a cost-effective sentencing alternative, being considerably cheaper than an equivalent term of imprisonment, and in line with other therapeutic justice programs. While further detail on the make-up of cost, and the demand for DTO's (Drug Treatment Orders) would be preferable, there is sufficient data currently available to determine that the DCV at Dandenong should continue in its current format, and that further serious consideration should be given to rolling out this service delivery model to other locations with high incidences of drug-related crime.

At this time the Northern Territory does not have a specialist court addressing these issues. Efforts have been made to establish such courts and introduce problem-solving concepts²⁰⁴ but those courts and concepts have been short lived and terminated without any proper assessment being undertaken as to their success or otherwise. This is an example of the short term approach to addressing alcohol problems that has existed in the Northern Territory. It is important that any court established to address problems associated with alcohol and other drugs is given sufficient time to establish a pattern of operation and to allow a proper assessment of worth.

The most recent attempt to establish such a court in the Northern Territory was the establishment of the Substance Misuse Assessment and Referral for Treatment Court

(SMART Court) which operated between 2011 and 2013. It was established as part of the "Enough is Enough" alcohol reform package and was aimed at assisting offenders to address their substance misuse as well as issues related to rehabilitation. The court was able to order curfews, place restrictions on drug and alcohol use, provide directions to follow a treatment plan or attend a rehabilitation facility and impose other conditions relevant to the specific circumstances of the offender. A significant drawback for the court was that those who had committed violent or sexual offences were not eligible to participate.

The SMART Court only operated for some 18 months and unfortunately was dismantled before it had been evaluated. This was part of the disbanding of the previous BDR program as promised by a new government upon election and was replaced by a mandatory treatment regime. The mandatory treatment regime has, itself, subsequently been abandoned following a review.

In our opinion the Northern Territory Government should reintroduce the SMART Court suitably modified to reflect changes that have occurred since the court was dismantled and also to address the shortcomings in the previous model which have subsequently been identified. In reintroducing the SMART Court regard should be given to the experience in other jurisdictions and particularly the product of the Victorian review.

At the same time consideration should be given to reintroducing the CREDIT bail program which ceased with the introduction of the original SMART Court. That program is a diversion program involving residential or outpatient drug and alcohol treatment for people whose offending is related to substance misuse. The program provides an incentive for people to commence addressing substance misuse issues before sentencing. Depending upon the form of the new SMART Court it may be determined that the CREDIT program is unnecessary. But if it is to be implemented it should be suitably modified to complement the workings of the SMART Court and should operate as part of the SMART Court process.

The SMART Court should be trialled for a sufficient period to enable a proper evidence-based assessment of its worth. Initially it should be trialled in centres with appropriate support – Darwin and Alice Springs.

The current COMMIT program should also continue to be supported and linked to the SMART Court process. The COMMIT program is available to adult offenders who are sentenced to a suspended sentence of imprisonment and targets higher needs offenders who, through drug or alcohol addiction, have become involved in the criminal justice system as well as offenders with a history of breaching conditions of orders.

202 Ibid.

203 Evaluation of the Drug Court of Victoria – Final Report. KPMG December 2014.

204 eg CREDIT program, Alcohol Court, SMART Court and Community Courts.

COMMIT involves a collaborative approach to offender management and behaviour change that involves the Courts, Community Corrections, Police and legal agencies. The Program uses swift, certain, and fair consequences (a short period of incarceration) for non-compliance with conditions, while maintaining a supportive working alliance with the offender, the Probation and Parole Officer and the Judge. The COMMIT program aims to achieve behavioural change by sending a consistent message to offenders about personal responsibility and accountability and includes a consistently applied and timely mechanism for dealing with non-compliance. Probationers understand there will be an immediate consequence and their lives will be interrupted each time they make a poor decision, and how much time they spend in prison is in their hands. The sanctions are intended to be short, reflect the severity and level of responsibility demonstrated for the breach, while not negatively affecting the offender's ability and motivation to participate in behavioural change processes. They are supported by their Probation and Parole Officers throughout the term of their supervision and undertake therapeutic programs to maintain good decision making.

Drug and alcohol treatment is a critical aspect of COMMIT; however treatment is reserved for those who need it most, by targeting offenders who are unable to cease use despite applying swift sanctions. This allows the program to handle a larger cohort with limited treatment resources. This has been referred to as 'behavioural triage' as compared with universal assess-and-treat models, and is a central feature of 'swift, certain and fair' justice models.²⁰⁵

Recommendations:

- 4.2.1 An Alcohol and Other Drugs Court (along the lines of the former SMART Court) be established with emphasis upon diversion and treatment. The operation of the new court should be modified in light of the experience with the SMART Court and with the operation of similar courts in other jurisdictions.
- 4.2.2 The former CREDIT/Bail diversion program for alcohol and drug related offending be considered in conjunction with the establishment of the court and adopted in such modified form as is appropriate to the circumstances.
- 4.3.3 The court be subject to an evidence-based assessment after it has been in operation for a sufficient period to evaluate its worth.

- 4.3.4 Funding for the COMMIT program be continued if it is deemed successful in meeting its objectives following the full evaluation of the program scheduled for 2019/20.
- 4.2.5 To increase the efficiency of the SMART court consideration be given to combining the function with mental health court liaison services

4.3 Drinking Spots

The North Australian Aboriginal Justice Agency and the Aboriginal Peak Organisations Northern Territory have identified a concern regarding what are described as 'drinking spots' or 'drinking paddocks' in the region of GRAs.

Drinking spots have developed on the boundaries of remote communities in GRAs. These are areas where people gather to consume alcohol before returning to their dry communities. A number of the drinking spots are situated adjacent to major roads creating dangerous situations. The distances involved and the proximity of drinkers to major roads give rise to increased risks of motor vehicle accidents involving drinkers returning from camps and of pedestrian deaths. Sometimes the distances travelled are significant with people drinking far from their families and from support services such as police and night patrols. In addition, there is a risk of violence through mixing of clans. It is unfortunate that such places exist and actions need to be taken to address this issue and in turn reduce the need for and number of such spots. It is acknowledged that such measures will take time; therefore immediate action also needs to be taken to make these spots safer.

The Department of Health pointed out that since the activation of Alcohol Protected Areas over Aboriginal communities, unsafe consumption locations and practices have become entrenched. It advised that in remote areas, drinking camps are often hidden in the bush surrounding communities and near takeaway outlets and frequently adjacent to main access roads. It provided the following examples of the dangers created:

- » the Jilkminggan AMP requested continuation of a safer drinking area two km from Jilkminggan near a 60 km/h access road that kept drinkers monitored by night patrol and close to community help. The AMP needed Australian Government approval to allow the arrangement to continue. Approval was not forthcoming and drinkers made a drinking camp 21 kilometres away next to the Roper Highway where two intoxicated people were tragically killed by road trains

205 Northern Territory Police, Fire and Emergency Services Submission to the Alcohol Policies and Legislation review

- » in April 2014 a woman was murdered at the drinking camp across the road from the Wauchope Hotel²⁰⁶.

In contrast the Department of Health pointed to the situation in the Elliott community where an unofficial 'safer drinking area' was established behind the council area and away from the highway. This area has been operating since March 2014 with no adverse incidents and is monitored regularly by night patrol and police. This was cited as an example of a harm reduction approach prioritising safety and strategic use of resources while other strategies can simultaneously be mobilised to affect demand for alcohol and safer levels of consumption.

Recommendations:

- 4.3.1 The Northern government, in consultation with the affected communities, reviews identified 'drinking spots' throughout the Territory and, where appropriate:
- relocate the drinking spot away from major roadways
 - reduce speed limits near known drinking spots
 - provide appropriate signage, to be developed in conjunction with communities and Aboriginal organisations, to warn road users of the existence of such spots
 - where practical provide water and shelter and adequate lighting to provide greater visibility of people or obstacles
 - ensure, where practical, regular patrols by Police Officers and/or community night patrols are undertaken at known drinking spots.
- 4.3.2 The Northern Territory Government establish a working group to review strategies and initiatives to improve the safety of drinking spots in the Northern Territory.

Alcohol use disorders are common in the homeless²⁰⁸. The relationship between homelessness and alcohol use is complicated as they are both a cause, and a consequence, of each other. They both interact significantly with other lifestyle factors such as chronic health conditions, mental health issues and poor nutrition. Violent victimisation of this group also contributes to premature ageing and early mortality.²⁰⁹

This population encounters various barriers to engagement in support services and research suggests that traditional treatment options are generally ineffective.²¹⁰ One of the reasons that traditional treatment methods may not be appropriate or effectively engage this population is that they are based on an abstinence model. The larger context of their alcohol use and its role in their lives is often overlooked²¹¹. There is a need for persistent engagement with this population and a harm minimisation approach is the first step to achieving positive outcomes with this cohort of people, as opposed to an abstinence based approach.²¹²

What is a Managed Alcohol Program?

Managed Alcohol Programs, also known as 'wet houses', offer a safe place to go for homeless people experiencing issues with alcohol misuse. Whilst abstinence is encouraged, the moderate consumption of alcohol is permitted in the house and closely monitored. It is not a requirement for residents to undergo treatment while in a wet house, however it presents an opportunity for brief intervention and access to medical and care services. It provides the opportunity to engage wrap around services to support the individual, to address their specific needs. This may include addressing chronic health conditions, employment and training, education and other social determinants of health. The establishment of a wet house in the Northern Territory was suggested in the submission by the Northern Territory Department of Health.

4.4 Managed Alcohol Programs (Wet Houses)

Over the years, there has been increased public attention on the chronically homeless population, a substantial number of whom have a mental illness.²⁰⁷

208 Conroy, E, Burns, L and Wilson, S, *Alcohol use disorder and cognitive impairment among older homeless persons: Implications for service delivery*, 2013

209 ibid

210 Collins, S et al, *Where Harm Reduction Meets Housing First: Exploring Alcohol's Role in a Project-based Housing First Setting*, 2011

211 ibid

212 Conroy, E, Burns, L and Wilson, S, *Alcohol use disorder and cognitive impairment among older homeless persons: Implications for service delivery*, 2013

206 Include references at notes 6, 7 and 8 of Health

207 Pearson, C., Locke, G., Montgomery' A., *The Applicability of Housing First Models to Homeless Persons with Serious Mental Illness*, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2007.

The submission made by the Aboriginal Medical Services Alliance Northern Territory (AMSANT) to the review pointed to a study²¹³ that examined the views and experiences of people living in the 'long grass'. The study was conducted by the National Drug Law Enforcement Research Fund (NDLERF) in 2009. This study suggested there was a need for people experiencing alcohol addiction to have a safe place to go to access respite care. The wet house concept may satisfy this need.

A 2015 research study²¹⁴ into the feasibility of wet houses stated that 'alcohol dependent homeless people experience higher rates of chronic illness, injuries and assaults, longer hospital stays, increased mortality, and higher levels of contact with the criminal justice system'. It went on to say that many of these people also suffered from mental illness and alcohol-related brain injury.

The feasibility study summarised the different service model approaches used in Canada in the following table²¹⁵:

The feasibility study also included a literature review and face-to-face surveys of homeless, alcohol dependant adults. Participants were surveyed about four wet house models:

- » day shelter with bring-your-own alcohol
- » day shelter with one alcoholic drink provided every hour for 15 hours a day
- » residential facility with bring-your-own alcohol
- » residential facility with one alcoholic drink provided every hour for 15 hours a day.

All models were received positively, with the residential facility model being the preference of participants (76 per cent expressed interest in the bring-your-own model and 69 per cent in a service where alcohol is provided). The feasibility study found that operating a 15-bed service in inner Sydney will result in a net benefit in reducing community service expenditure on this population of around \$480,000 (range \$390,000 to \$580,000) a year, taking into account the cost of providing such a service.

Model	Description	Purpose
Dry shelter Residential	Alcohol consumption is not permitted.	Provide basic necessities such as accommodation and food only.
Housing first (wet shelter) Residential/day shelter	Consumption of alcohol is permitted but is not supplied or monitored by the service.	Provide accommodation and food. Low threshold for admission. Alcohol use is not a barrier, allowing better access to services to alcohol dependent individuals.
Housing first variation Residential/day shelter	Housing service will manage participants' alcohol, however the alcohol must be purchased and supplied by the individual.	Alcohol is supplied by and then dispensed to the participant at negotiated intervals. This allows for the participant to be assessed for intoxication at regular intervals.
Managed Alcohol Program Residential/day shelter	Beverage alcohol is provided to participants throughout the day; this is actively managed and subject to ongoing assessment. Exchange of nonbeverage alcohol (such as methylated spirits, hand sanitizer) for beverage alcohol.	Provides accommodation, food and access to healthcare and psychosocial supports to those dependent on alcohol. Assessment of intoxication at regular intervals.

213 Holmes, C, McRae-Williams, E, *An investigation into the influx of Indigenous visitors to Darwin's long grass from remote Northern Territory communities: Phase 2: Being undesirable: Law, Health and Life in Darwin's long grass*. Monograph Series No. 33. National drug law enforcement research fund, Hobart, 2009

214 Ezard, N, Dolan, K, Baldry, E, Burns, L, Day, C, Hodge, S, Cubitt, T, Loesch, B, & Mackay, T, *Feasibility of a Managed Alcohol Program for Sydney's Homeless*, 2015

215 Ezard, N, Dolan, K, Baldry, E, Burns, L, Day, C, Hodge, S, Cubitt, T, Loesch, B, & Mackay, T, *Feasibility of a Managed Alcohol Program for Sydney's Homeless*, 2015

Savings arise from reduced contact with police, incarceration, healthcare costs, emergency department contacts and hospital admissions.²¹⁶

The Jimaylya Topsy Harry Centre (JTHC) in Mt Isa has been operating as a transitional accommodation centre since 2003. JTHC provides homeless people with safe shelter, training in positive tenancy behaviour and then accommodation leading to housing, as well as the building of social capital and resilience²¹⁷. While staying at the centre, clients purchase their own food and alcohol. Although drinking is allowed, alcohol can only be consumed in a prescribed area on the premises at a certain time of day. Individuals have limits set on their consumption, depending on the outcome of their daily health checks. It is not a secure facility so clients can leave and continue drinking off-site. While there are some consequences to doing this, in general the view is that it is not helpful to ban these clients and that case management approaches need to be adjusted to continue to encourage safe drinking practices.

The JTHC has a culturally distinctive approach that considers the Aboriginal styles of drinking and the relationship between homelessness and alcoholism. Accommodation options consist of outdoor semi-enclosed sleeping shelters, single rooms, dorm-style women only quarters and three bedroom facilities for couples in crisis. There are also six, two bedroom houses used by clients that are transitioning to rental housing. The centre has a kitchen, laundry, large multifunctional room (used as a dining room) and a television lounge for common use.

Six to eight staff are rostered on at any one time, including an administration leader, team leader and support staff. The local TAFE offers courses at the Centre four mornings per week and sessions such as numeracy (including budgeting) and literacy, living skills (cooking, hygiene and house maintenance) and basic mechanics are compulsory for those on the housing waiting list.

A longitudinal evaluation study has not been conducted on the JTHC, so the long-term successes are not clear. A research paper published by the University of Queensland in 2011/12 states that anecdotally and otherwise, there have been many successful outcomes, including modifying of consumption²¹⁸.

216 Ezard, N, Dolan, K, Baldry, E, Burns, L, Day, C, Hodge, S, Cubitt, T, Loesch, B, & Mackay, T, *Feasibility of a Managed Alcohol Program for Sydney's Homeless*, 2015

217 Memmott, P and Nash, D, *Housing conditionality, Indigenous lifeworlds and policy outcomes Mt Isa case study*, Australian Housing and Urban Research Institute, University of Queensland, 2016.

218 Memmott, P and Nash, D, *No Wrong Door? Managing Indigenous homeless clients in Mt Isa*, 2012

Wet houses currently operate in Canada, the United States of America, Norway, and the United Kingdom. The evaluation of wet houses overseas has demonstrated that participants have improvements in mental health, social connectedness and general wellbeing across a variety of quantitative and qualitative indicators^{219 220 221}. There are also reductions in alcohol-related harms and alcohol dependence. The evidence shows that participants drink less non-beverage alcohol (mouthwash, rubbing alcohol, hand sanitiser) after joining the program and they reduced consumption in more hazardous settings²²².

Although the research on wet houses is limited, there is growing evidence that this approach may provide a solution to breaking the cycle of contact with Police and chronic homelessness for some people.²²³

As detailed in the SUS section of this report, there are low numbers of referrals from SUS into treatment. One reason for this may be that when a client leaves a SUS following recent intoxication, they may not yet be open to receiving referral into treatment, particularly if a condition of their treatment is that they need to abstain from alcohol. The establishment of a wet house might provide a suitable treatment pathway for these clients, where they can receive care and assistance to address their individual needs. A wet house may also assist those requiring temporary housing while attempting to return to country or while they seek to secure more permanent housing.

A wet house differs from a SUS in that it provides more stable accommodation than just an overnight stay. Admission to a wet house may be an option that could be appropriate for clients with repeat admissions to SUS. In 2016/17, 18 per cent of clients had four or more admissions to SUS in the Northern Territory.²²⁴

A likely criticism of the wet house concept is that a proportion of clients may 'recycle' through homelessness and back into the wet house, much like repeat admissions to the SUS. Given that alcohol misuse is a chronic relapsing condition, we wonder whether this is necessarily a negative outcome or whether it may in fact indicate that numerous attempts are being made to seek shelter and assistance.

219 Stockwell, T, Pauly, B, Chow, C, Vallance, K, Perkin, K, *Evaluation of a Managed Alcohol Program in Vancouver, BC*, 2013

220 McIntyre, S, *Wet Housing – an accommodation option for people who have experienced chronic homelessness and long-term alcohol dependence*, 2009

221 Reed, M, *Wet Shelters: The Benefits and Risks Associated with Alcohol-Administering Homeless Shelters – A Scoping review*, 2008

222 Stockwell, T, Pauly, B, Chow, C, Vallance, K, Perkin, K, *Evaluation of a Managed Alcohol Program in Vancouver, BC*, 2013

223 Ezard, N, Dolan, K, Baldry, E, Burns, L, Day, C, Hodge, S, Cubitt, T, Loesch, B, & Mackay, T, *Feasibility of a Managed Alcohol Program for Sydney's Homeless*, 2015

224 Source: Department of Health Sobering Up Shelter Monitoring System

Wet houses are a harm reduction measure, so the question is whether these individuals will suffer less harms by remaining homeless or by being provided with shelter, food and the potential for assessment and treatment?

Recommendations:

- 4.4.1 A residential managed alcohol program be trialled in an appropriate location in the Northern Territory.
- 4.4.2 A comprehensive and independent evaluation of the trial be conducted, to measure its effectiveness in reducing alcohol related harms.

4.5 Sobering Up Shelters

The state of acute intoxication renders a person particularly vulnerable to harm. SUSs operate under a philosophy of harm minimisation. Harm minimisation is an approach that aims to reduce the adverse health, social and economic consequences of drug and alcohol use by minimising these harms for the community, the family and the individual, without necessarily eliminating use. While the SUSs operating across the Northern Territory do a good job at reducing the immediate risk of harm for the intoxicated person, in 2016/17 only 3.1 per cent of admissions had a referral to a treatment provider or health service on discharge from the shelter²²⁵. There are a number of possible reasons for this, including that people are free to leave a SUS at any time and may do so without receiving a referral, however it seems likely that this figure identifies a missed opportunity and this is something that should be addressed.

What are Sobering Up Shelters?

SUSs provide non-custodial, short term shelter in a safe and caring environment for intoxicated adults during the sobering up process.

In addition to the immediate reduction of risk of harm to the intoxicated person and their families, admission to a SUS provides an opportunity for brief intervention and referral to ongoing care and treatment.

According to the *Guideline for the Establishment and Operation of a Sobering Up Shelter Service* (the guideline) developed by the DoH, the objectives of the SUS program are to:

- » provide a safe and caring alternative to police custody for persons intoxicated in public places and apprehended under section 128 of the *Police*

225 Source: Department of Health Sobering Up Shelter Monitoring System

- » *Administration Act* (apprehension without arrest)
- » provide a safe and caring environment in which intoxicated persons can sober up
- » help the person access by the person, when sober, to appropriate treatment and/or other services.

Intoxicated people are transferred to the SUS predominately by community patrols or by Police. While there, they are assessed for any serious health risk on intake and regular monitoring during the sobering up process to ensure they are safe from any condition likely to result in harm. Once sober, the guideline states that the Alcohol Use Disorder Identification Test (AUDIT) screening tool is to be completed with every client. This 10 item screening tool was developed by the WHO and is a valid and reliable measure for identifying alcohol abuse problem behaviours²²⁶. Depending on the score received, further information and advice that identifies and reinforces the desirability of low-risk drinking patterns, brief intervention or extended brief intervention is then provided to the client.

According to a publication released by the WHO, brief interventions are 'those practices that aim to identify a real or potential alcohol problem and motivate an individual to do something about it.'²²⁷ For people with a low AUDIT score of between 0 and 7, no intervention is necessary however the opportunity should be used to raise awareness of the risks of alcohol misuse. AUDIT scores between 8 and 15 would generally involve a brief intervention with some simple advice, perhaps with the use of a client education brochure.

When a client receives an AUDIT score between 16 and 19, it is likely they are drinking at harmful levels and are already experiencing physical and mental health difficulties as well as injuries, violence, legal problems, poor work performance or social problems due to frequent intoxication. This is when an intervention using brief counselling is generally appropriate.

Clients with an AUDIT score of 20 or more are likely to require further diagnosis and specialised treatment for alcohol dependence. The message about the seriousness of this should be delivered clearly to the client²²⁸. A brief intervention can be used to motivate the client to accept a referral for a diagnostic evaluation and possible treatment.

In 2016/17, 70 per cent of all admissions to Northern Territory SUS included a form of brief intervention²²⁹.

226 Babor et al, World Health Organization, *The Alcohol Use Disorders Identification Test Guidelines for Use in Primary Care, Second Edition*, 2001

227 Babor et al, World Health Organization, *Brief Intervention For Hazardous and Harmful Drinking, A Manual for Use in Primary Care*, 2001

228 ibid

229 Source: Department of Health Sobering Up Shelter Monitoring System

However, the content of the brief intervention conducted is not captured in the Department of Health's SUS Monitoring System. As previously stated, only a small number of these admissions resulted in a referral to a treatment provider or health service. It is possible that this is because clients did not receive a score of 20 or more on the AUDIT screening test. The SUS Monitoring System does not record the score received so we are unable to validate whether this is the reason.

As part of the funding arrangements, each SUS has entered into a Service Agreement with the DoH. A requirement of the Service Agreement is that the SUS must provide evidence of accreditation with an appropriate national accreditation system approved by the DoH. The existing SUSs in the Northern Territory are accredited under ISO9001:2008, Quality Management System Standard or under the Quality Improvement Council, Health and Community Services Standard. Both apply a similar standard and are based on quality management and continuous improvement.

The panel understands that, following a review of Northern Territory SUS in 2013, individual shelters were assessed and their operating hours and bed numbers amended to reflect demand. Issues identified at that time included: limited coordination with other services; inflexible hours of opening; and low rate of referrals to treatment services. Although we understand that this review was commissioned to assess service effectiveness, the findings have not been published and we are therefore unable to substantiate this information. The same issues were identified as problems during this review.

There are currently five shelters operating in the major urban centres of Darwin, Katherine, Tennant Creek, Alice Springs and Nhulunbuy. SUS bed numbers across the Northern Territory have decreased from a total of 108 beds in 2013/14 to 88 beds in 2016/17. Over the same period, the number of admissions to SUS have also decreased, from 19,777 to 8066, respectively. In 2013/14, the Department of Health calculated the utilisation rates of SUSs to be 63 per cent however this had decreased to 35 per cent in 2016/17. The decrease in bed numbers does not explain the decrease in bed use but it may in part at least be attributed to temporary beat locations, which were introduced in 2012.

The perception throughout consultations was that the low usage rate could also be attributed to inadequate operating hours of the SUSs however this has not been able to be validated. Opening hours differ in each location, and are based on peak demand times. Throughout our consultation we repeatedly heard that there was a need for SUS to increase their capacity to take on clients (by increasing

bed numbers and staff) and increase their hours to meet the demand. Several submissions called for additional resources and funding to support this.

We heard of the need for SUSs to provide more than just a band aid solution to problematic and risky drinking. While the primary objective of a SUS is to provide a safe and caring alternative to police custody, there is also an expectation that referral to treatment will occur. Feedback during consultations shows this is an area that needs to be improved. A suggestion was to make the referral and follow-up of clients linked to funding arrangements. The current Service Agreements contain a number of performance measures that SUS are required to report against, including the number of referrals made to treatment and/or other health and family services however there is no requirement for a particular percentage of admissions to be referred to treatment.

In an attempt to better integrate services, the Northern Territory Government has recently approved a proposal to establish an Integrated Assessment and Treatment Service model in Darwin and Alice Springs. The proposed service model will see the sobering up shelter, specialist assessment and withdrawal service, and residential rehabilitation service co-located. Although the service will be voluntary, the Northern Territory Government anticipates that co-location of the services will streamline the process for clients and enhance client treatment outcomes. This service delivery model must be evaluated and assuming better client outcomes are seen, the model should be implemented in other regions.

The uncertainty of ongoing funding for SUS was also raised during consultation. As discussed in the treatment chapter of this report, a recommendation of the Productivity Commission is that default contract lengths should be increased to seven years, with this period further increased to ten years in remote communities. As detailed in the Productivity Commission's report, this would allow for 'greater market stability' and 'facilitates investment by providers in service quality and gives users more continuity of service.'²³⁰ The panel agrees with this recommendation.

230 Australian Government Productivity Commission, *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services*, June 2017

* Utilisation is calculated by dividing the number of admissions in the full financial year by the number of available bed days, and then expressing this as a percentage.

The number of available bed days is calculated using the number of beds and opening days.

In this calculation a 'day' refers to an overnight opening period. The actual hours of opening vary by shelter and this variation in length is not accounted for in the calculation.

Recommendations:

- 4.5.1 A review of SUS services across the Northern Territory be undertaken to:
- identify geographic areas of need
 - identify if the current beds in each existing SUS are adequate
 - determine the peak demand times for the use of SUS in each geographic area
 - identify the most effective service delivery and funding model for each geographic area
 - determine whether the current AUDIT (or similar) screening tool is being completed with every client and whether it is the most appropriate tool to use
 - examine and address the reasons for the low usage rates.
- 4.5.2 The Sobering Up Shelter Monitoring System be expanded to record the score generated from the use of the AUDIT (or similar) screening tool.
- 4.5.3 Appropriate key performance indicators for SUS operations be established to measure the number of referrals to treatment services based on the score generated from the use of the AUDIT (or similar) screening tool.
- 4.5.4 SUSs be appropriately staffed to enable assessments to be made and advice offered regarding rehabilitation and other treatment services.
- 4.5.5 In relation to a person apprehended under Part V11 Division 4 of the Police Administration Act, Police be required to exhaust all other reasonable alternatives for the person's care and protection before detaining a person at a police station under the protective custody laws, this should be monitored to ensure this is occurring.
- 4.5.6 SUSs should have funding certainty for seven years (ten years in remote communities).

APPENDIX A

The Panel

Mr Trevor Riley QC (Chair) – Mr Riley has practised law in the Northern Territory since 1974. He was a judge with the Supreme Court for 18 years. He was appointed Chief Justice in 2010. Mr Riley retired in 2016 however, continues as an additional judge when required. Mr Riley is currently the Deputy Chair of St John Ambulance Australia (Northern Territory) Inc, a Director of the Menzies School of Health Research, the co-chair of Bilata Indigenous Legal Pathways Program and the Patron of Neighbourhood Watch.

Ms Patricia (Trish) Angus PSM – Ms Angus is a local Aboriginal Territorian, born in Katherine and living in Darwin. Ms Angus has over 25 years of experience in senior public sector positions in the Northern Territory public sector in the areas of health, housing, local government, Aboriginal affairs and community services. Ms Angus retired in May 2012 and has held several statutory appointments since that time and her current appointments include Director CareFlight Board, Director Voyages Indigenous Tourism Board, Director Mutitjulu Foundation, Commissioner Tourism Northern Territory and Member on the Charles Darwin University Vice Chancellor's Indigenous Advisory Committee.

Mr Denys Stedman – Mr Stedman, a Chartered Accountant, has 38 years in public practice in the Northern Territory, most recently (2011) becoming the Partner In Charge at KPMG Northern Territory. Mr Stedman has extensive experience in providing business advisory services to the tourism, hospitality and liquor industries in the Northern Territory and has an extensive knowledge of the Northern Territory business community. Mr Stedman has served on a number of professional and government bodies and voluntary organisations.

Associate Professor Richard Matthews (AM) – Assoc Professor Matthews was a general practitioner for twenty years and developed an interest in drug and alcohol treatment, working for many years in this discipline at St Vincent's Hospital, Sydney and as the Deputy Director-General at New South Wales Health. Assoc Professor Matthews also worked in prison health in New South Wales, serving as Director of Drug and Alcohol, Director of Clinical Services, the Chief Executive of Justice Health New South Wales. In 2011 he was awarded an order of Australia (AM) for services to mental health, drug and alcohol and prison health. Since retiring in 2011 Assoc Professor Matthews has serviced on several boards as well as consulting in health services areas, Assoc Professor Matthews current appointments include National Director of Calvary Healthcare, Director of the Neuroscience Research Institute and a Director of Alzheimer's Australia (New South Wales).

Terms of Reference for Consultation

Introduction

The Northern Territory Government recognises that everyone has the right to enjoy a drink responsibly. However, alcohol abuse is a significant cause of violence, trauma and crime in our community.

The government is addressing alcohol misuse and its effects on individuals, families and communities, with clear policies such as reintroducing the Banned Drinker Register.

A strong whole-of-government alcohol policy and licensing framework supports responsible alcohol consumption and a safer community.

A strong framework supports the prevention and reduction of harm resulting from chronic disease and violence for individuals and families, it supports businesses to operate responsibly in an environment that reduces antisocial behaviour, and supports health, Police and emergency services to deal with the harmful effects of the misuse of alcohol, including alcohol related crime.

The sale, provision, promotion and consumption of liquor are regulated under the *Liquor Act*. The *Liquor Act* has not been reviewed in its entirety since it commenced in 1996. Although various amendments have been made over the years, it is clear that the *Liquor Act* does not meet the needs of today's community.

A comprehensive and evidence based review will lead to contemporary policy and legislation suitable to the needs of our community – right across the Territory.

The Northern Territory Government is implementing a number of reforms that support the immediate and long term health and wellbeing of Territorians - in youth justice and community safety, the long term investment in early childhood development and parenting, housing reform to reduce overcrowding and local decision making for our remote communities.

Alcohol policy and legislative reform will support the government's implementation of each of these key alcohol policy reforms.

The purpose of the review

The overarching objective of the review is to develop an integrated alcohol harm reduction framework, based on the

recommendations of an Expert Advisory panel. The panel will consider broad policy and legislative matters, as well as some key matters, as follows:

Alcohol Policy

1. analyse and assess the Northern Territory's alcohol policies, their implementation and effectiveness
2. consider best practice alcohol policies from other places and how they would translate to the Northern Territory
3. advise the government on the development of an evidence-based alcohol harm reduction framework for the Territory.

Alcohol Legislation

1. consider best practice liquor and related legislation from other places, and how it would translate to the Northern Territory
2. advise the government on reforms that could be considered in relation to the Northern Territory's *Liquor Act*.

Key matters the review will report on:

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

Governance of the review

An independent Expert Advisory panel will be commissioned. The Expert Advisory panel will be led by an eminent person with standing in the sector and specific knowledge of the Northern Territory.

The Expert Advisory panel will comprise local and interstate experts in the fields of addiction, alcohol-related harm, regulation and policing, the liquor industry, Indigenous knowledge and social welfare policy.

The Expert Advisory panel will report to the Minister for Health and Attorney-General, following the public consultation process, with recommendations for the development of an alcohol harm reduction framework, including advice on the key matters and considerations for legislative reforms.

APPENDIX B

Issues paper

To inform a community-wide discussion and to provide guidance for those wishing to provide feedback and input into the review, the government will release an issues paper. The paper will include data on alcohol usage, and will outline a range of health, social, community, commercial and economic issues associated with the supply, purchase and consumption of alcohol in the Northern Territory.

The issues paper will include information on the nature and scale of the alcohol-related harms arising from misuse of alcohol that need to be addressed.

The issues paper will also pose questions to seek input from the public on ideas, concepts and types of measures that could be adopted to minimise alcohol-related harm in our community and promote responsible drinking.

Consultation on the review

Broad public consultation will be undertaken as part of the review, with multiple avenues for interested people and groups to put forward their views:

- » community forums in the major centres and major remote communities
- » meetings with key stakeholders
- » meetings with other groups, by arrangement
- » through a dedicated website
- » written submissions.

All submissions, unless specifically requested otherwise by the author, will be published on the website with the author identified.

Timing of the review

The review will commence in April 2017 with release of the final Terms of Reference. Public consultation will occur following the appointment of the independent Expert Advisory panel and the release of the government's issues paper. Various community forums will be held through to the end of July 2017. The dates for these forums will be published on a dedicated website and through the local media. The Expert Advisory panel will provide a report with recommendations to government by the end of September 2017.

The government will form a response to the recommendations for the development of the framework, including on the key matters and consideration of legislative reform. This response will be released publicly along with the Expert Advisory panel's final report.

Key Themes from the 'Have Your Say' Survey

1. What are your thoughts on the current approaches in reducing the supply of alcohol?

- » Effectiveness of the BDR
- » Reduction of the number of outlets to ensure effective policing
- » Size of store has no relevance in reducing supply of alcohol
- » Reducing supply increases prices
- » Restricting sales to everyone is not right, responsible drinkers are affected because of those with problems
- » Only general public supply reduction will be effective
- » Best approach is education and harm minimisation
- » Banning of Dan Murphy's is overkill given location and high security policies would have been unattractive to problem drinkers
- » Not working –misuse of alcohol, littering and poor behaviour continues
- » Control of Centrelink payments e.g. 90 per cent of benefits managed
- » Police presence at alcohol shops
- » Allow Aboriginal people their own clubs on country and let them manage them
- » Introduce stronger taxes on alcohol content and volume
- » Police standing at the front of bottle shops is a waste of resources, empower individuals e.g. Safety Officers
- » Very little repercussion against suppliers of alcohol, should be held accountable for the harm
- » Major problem with the enforcement of the Responsible Service of Alcohol in licensed establishments
- » Bulk buying of cask flagons should be permanently banned
- » Support for the Point of Sale presence in Katherine
- » Look to Nhulunbuy approaches as best-practice
- » Leads to alcohol being sought from areas a distance away
- » Leads to binge-drinking and poor health outcomes in areas with prohibition restrictions

2. What are your thoughts on the current approaches in reducing the demand of alcohol?

- » Not targeting the problem as problem drinkers are not dealt with
- » Not having an effect due to the ongoing chronic problems
- » Education should start early and be a long term strategy
- » A well run 400sqm outlet which ensures customers are

well-behaved and refuses service where required is far more likely to have an impact on demand

- » Taxes should be fed into alcohol addiction programs and temporary housing to support addicts during treatment - they will not get healthy without support
- » Advertising on the harms of alcohol consumption and price per volume should be reviewed
- » Focus on the groups that are excessively using/buying alcohol
- » Strategies put in place that make Territorians aware that it is not socially acceptable to consume alcohol in excessive amounts
- » Community awareness campaigns with advertising highlighting the impacts of alcohol should be introduced
- » Itinerant drinkers have little concern for price, so a floor price will be ineffective
- » It's not about reducing demand, it's about stopping problem drinkers accessing alcohol
- » Ban all alcohol advertising
- » Change attitudes towards binge-drinking
- » Reduce the demand by reducing the number of licences
- » Restrict trading hours for pubs and clubs
- » Deters the everyday drinker, not people with alcohol dependency
- » More funding for Police is required
- » More accountability on the part of those who own licences for alcohol sale and distribution
- » Too much is poured into the reactive space and not enough into the preventative space
- » Shelters and rehabs should be more strict and rehabilitation needs to be thought out to the end
- » Prohibition and restriction don't work as there is always another door to open
- » Formation of clubs or alternative safe drinking places need to be established
- » Most social gatherings centre-around alcohol - there needs to be cultural change programs implemented to promote 'no drinking is fun' and incentives for events that don't sell alcohol
- » Make the licensee pay for security - not from the public purse
- » Having Police Officers standing in front of outlets is a total waste of public money - create a new position for getting rid of publicly drunk people

3. What are your thoughts on the current approaches in the reducing harms of alcohol?

- » None have worked, alcohol harms are worsening over every age group
- » The BDR is the best method for ensuring alcohol related harm is reduced
- » Advertising and educational campaigns encouraging

APPENDIX C

those at risk to talk to people and encouraging families to discuss alcohol misuse and the knock on effects

- » More education for young people and to deter 'right-of-passage' drinking in young men
- » More accountability on the part of community organisations who receive funding to provide education intervention and support
- » Not effective – improve housing, improve employment opportunities, reduce overcrowding and raise standards of living
- » A more solid educational input is required and we need to work hard to reduce the culture of drinking with particular emphasis on binge-drinking
- » Responsibilities need to be placed back on parents and communities to stop drinking
- » The cars that go out each evening to speak with long grassers is an excellent idea and allow Police to focus on more serious crime
- » More night patrols on Mitchell Street are required
- » More funding for Police – the sheer number of alcohol related calls is overwhelming
- » Domestic and family violence is on the rise and requires more advertising highlighting the trauma of alcohol-related violence
- » Drink driving laws have insufficient penalties - harsher penalties are required for high range DUI offences and for violent crimes committed under the influence of alcohol
- » People charged with alcohol-related assault should be banned from all licensed venues and take-away shops for long times
- » Those gaining profits from sales need to take more responsibility for paying for harm
- » Those sentenced for crime whilst drunk or trying to obtain alcohol require education treatment programs as they do not exist for short sentences and during remand - treatment needs to be made part of release conditions
- » On-selling of alcohol to problem drinkers is not being controlled – without control there is zero chance for reducing harm
- » Campaigns to help people find healthy alternatives to cope with life's difficulties would be beneficial
- » Efforts need to be on prevention and community services that support people identified as having an issue with alcohol
- » Remove any areas that allow open containers or consuming in open areas
- » Remove all Council By-Laws ensuring all events are dry
- » Known offenders need to be denied the right to drink – 3 strikes and you are out
- » Need a consistent and well supported approach from top down - currently too many agencies that do good work being forced to beg for ongoing funding
- » Ban cask wine sales

- » Limit trading hours for pubs and clubs
- » Minimise outlets

4. What strategies could be taken to promote cultural change in relation to drinking behaviours?

- » Education in schools
- » Better researched advertising campaigns with a focus towards young teenagers/tweens
- » Focus on the young male demographic where risky behaviour is prominent
- » Education from Elders and sports role-models
- » Emphasize in education and social media messaging that it's 'not cool to be drunk'
- » Demonstrate through education the very sad outcome of the over consumption of alcohol
- » Restrict advertising of alcohol
- » Do not allow advertising at sporting events and stop sports sponsorship by alcohol brands
- » Re-establish temperance training in primary schools
- » Introduce motivational speakers for high schools - people who have been seriously injured or disfigured as a result of bad decisions made when affected by alcohol
- » Introduce licensed clubs or wet canteens into communities with light or mid-strength beer served for set periods on a ration system and return itinerants to their homelands
- » Give grants and funding incentives to organisations that have events with non-alcoholic activities
- » government needs to lead the way and not give public money to organisations that promote alcohol
- » More advertising and promotion of non-alcoholic events and non-drinking activities
- » We have had success in changing the drink driving culture, extend this to progress to a wider drinking culture
- » Naming and shaming regardless of race, culture and religion – make people accountable for their actions
- » Recognise alcohol as a sickness and not a crime - offer treatment programs that are easily accessible
- » Have Elders run alcohol rehabilitation programs in communities
- » Reintroduce the Living with Alcohol Hypothecated Tax
- » Stop the government bowing to the alcohol industry in return for funding
- » Bar tenders needs to take a more strict approach to the serving of alcohol to patrons
- » Cancellation of licences of those who knowingly supply problem drinkers or customers affected by alcohol
- » Establishment of lock out times in the CBD and reintroduce a 'night-watch' programme

5. What strategies have been effective in reducing alcohol fuelled crime and anti-social behaviour?

- » Reintroduction of the BDR
- » More Police in public areas
- » Reducing the availability of alcohol at public events
- » Enforcement of existing laws about not serving drunk people
- » The 'return to home' for families living on the streets
- » Better wrap around services for assisting people with homelessness, alcohol and drug use, poor mental health and other health issues
- » Increasing the price per volume of alcohol
- » Limiting the volume of products able to be purchased per customer
- » Permit systems and POSIS – however not the role of Police to enforce
- » Zero tolerance, jail, education in jail
- » Integrating the traditional owners to help with decisions about their people
- » Reduce the number of take-away outlets and reduce trading hours
- » Staff at outlets need to be better monitored to stope serving intoxicated people – better enforcement of the RSA
- » Police at liquor outlets is effective however an expensive strategy
- » Tougher sentences for violent acts
- » Need to acknowledge addiction and the influence of trauma on subsequent behaviours – evidence-based practice
- » One punch campaign
- » Tax alcohol on alcohol content of drink
- » Focus on the actions of the problem demographic - young men aged 17 to 24 years
- » Make people who commit anti-social acts and crimes and who use alcohol consumption as an excuse accountable for their actions
- » Reduced trading hours
- » Living with alcohol program
- » The intervention where alcohol was banned to a significant number of communities and there was a significant police presence
- » Supporting long grassers back to community
- » Increased number of sobering up shelters
- » Encouragement of people to leave events before they start acting inappropriately
- » Larrakia Nation
- » Well supported youth services and social clubs in communities
- » The early lock out laws in Sydney
- » Whenever crime is committed by someone affected by alcohol, the seller of that alcohol should also face prosecution, moving the problem to the industry to solve it

6. What are your thoughts on the current service provision and management in remote Aboriginal communities?

- » Dry communities
- » Must be owned by the community and driven by the Elders
- » Prohibition equals loss of control and all the undesirable aspects of over indulgence in alcohol come into play
- » Where the majority of residents agree, a tightly controlled 'club bar' should be available
- » Investigation into the practicality of serving mid-strength beer with limits per person
- » Communities that have social clubs, which allow drinking to a restricted level and provide role modelling of safe drinking help to set and promote good societal standards around alcohol
- » Education is the key i.e. Nhulunbuy
- » government needs to work with residents residing in communities and town camps, to create a successful action plan concerning the service provision and management of alcohol
- » Whilst you restrict alcohol within or near Indigenous communities you actually increase harm i.e. travel longer distances, on poor roads, in over-crowded cars, often in poor conditions
- » Specific measures already in place aimed at restricting supply should be monitored and refined to further improve their effectiveness in conjunction with Aboriginal leaders
- » Better treatment programs are needed in the communities
- » Take advice from Aboriginal people who have been informed and understand the evidence about alcohol consumption, taxing and costs, together with the social consequences of drinking
- » People who drink alcohol and then are violent towards women and children should be dealt with – with harsher penalties than what currently exist
- » Intervention has simply driven the alcoholics from the communities to the regional centres – it has had no effect on reducing alcoholism or alcohol-fuelled violence, and has the added effect of separating those most in need from their communities
- » A place where the problem drinkers can go to drink – a place with phone access and water, close to their communities
- » There is a thriving black market with communities paying increased prices in order to get alcohol
- » Permit systems allow for some control due to proper controls and management e.g. Maningrida
- » The Basics Card should not be allowed to buy alcohol
- » Decisions on how much alcohol is allowed should be based on harm reduction rather than an individual's right to drink

APPENDIX C

7. What are your thoughts on the current approaches to create safe and vibrant entertainment precincts?

- » Enforce the Responsible Service of Alcohol (RSA) – there are lots of breaches of RSA which ultimately lead to alcohol fuelled incidents
- » Needs more to be done – current precincts are not safe
- » If alcohol is allowed to be freely consumed, you can't have safe entertainment precincts
- » More alcohol free community events
- » If a precinct is government funded, it should be alcohol free
- » Outlets need to fund safety in the precinct but not be the controlling authority
- » Extra transport services (free) to get people home reduces the amount of intoxicated people accumulating in the street
- » More police controls and better screening and training of bouncer staff
- » We need to get away from the mentality that we need to drink to have a good time
- » A focus on food and live entertainment rather than pubs and clubs should be employed
- » Reduce opening hours and restrict trading for one day
- » Current policing and security (cameras etc.) seem to work well to stamp out anti-social behaviour
- » Needs to deal with the displacement of people who are dealing with either alcohol dependency, homelessness etc.
- » More lighting and a focus on getting people home before they create trouble
- » Tougher laws on crime are needed, especially with repeat offenders
- » It can be threatening in entertainment areas to see large crowds of intoxicated people – patrons and businesses do not want this when they are relaxing or working
- » Pubs and clubs should be last call at midnight and closed by 1am on Sundays to Thursdays – on a work night people don't need to be out to all hours
- » Creating a city that is culturally and artistically diverse and vibrant will establish a greater sense of community and a social scene that is focused on art and culture rather than alcohol
- » Not going to work until the itinerant problem is solved – Darwin faces drunken itinerants hassling visitors and tax payers alike – the problem has worsened over the past 10 years
- » The 'Newcastle' controls should be investigated and introduced where the results indicate a positive outcome
- » Lock out – one strike rule – if you create trouble then you are banned from coming back to the venue

- » Declaring and encouraging special entertainment precincts allows public resources to be concentrated and effective, less late night noise and disruptions to suburban residential areas
- » Mitchell Street is a disaster zone with government unwilling to effectively police existing laws for fear of upsetting industry lobby groups
- » More responsibility should be placed on the individual if they choose to flaunt or transgress

8. How should decision relating to liquor licences be made and by whom?

- » Not by local politicians, too many conflicts of interest
- » Consultation between government, Police and Emergency Services
- » By government, in the best interests of the community – the person involved in granting the licence should not have a personal investment within the liquor industry
- » In consultation with all potential stakeholders and people who reside in the area
- » By restricting the number of drinking establishments thus the amount of available liquor licences
- » Penalize those establishments who contribute to the sale of alcohol to persons intoxicated, under age or on the BDR – make those licences available for new applicants
- » They should not be made by people within a town that have a financial vested interest in the licence
- » More responsibly and with honesty – the Dan Murphy's fiasco has a total lack of transparency
- » By an Independent panel who have no bias and are not being paid by other licence holders, nor affiliated with Licensing or government
- » By the government with input from business communities, health providers and Police
- » By an Independent Arbitrator
- » By an Independent Liquor Commissioner advised and assisted by an Expert panel and independent of government – remove possibility for corruption
- » Greater consultation given to those people who see the effects and have to deal with end result of alcohol affected people – Police, Doctors, Nurses, Paramedics, Domestic Violence Workers
- » It should be advertised and the community given response opportunity before awarding a licence
- » Licensing Commission in conjunction with regional councils for Aboriginals and remote communities
- » By a panel incorporating community members – decisions made in the interest of developing Darwin, community need, proximity to other outlets and inherent risks
- » In remote and regional communities by equal representation of Police, Health, Corrections, Community (and if possible) strong traditional Elders who are not heavy alcohol consumers

- » Drawn like a court – a panel of 10 men and women from the general public and from the area of the proposed licence – outcome is final and licensing department documents findings

9. How should density of liquor licences be considered when deciding a liquor licence application?

- » For licensing of restaurants, a specific hospitality industry zone
- » If the premises is in the CBD, there should be no question of density, so long as no take-away liquor is to be sold
- » For take-away premises, there should be restrictions on how many outlets can be run per area – there should be both a community need requirement and specific geographic separation of outlets
- » Highly significant and must be in proportion to the population
- » Bigger, more regulated alcohol purchase points as small licence holders increase alcohol issues
- » It should be considered as an over-supply of outlets will lead to price-cutting to attract business
- » Consider the size of the township and compare population, hours of operation and how they apply the Responsible Service of Alcohol
- » Density needs to be drastically reduced – reduced supply leads to reduced demand, if accompanied by a change in culture
- » Alcohol related crime and health issues need to be taken into account given their effect on the wider community
- » In conjunction with the Police attendance rate or other anti-social behaviour indicators in the area e.g. Mitchell Street does not need another pub
- » Density should be decided as a policy issue, not on a case by case basis
- » Consideration of buy-backs together with competition between sellers – fairness for small providers
- » Promotional gimmicks should not be allowed – e.g. two for one deals; happy hours etc.
- » Remove (long-term or permanently) licences for lack of effective supervision and prevention of trouble
- » Each application should be considered on its merits, with the onus on the applicant to demonstrate 'community need or benefit'
- » Common sense approach with a Board of public and professional people with each licence reviewed independently
- » By location considering road safety and access together with the demographics of the area

10. Should the Territory permit new big box or warehouse style take-away liquor outlets?

- » No, there are too many bottle shops – availability of liquor is part of the problem
- » No, as it goes against the Territory's alcohol supply reduction incentive as it will increase the supply of alcohol in the community
- » Yes, as they will self-regulate
- » Yes, as they bring variety and are the domain of discerning buyers, not problem drinkers
- » Yes, control where and patrol them
- » Yes, impose requirements to have the BDR terminals installed and monitored
- » Yes, people are still going to get liquor regardless of size
- » Yes, the larger size does not make someone buy more liquor because the shop is bigger
- » Yes, if they can show they are contributing to responsible alcohol consumption, the costs of alcohol harm and illness and supporting anti-alcohol measures
- » Yes, competition in the market place is always beneficial and will reduce outlets in the long-term
- » Yes, government intervention has reduced innovation, competitiveness and variety able to be supplied to the market
- » Only if they pay taxes to support the impact their products have - alcohol should be taxed by alcohol contact and the volume
- » Only in appropriate locations and where there is not already a good range of outlets

11. What other strategies could be considered?

- » Education programs coordinated through health, education and the Police
- » Education programs aimed at teaching pregnant women not to drink
- » Cut the links between the liquor industry and politicians – don't allow political donations by the liquor industry
- » Start focusing on changing the drinking culture
- » Maintaining the implementation of the BDR
- » As with cigarettes, limit the opportunity for alcohol promotions and ban TV adverts
- » Ban alcohol company sponsorship at sporting and family events
- » Manufacture alcohol in 'plain packaging'
- » Zero tolerance of current behaviours – no alcohol and driving and no alcohol in public
- » Increased alcohol and drug awareness programs on TV, in hotels/clubs and schools incorporating graphic images
- » More frequent review of licensing and permits to ensure pubs, clubs and alcohol sales points are complying with their requirements

APPENDIX C

- » Consideration towards loss of licence for rogue retailers who make a mockery of the Responsible Service of Alcohol
- » Introduction of officers such as the Housing Safety Officers, with a sole focus of stopping illegal drinking on our streets
- » review of the mini-supermarkets and the role they play in alcohol abuse
- » Locations of take away liquor outlets removed from supermarkets and major shopping centres and located in particular designated areas
- » Target the problem drinkers with technology tracking of repeat offenders and increase punishments for those who commit violent crimes
- » Increase funding for government funded detoxification centres and make them a requirement for attendance for people who are charged with alcohol offences
- » Make it illegal to be intoxicated in public
- » Make public transport safer
- » Increase Police presence to man bottle shops in trouble areas
- » Make it less profitable for companies who sell alcohol and make them accountable for the damage it does
- » Provide more community and family friendly areas and promote health and fitness
- » Return to the Living with Alcohol Program
- » Implementation of only food and necessities to be purchased with the Basic Card
- » Treatment for people who self-identify their problems prior to getting into trouble
- » Limit the amount of alcohol that can be purchased in a day
- » Introduction of floor prices as a control measure especially on high volume cask wine
- » Improve consultation with industry and community groups
- » Increase restrictions on alcohol to reduce dangerous consumption on alcohol
- » Develop a long-term plan change to societies' attitude to alcohol
- » Ensure the Responsible Service of Alcohol is applied and if not then harsher penalties introduced
- » Remove itinerants and drunks from public spaces through increased policing and community patrols
- » Provide numerous shelters/safe places with amenities in Darwin, Katherine, Tennant Creek and Alice Springs, so people living informally can get dry/warm/cool and clean

History of other Northern Territory alcohol reviews, reports and initiatives

- | | |
|--|--|
| <p>1978 Northern Territory <i>Liquor Act</i> enacted</p> <p>1991 Interim report - Use and Abuse of Alcohol by the Community –from the Northern Territory legislative Assembly Sessional Committee on Use and Abuse of Alcohol by the Community</p> <p>1992 Living with Alcohol Program – a comprehensive public health based program aimed at reducing alcohol consumption and alcohol related harms</p> <p>1995 Inquiry into public drunkenness in Central Australia – Northern Territory Legislative Assembly Sessional Committee on Use and Abuse of Alcohol by the Community</p> <p>2003 Interim report – Issues of Alcohol Abuse, Cannabis Use and Inhalant Abuse – Northern Territory Legislative Assembly Select Committee on Substance Abuse in the Community</p> <p>2004 Northern Territory Alcohol Framework – intended to provide a broad structure for government, individual agencies, community interests, licensees and other industry participants to work together to regulate the use of alcohol in the Northern Territory, and to minimise alcohol-related harm</p> <p>2005 Substance Abuse in Remote Communities: Confronting the Confusion and Disconnection – Northern Territory Legislative Assembly Select Committee on Substance Abuse in the Community</p> <p>2006 <i>Alcohol Court Act</i> NT</p> <p>2006 Alcohol Management Plans endorsed by the Northern Territory Government</p> <p>2006 Temporary moratorium on issue of takeaway licences in the Northern Territory declared</p> <p>2007 <i>Northern Territory Emergency Response Act</i> (Commonwealth)</p> <p>2011 Enough is Enough Alcohol Reform Package – primary focus was on tackling problem drinking arising from the sale and consumption of takeaway alcohol</p> | <p>2012 <i>Stronger Futures in the Northern Territory Act</i> (repealing the Northern Territory Emergency Response Act)</p> <p>2013 Alcohol Protection Orders Bill</p> <p>2013 <i>Alcohol Mandatory Treatment Act</i></p> <p>2015 Final Report – The Preventable Disability – Northern Territory Legislative Assembly Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder</p> <p>2015 Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities: Alcohol, hurting people and harming communities – House of Representatives Committee on Indigenous Affairs (Commonwealth)</p> <p>2015 review of the <i>Stronger Futures in the Northern Territory Act</i></p> |
|--|--|

Review of Liquor Permit Schemes Under the NT Liquor Act: Final Report Recommendations

1. All communities in GRAs that provide for liquor permits, including communities with exemption-type liquor permit schemes, should be encouraged to form and maintain liquor permit committees, with responsibility for accepting applications for liquor permits in the community, and for making recommendations to Licensing NT regarding granting, revoking, modifying, suspending and/or revoking permits, and for liaising between Licensing NT, local police and the community on matters relating to liquor permits in the community.
2. Permit committees should include senior members of major clan and family groups, as well as local police, health, regional councils, and other agencies a community might wish to include.
3. Except where the number of liquor permits in a community is small (say, less than 10 individuals), liquor permit committees require administrative support from Licensing NT, or another NT government agency authorized by Licensing NT. Liquor permit committees cannot be expected to discharge their roles – and, in practical terms, are unlikely to do so – in the absence of adequate administrative support.
4. Liquor permit committees should not be imposed on communities, or created through any kind of coercion. This is not just a matter of moral principle, but a recognition of the limits of governmental power. If a community lacks either the will or capacity to maintain a liquor permit committee (whose members are volunteers), there is little an agency such as Licensing NT can do about it. Our inquiry has shown that, while most communities with permit-based alcohol management systems have functioning liquor permit committees, this is not true at the present time of any communities with exemption-type permit schemes. From an administrative and policy point of view, therefore, the question of how Licensing NT should proceed in the case of a community that already has, or wishes to introduce, a liquor permit scheme but demonstrates neither the will nor capacity to operate a liquor permit committee, must be addressed.
5. In communities where the *de facto* function of a liquor

permit scheme is to enable non-local employees in a community to bring liquor into what is otherwise a dry community, there are no grounds for insisting that the community maintains a liquor permit committee, although if it chooses to do so, the decision and the committee should be supported by Licensing NT. On the other hand, if a substantial proportion of community members have or want liquor permits, then the community should be prepared to take some responsibility for deciding who gets what sort of permits; responsibility should not be left solely to police, for whom liquor permits are not core business. Any definition of 'substantial' in this context is to some extent arbitrary, but the following guidelines are recommended, at least for trial:

- Small community (population ≤ 300) if 20 or more community members apply for permits, then some mechanism for community input is required
- Larger communities (pop > 300) if 50 or more community members, then some mechanism for community input is required.

The only consideration here should be numbers of community members, not non-community employee residents.

While a designated liquor permit committee is one mechanism for ensuring community input, it need not be the only mechanism, and Licensing NT should be willing to be flexible in heeding community wishes and capacity. The key point is that some body or persons must be designated as speaking on behalf of the community, and willing to do so.

6. Practically speaking, in the absence of a functioning liquor permit committee, recommendations about permits and local administrative tasks associated with liquor permits become the responsibility of local police who, as this review has shown, operate without legislative or other guidelines or additional support.
7. It is in the interests of all parties - NT Police involved in making recommendations about permits, applicants themselves and the community concerned - that guidelines be prepared setting out 'ground rules' governing police responses to liquor permit applications. We recommend that these guidelines contain the following provisions:
 - a) All applications for liquor permits – provided that the applicant is in principle eligible and fills out the appropriate form – must be forwarded to the DGL, irrespective of any police and/or community recommendations regarding the application.

- b) All decisions by the DGL or her/his delegate in response to a liquor permit application must be conveyed to the applicant. (This is in fact required under section 92(2) of the *Liquor Act*, although evidence presented to us indicates that this does not always occur.)
 - c) In the case of an applicant who has been found guilty of an alcohol-related offence within two years or less of making an application for a liquor permit, the police officer may at his or her discretion recommend against granting the application. (The intention here is that a police officer may not recommend against granting a permit application, but should he or she choose to do so, the fact that an alcohol-related offence has been committed within the two-year period constitutes, in itself, sufficient grounds for such a recommendation.)
 - d) Committal of an alcohol-related or other offence more than two years prior to an application for a liquor permit being lodged, or committal of a non-alcohol related offence at any time, does not, in itself, constitute grounds for denying the applicant a liquor permit.
 - e) A police officer may, at his or her discretion, recommend against granting a liquor permit if he or she believes the applicant is not a fit and proper person to hold a liquor permit.
 - f) In all cases where a police officer recommends against granting a permit, the applicant is entitled to be given the reasons for the recommendation in writing.
8. The issue of whether or under what circumstances a liquor permit holder may supply liquor to a guest in his or her home needs to be clarified, as it is currently a cause of some confusion. Further, the wording in the official liquor permit application form does not conform with section 88 of the *Liquor Act*. According to the *Liquor Act*, a permit holder may supply liquor to a guest who 'does not reside in the general restricted area to which the permit relates'. By implication, a permit holder may *not* supply liquor to a guest who *does* live in the same GRA, unless that guest has a permit in her or his own right. However, Clause (e) in the 'Permit criteria' section of the general liquor permit application (that is, for all communities except Groote Eylandt, Gove Peninsula and Maningrida) requires only that a permit holder refrain from supplying liquor to a person 'who is not a permit holder or who is not an invited guest of the permit holder'. The logical implication – and the interpretation used by local police in at least one community – is that a permit holder may supply liquor to another resident of the community who is not a permit holder, provided that the latter is an 'invited guest' of the permit holder. Given that the objective of section 88 of the *Liquor Act* is presumably to make it illegal to supply liquor to non-permit holders living in the same community as the permit holder, the narrower interpretation – i.e. the one in the *Liquor Act* at present – should be retained, and the wording in the permit application form amended accordingly.
- 9. Liquor permits should be issued for three years, unless the circumstances clearly warrant a shorter period, such as a limited period contract to work in a community. At present, long term permits under both the Groote Eylandt and Gove Peninsula liquor permit schemes are issued for a period of three years, but in all other communities – so far as we are aware – they are issued for 12 months only. Moreover, all permits have to be renewed at a specific time each year rather than 12 months from being granted. These processes generate considerable paperwork and computer checks for police. We see no good reason to require annual renewal of liquor permits.
 - 10. Should a permit holder move away from a community within the three year period, his or her permit would no longer be valid.
- Additional recommendations for communities with permit-based alcohol management schemes**
- 11. Graduated liquor permit entitlement schemes should have no more than three steps. This is so (a) in order to minimise administrative requirements, while (b) allowing LPCs a degree of discretion in regulating purchasing entitlements. It should be recognised that all but the smallest purchasing entitlements are well in excess of consumption guidelines for minimising alcohol-related harms, and are therefore unsupported by evidence that they promote low-risk consumption.
 - 12. Criteria for defining admissible evidence, and excluding inadmissible evidence in LPC deliberations should be clearly specified.
 - 13. At present, one of the grounds for defining a 'major breach' of a liquor permit is where a person 'assaults any person or is involved in alcohol-related domestic or family violence'. We recommend – as has already been done in a number of specific instances – that the phrase 'in the commission of' be inserted after 'involved in' in order to distinguish assailants from victims of domestic violence.

APPENDIX E

14. In light of the removal of the LPC's power to initiate a prompt and simple temporary revocation process, consideration should be given to empowering LPCs to temporarily suspend a permit, pending the revocation process taking place, and providing that the LPC has before it clear evidence of a breach, and clear evidence that the permit-holder's behaviour is causing harm.
15. In overseeing community-based LPCs, and in exercising its formal decision-making and regulatory roles, Licensing NT should be mindful of the danger of stifling the capacity of LPCs to act as agencies of genuine community input and action.

Managing Alcohol Consumption – A review on Licensed Clubs in Remote Indigenous Communities in the NT, Bowchung Report , 2015

Recommendations:

The research has generated the following recommendations:

1. Shortened hours and a ban on selling full-strength beer should be maintained at existing clubs, and should be a feature of any proposed new clubs.
 2. All clubs should consider moving to incorporation under the Corporations (Aboriginal and Torres Strait Islander) Act, 2006 legislation to encourage good governance and the transparent distribution of profits. Immediate steps need to be taken to resolve the legal issues around the distribution of profits to club members and communities.
 3. If the number of clubs is increased the NT Department of Business or some other appropriate governmental agency should create a unit that focuses exclusively on licensed clubs in remote Indigenous communities. This unit would have responsibility for pro-actively working with the community to ensure that the clubs function responsibly.
 4. If a decision to establish a club is made the following checklist should be followed in creating standards for the design, construction and management of it:
 - a) Plans for such a licensed facility should include a range of hot meals as well as entertainment and activity – not just the consumption of alcohol.
 - b) The design of such a facility should demonstrate it will have a kitchen and dining area, as well as a bar area, and should be spacious and able to accommodate small groups of people who may wish to drink separately.
 - c) The design also needs to demonstrate that alcohol will be stored in a highly secure manner that mitigates the risk of being stolen.
- d) The club should be incorporated through a legal vehicle which sets a high standard of governance.
 - e) The club committee has access to professional advice over the recruitment and supervision of a manager, and is fully aware of its responsibilities.
 - f) That governance training is provided to club committee members and regularly updated. Training on committee requirements under the NT *Liquor Act* needs to be included in this training.
 - g) That as part of the capacity building of the club committee, members learn more about alcohol related matters affecting their community. This could include arranging for the local health service to provide quarterly reports on the level of alcohol related presentations in their community.
 - h) The club management should commit to a transparent process for the return and use of profit to their community, and that procedures be established for the fair and equitable distribution of benefits to appropriate groups in the community.
 - i) The club committee should agree that the club venture be evaluated after the first two years, and commit funds to undertake the evaluation.

APPENDIX G

Comparison of Jurisdictional Fee Structures

Application Fees

Jurisdiction	Fee type	Fee Charge	Comments	
Victoria	New Licence (various categories)	\$461.00	There are a variety of additional application fees applied which have not been covered in this comparison	
	BYO permit	\$247.90		
	Major event	\$947.10		
	Modify a licence	\$207.90		
	Restaurant	\$238.00		
South Australia	New and variations to licences	\$539.00		
Queensland	Commercial hotel	\$6,490.00	There are a variety of additional application fees applied which have not been covered in this comparison	
	Community Club	\$2,857.00		
	Nightclub	\$1,297.00		
	Commercial public event	\$648.40 (1day) \$65.40 (each additional day)		
	Transfer, variations etc	\$86.00 – \$975		Changes include temporary changes to areas, building changes, relocations, transfers etc.
New South Wales	Club	\$500.00	(restaurant, accommodation, cinema etc)	
	Hotel	\$2,500		
	On-premises	\$700.00		
	Packaged liquor	\$2,000.00		
	Small bar	\$350.00		Extended trading hours application fee \$1,600.00
	Producer/wholesaler	\$700		
ACT	Club off and on licence	\$2262.00	Retail value stated in permit range from \$2,000 or less to \$3,000,001 or more Retail value \$2,070 or less / retail value \$2,071 or more	
	General licence	\$2,787.00		
	Special licence	\$3,399.00		
	Commercial liquor permit	\$118 – \$20,383.00		
	Non-commercial liquor permit	\$47.00 / \$165.00		
	Transfer	\$1,699.00		
	Amend	\$165.00		
Floor plan amendment	\$246.00			
Western Australia	Hotel, hotel restricted, tavern, small bar, casino liquor licence, nightclub, special facility or liquor store	\$3454.00	The fee structure is extremely complex and an analysis of Western Australia <i>Liquor Act</i> and examination of all categories is required to provide more accurate information. It appears that it works with add-on elements that the applicant is seeking to operate (including increase in hours, patron capacity etc).	
	Club, club restricted, restaurant, producer's or wholesalers	\$886.00		
Tasmania	General (on, off club licence)	\$1,240.00	Sale of Tasmania wine at winery or cellar door / vineyard only	
	Restaurant	\$620.00		
	Special	\$620.00		
	Special (wine)	\$310.00 / \$155.00		
Northern Territory	All licence types	\$200	No other fees are charged for other authorisations or transfer approvals	

Annual Renewal Fees

Jurisdiction	Fee type	Fee Charge			Comments
		Base Fee	Operating Hours risk fee	Compliance history risk fee	
Victoria	Late night (general and on-premises)	\$967.10	\$3,868.30 (before 3am) \$7,736.40 (past 3am)	\$3,868.30 (1-2 breaches) \$7,736.40 (3 or more breaches)	
	General on-premises	\$967.10	\$1934.10 (trade past 11pm)	Applies across all licence types	
	Restaurant, café	\$238.00	n/a		
	Full Club	\$967.10 (with gaming) \$475.90 (without gaming)	n/a		
	Packaged liquor (late night)	\$1934.10	\$5802.30		If authorised to trade during non-standard hours
	Pre-retail	\$967.00	n/a		
South Australia	Hotels, entertainment venues, small venues, special circumstances	\$111.00 (200 capacity)	\$771 (close by 200 capacity)	n/a	Additional fees charged for venues that close after 4am. Failure to make payment within 28 days of licence being granted will automatically result in licence being suspended.
		\$771.00 (over 200 capacity)	\$1,543.00 (close by 4am - 200-400 capacity)		
			\$2,754.00 (close by 4am - over 400 capacity)		
	Residential, restaurant, producers	\$111.00 (close by 2am - 200 capacity)	\$1,543 (close by 4am - over 200 capacity)	n/a	
		\$771.00 (close after 2am - over 200 capacity)			
	Club	\$111.00 (up to 1000 capacity)	\$771.00 (close by 4am - 1000 capacity)	n/a	
\$771.00 (over 1000 capacity)		\$2,754.00 (close by 4am - over 1000 capacity)			
	Direct sales, retail liquor, wholesale liquor merchant	\$771.00	n/a	n/a	
Queensland	Commercial hotel	\$3,507.00	Various fees apply depending on the day of operation and operation hours.	\$6,300.00 fine paid within licence period)	
	Community Club	\$648.40 (< 2000 members)			
			\$2,857.00 (> 2000 members)	Fees range from \$487.70 to \$12,990.00	\$12,600.00 (disciplinary action and no appeal)
	Nightclub	\$3,507.00		\$25,190.00 (convicted of supply offence and offence contributed to serious assault or death of a person on or near premises)	

APPENDIX G

Jurisdiction	Fee type	Fee Charge			Comments
		Base Fee	Operating Hours risk fee	Compliance history risk fee	
New South Wales	Club	\$520.00	\$2,500.00 – Venues authorised to trade up to 1:30am	\$3,000.00 – one offence in previous calendar year	New South Wales also impose a patron capacity risk loading free ranging from \$1,000.00 (60 patrons or less) to \$8,000.00 (301+ patrons)
	Hotel (full licence)	\$520			
	On-premises	\$416.00	\$5,000 – venues authorised to trade after 1:30am	\$6,000.00 – two offences	
	Packaged liquor	\$520 (1-3 outlets) \$1,039.00 (4-9 outlets) \$2,078.00 (10 more more)			
	Small bar	\$208.00			
	Producer/wholesaler	\$208.00			
ACT	Club off and on licence, general licence, special licence	\$2,102.00 – \$4,674.00	Fees increase depending on patron capacity and licensed times		
	Nightclub	\$3,155.00 – \$29,461.00	Fees increase depending on patron capacity and licensed times		
	Restaurant, cafe	\$1,049.00 – \$9,818.00	Fees increase depending on patron capacity and licensed times		
	Commercial liquor permit	\$621.00 – \$38,400.0	Fees increase based on gross liquor purchase value and early or standard licensed times		
Western Australia	Club restricted	\$288.00	n/a	n/a	
	All other licence types	\$584.00	n/a	n/a	
	Extended trading permit (on-going)	\$277.00 (no more than 2) \$556.00 (3 or more)	n/a	n/a	
Tasmania	General (on, off club licence)	\$868.00 \$612.25 (on, off)	n/a	n/a	
	Restaurant	\$403.00	n/a	n/a	
Northern Territory	n/a	n/a	n/a	n/a	

Alcohol Use Disorders Identification Test (AUDIT) (WHO)

AUDIT questionnaire

Please circle the answer that is correct for you

1. How often do you have a drink containing alcohol?
 - Never
 - Monthly or less
 - 2-4 times a month
 - 2-3 times a week
 - 4 or more times a week
2. How many standard drinks containing alcohol do you have on a typical day when drinking?
 - 1 or 2
 - 3 or 4
 - 5 or 6
 - 7 to 9
 - 10 or more
3. How often do you have six or more drinks on one occasion?
 - Never
 - Less than monthly
 - Monthly
 - Weekly
 - Daily or almost daily
4. During the past year, how often have you found that you were not able to stop drinking once you had started?
 - Never
 - Less than monthly
 - Monthly
 - Weekly
 - Daily or almost daily
5. During the past year, how often have you failed to do what was normally expected of you because of drinking?
 - Never
 - Less than monthly
 - Monthly
 - Weekly
 - Daily or almost daily
6. During the past year, how often have you needed a drink in the morning to get yourself going after a heavy drinking session?
 - Never
 - Less than monthly
 - Monthly
 - Weekly
 - Daily or almost daily
7. During the past year, how often have you had a feeling of guilt or remorse after drinking?
 - Never
 - Less than monthly
 - Monthly
 - Weekly
 - Daily or almost daily
8. During the past year, have you been unable to remember what happened the night before because you had been drinking?
 - Never
 - Less than monthly
 - Monthly
 - Weekly
 - Daily or almost daily
9. Have you or someone else been injured as a result of your drinking?
 - No
 - Yes, but not in the past year
 - Yes, during the past year
10. Has a relative or friend, doctor or other health worker been concerned about your drinking or suggested you cut down?
 - No
 - Yes, but not in the past year
 - Yes, during the past year

APPENDIX H

Scoring the AUDIT

Scores for each question range from 0 to 4, with the first response for each question (eg never) scoring 0, the second (eg less than monthly) scoring 1, the third (eg monthly) scoring 2, the fourth (eg weekly) scoring 3, and the last response (eg. Daily or almost daily) scoring 4. For questions 9 and 10, which only have three responses, the scoring is 0, 2 and 4 (from left to right).

A score of 8 or more is associated with harmful or hazardous drinking, a score of 13 or more in women, and 15 or more in men, is likely to indicate alcohol dependence.

Saunders JB, Aasland OG, Babor TF et al. Development of the alcohol use disorders identification test (AUDIT): WHO collaborative project on early detection of persons with harmful alcohol consumption – II. *Addiction* 1993, 88: 791–803.

