



30 June 2017

By email: alcohol.review@nt.gov.au

To Whom It May Concern

**RE: NORTHERN TERRITORY ALCOHOL POLICIES AND LEGISLATION REVIEW (REVIEW)
ISSUES PAPER - SUBMISSION**

Endeavour Drinks Group (**EDG**) welcomes the opportunity to provide this submission in response to the Issues Paper dated May 2017 (**Issues Paper**) in connection with the Review.

EDG operates 15 liquor outlets across the Northern Territory (NT) trading under the BWS brand. These operate under several classes of licences and include Supermarket-attached, stand-alone as well as hotel drive-through formats in conjunction with our joint venture business – Australian Leisure and Hospitality Group.

EDG is further committed to bringing Dan Murphy's, Australia's most successful retail drinks business, to the Darwin market and we are presently seeking the opportunity to transfer the BWS Stuart Park licence to a brand new Dan Murphy's at the Darwin Airport.

In operating these outlets, EDG fully acknowledges that we have a responsibility to operate our business with the highest level of responsibility. This includes working with the Government as well as the community to minimise harm to individuals and local communities. It is for this reason that we continue to set the standards for the operation of our liquor business over and above the required standards of legal compliance. We have implemented and maintain a wide range of voluntary product and service control initiatives across our stores that are focussed on responsible supply and promotion of alcohol (an example of the types of measures can be found on page 12 of this submission).

We thank the Northern Territory Government and the Expert Panel for the opportunity to make this submission. EDG has a long record of cooperation with NT regulators in the development of policy to reduce the negative impact of alcohol on some sections of the NT community.

In making this submission, we invite the Review to also read in conjunction our submissions made to the Draft Terms of Reference which we have attached for convenience. Our earlier submission is provided in Attachment A and provides an important context on social determinants, patterns of harmful consumption, and our view on the best approaches on primary, secondary and tertiary avenues for prevention of alcohol-related harm. It also summarises our views on many of the questions raised in the Issues Paper.

Alcohol's place in Northern Territory society

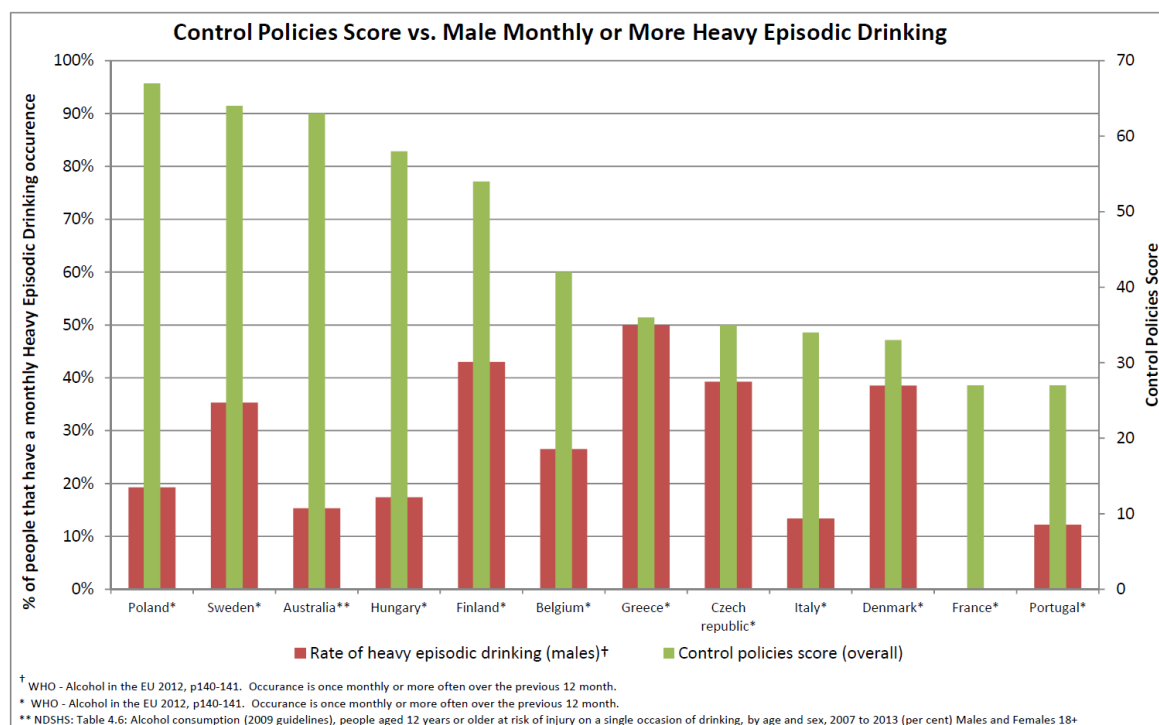
Territorians are probably some of the most social people in the world. As alcohol is often consumed and enjoyed alongside social occasions and celebrations it has almost become an intrinsic element of Northern Territory society.

This brings with it many benefits, such as being a significant contributor to economic activity and employment in the hospitality, retail and tourism industries in addition to positively contributing to overall well-being; but we acknowledged that when alcohol is misused it may have a significant downside in the harm it causes to people, families and communities.

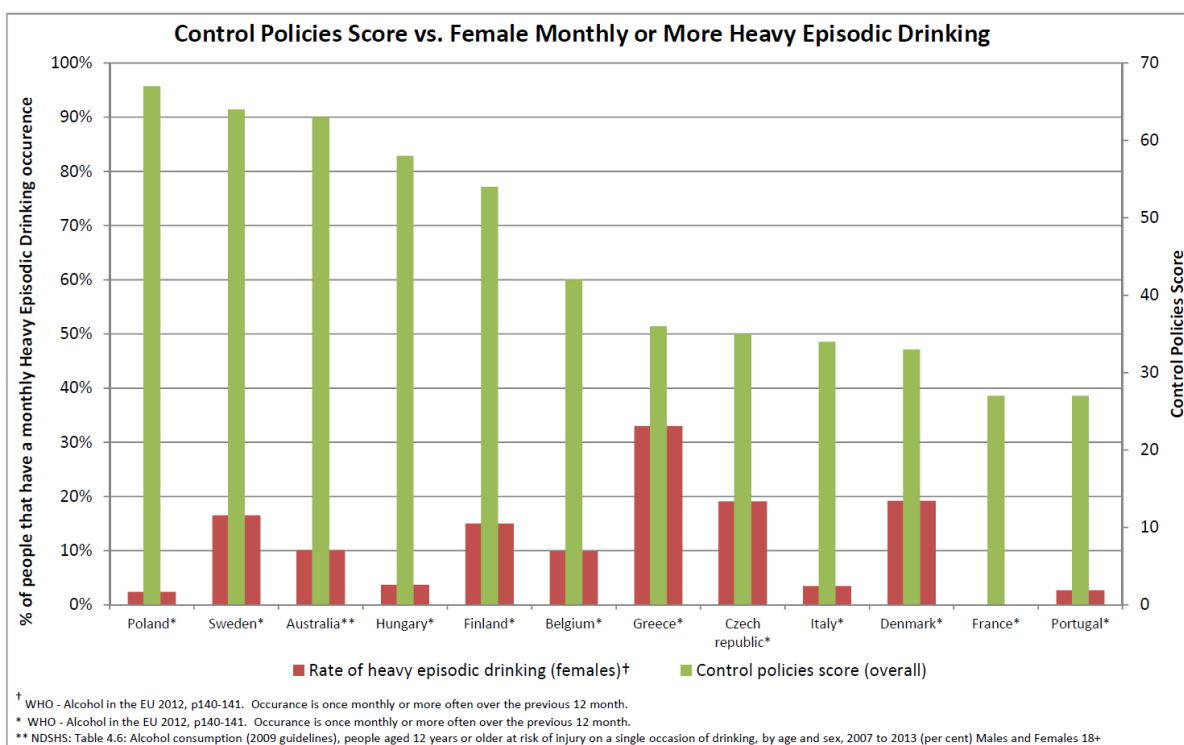
As the Issues Paper makes clear, the Northern Territory has had a long and complex history in managing the negative externalities of alcohol which are more acute than those of other State and Territories.

With few exceptions, NT policy and regulation has largely been focussed on the supply side - such as increasing price, or restricting licences, trading hours and products - which has resulted in the Northern Territory having one of the strictest liquor licensing control environments in the developed world.

International evidence suggests a sole focus on supply controls doesn't necessarily correlate to reductions in harmful drinking. An analysis of various countries 'control policies'¹ across five domains - physical availability of alcohol, drinking context, alcohol prices, alcohol advertising, and operation of motor vehicles - against rates of harmful drinking shows no correlation for either males or females as evidenced by the below graphs.



¹ Comparative Analysis of Alcohol Control Policies in 30 Countries. Donald A Brand, Michaela Saisana, Lisa A Rynn, Fulvia Pennoni, and Albert B Lowenfels. 2007



The Issues Paper questions whether further supply restrictions would assist in reducing alcohol related harms. With the exception of countries which ban alcohol for religious reasons, a suitable case study in alcohol control policy is Sweden which rates even higher than Australia.

Due to its strong temperance movement history, Sweden has:

- A government alcohol monopoly called Systembolaget for sale of all beverages stronger than 3.5% by volume with further controls over outlet density and hours and days of sale.
- All products, including beer cans and bottles (except products that aren't kept in stock and have to be pre-ordered), are sold individually.
- Discounts, such as "Buy 1, get 1 free" and "One can 1.50, two cans 2.50" type deals, are prohibited.
- No product may be favoured, which in effect means that the beers are not refrigerated,
- Minimum purchase age at Systembolaget is 20 years.
- Systembolaget is open between 10:00 and 18:00 Monday to Friday and between 10:00 and 13:00 on Saturdays.
- Beverages are taxed by content of alcohol, and more heavily than in most other countries.
- Producers of alcohol, such as vineyards, are not allowed to sell bottles of their products to consumers.
- Most alcohol advertising in Sweden is banned

Despite what could be argued as the world's most restrictive alcohol regimes, Sweden continues to have one of the highest rates of alcohol related harm and binge-drinking rates among OECD countries.

The clear conclusion from this case-study is that further supply controls in the absence of well resourced support and rehabilitation services are unlikely to impact on rates of harmful drinking. This suggests other factors are at play such as cultural or social norms which give rise to patterns of consumption.

Outlet Density, Outlet Size

The Issues Paper references a number of sources to justify the present policy position limiting the number of, and day of, week that packaged liquor outlets are able to serve Northern Territorians and the nearly two million tourists that visit each year.

It fails to recognise that this is a highly contested research area with many researchers in this field carrying conflicts of interest^{2,3,4} including being funded by anti-alcohol lobbyist organisations. It presents only one-side of the evidence on availability and fails to reference or recognise a significant body of work which draws different conclusions (some of which are outlined below).

In contesting each of the assertions made in this section of the Issues Paper, EDG submits:

- The paper referenced in footnote 26 of the Issues Paper was funded by the Foundation for Alcohol Research and Education (**FARE**), and contributed to by Michael Livingston. To show how “muddled” this area of research is, Livingston has also been the author of other pieces of research which found opposite conclusions to this one: “Hotels and taverns were found to have a positive relationship to levels of harm whilst packaged liquor outlets were found to have no significant relationship”⁵ and “The density of packaged liquor outlets was not associated with rates of domestic violence”⁶.

Questions can be raised over the impartiality of the analysis and the nature of its conclusions based on commentary in the *Limitations* section in which the following statement is made “Although modifications to the design of the study and its analysis cannot rule-out counterfactual causal effects, it is intuitively reasonable to suspect that increases in density precede increases in adolescent alcohol consumption, as the reverse causal direction is not logical”. Scientific method requires the data and results to verify a hypothesis. Intuition and a person’s viewpoint on a matter should have nothing to do with the analysis of results.

The referenced paper examines Victorian data and attempts to suggest alcohol density correlates to rates of underage drinking. It fails to disclose that it is the State with Australia’s most liberal liquor licensing regime, yet enjoys the reputation of having the lowest rates of risky drinking by young people, the highest levels of youth and overall abstinence, and latest

² <http://www.smh.com.au/federal-politics/political-news/storm-brewing-between-health-advocates-and-alcohol-industry-over-safe-drinking-review-20161027-gsccl0.html>

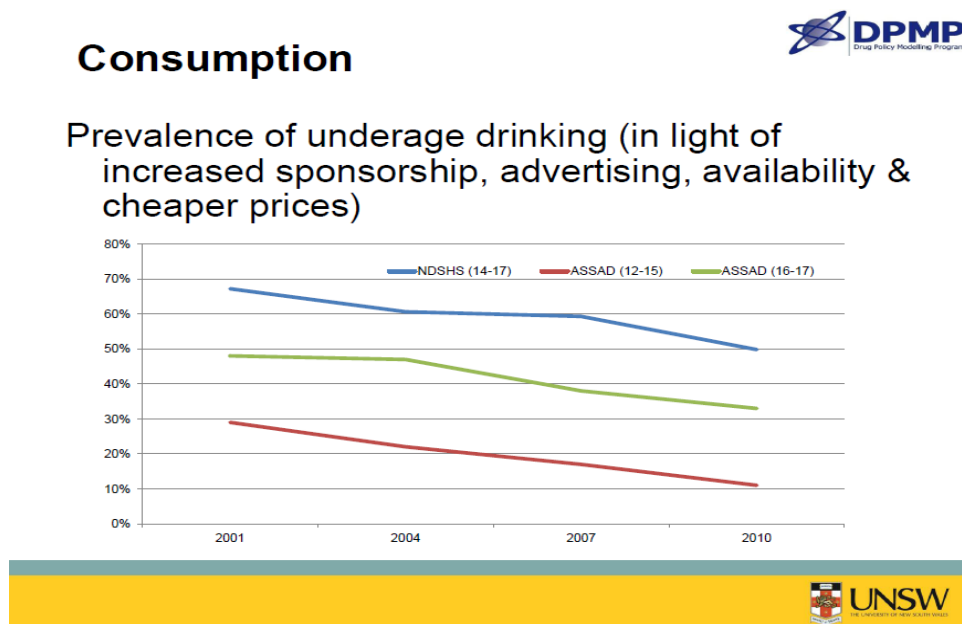
³ <http://www.drinkscentral.com.au/4751?Article=alcohol-beverage-australia-rejects-offer-to-be-involved-in-review-panel>

⁴ <http://catallaxyfiles.com/2016/10/20/guest-post-terry-barnes-nanny-nhmrc-stacking-the-deck-on-drinking-guidelines/>

⁵ Livingston, M., Alcohol outlet density and assault: a spatial analysis, *Addiction*, 103 619-628, 2008

⁶ Livingston, M., The ecology of domestic violence: The role of alcohol outlet density, *Geospatial Health* 5(1), 2010, 99 139-149

age of initiation to alcohol. Livingston has recognised these facts in other public presentations⁷:



- The paper referenced in the Footnote 27 of the Issues Paper is not peer-reviewed and provides no data to support its conclusions. It is more of an opinion piece which uses emotional language such as “booze barn” and is clearly influenced by the personal views of its authors whose disclosures includes “PH (Peter Howat) is a Councilor in the City of South Perth, where residents are actively opposing a rezoning application linked to the establishment of one of the big grocery chain’s booze barn” and their belief that health researchers should be lobbyists: “The health promotion fraternity has opportunities, if not obligations, to lend their skills to actively support their communities in advocacy against the spread of liquor superstores across Australia”.
- Footnote 28 and 29 referenced in the Issues Paper relies on research contributed to by Tanya Chikritzhs who, as previously noted, does not fully disclose her personal conflicts. Her previous work in this area has also been subject to professional assessment and scrutiny in which she has refused to make available the source data to her published work for external review. Attachment B is a review into her work by eminent statistician and current National Vice President of the Statistical Society of Australia, Dr John Henstridge, which concluded “Overall, the Chikritzhs study and the Report in particular have sufficient problems that no confidence can be placed in any of its conclusions”.
- Footnote 30 referenced in the Issues Paper relies on a non peer-reviewed paper commissioned once again by FARE, which was cited in opposition to a Dan Murphy’s licence application in Cranbourne East, Victoria. This paper was again critiqued (Attachment C) by a statistical expert who found such significant methodological failings to conclude “These failings unfortunately mean that the results of the analysis in the Paper cannot be considered reliable and thus the conclusions of the Paper should be disregarded to the extent that they depend upon the analysis presented”. The independent Victorian Commission Gambling and Liquor Regulation ultimately rejected the research (including the

⁷ Michael Livingston. Presentation to Winter School. The impacts of policy on consumption and harm, 2013, p31. UNSW, NDARC

research in footnote 30) used to oppose the application and granted the licence for Dan Murphy's to open in Cranbourne East which has been warmly embraced by the locals.

Despite being quoted by FARE in support of the NT Government's 400 sqm. Regulation, it should be further that this paper does not draw any correlation between the "size" of a liquor outlet and any alcohol-related harm. It studies the density of so called 'chain stores' (BWS, Dan Murphy's, First Choice, Vintage Cellars, Liquorland), but makes no findings on trading floor square metres. Without any explanation the paper excludes IGA buying groups (who are Australia's second largest seller of alcohol) and ALDI (who regularly promote lower priced 'home brand' products) from the definition of a 'chain store'. There are actually 64 chains or banner groups that have 50 or more stores in their network operating across Australia.

To be very clear, none of the papers referenced in the Issues Paper or relied upon by the Gunner Government in an attempt to justify its 400 sq. m. regulation/legislation actually raises the issue of trading floor square metres as being associated with additional alcohol-related harms in any way. There is not one research paper available to credibly support such a policy.

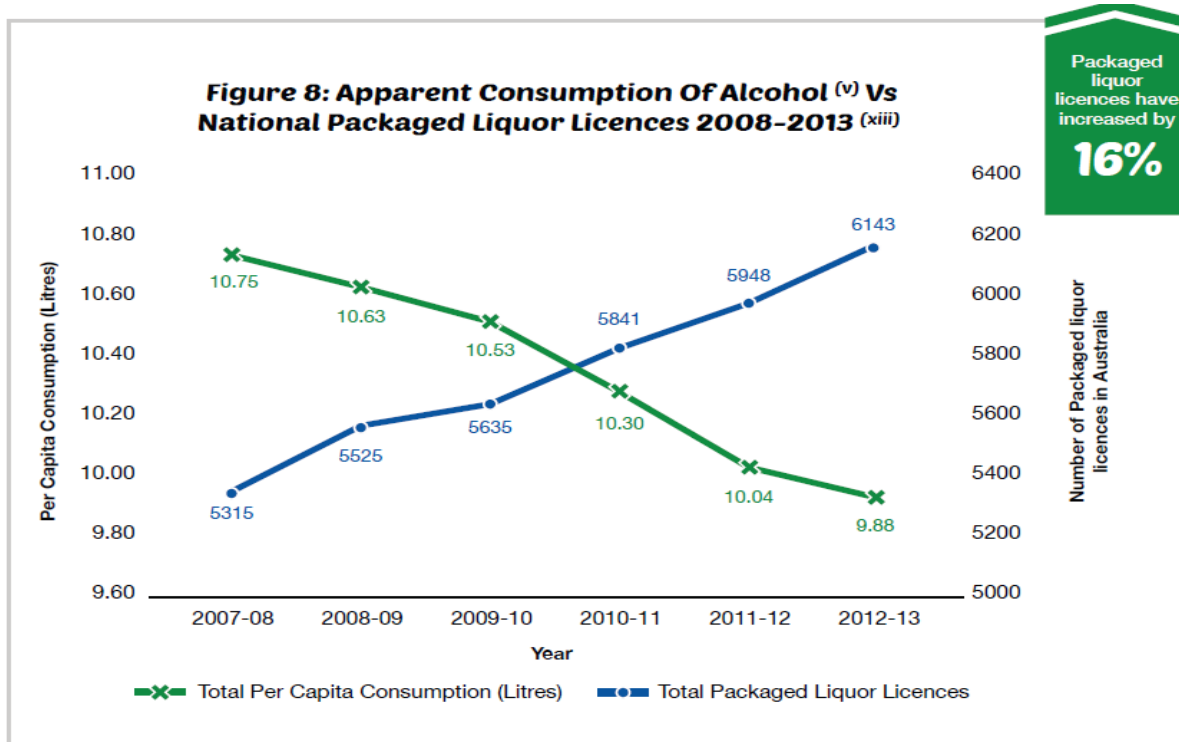
In contrast, the evidence to support a more liberal licensing regime - which includes a place for Dan Murphy's type stores – supported by measures beyond simple "supply controls" (eg to focus on attitudes to alcohol and education) is manifest and readily available for external review and critique:

- The "Harper" National Competition Policy Review was quite clear and aligned to the views of its many predecessors. Its recommendations⁸ mean that "restrictions on opening hours, or planning and zoning rules, or liquor licensing regimes, or gaming licensing, should not be designed to benefit particular competitors or classes of competitors, but only to achieve the stated public policy benefits". Further, they said "Competition should not be restricted unless: the benefits of the restrictions to the community as a whole outweigh the costs; and the objectives of the regulation can only be achieved by restricting competition".

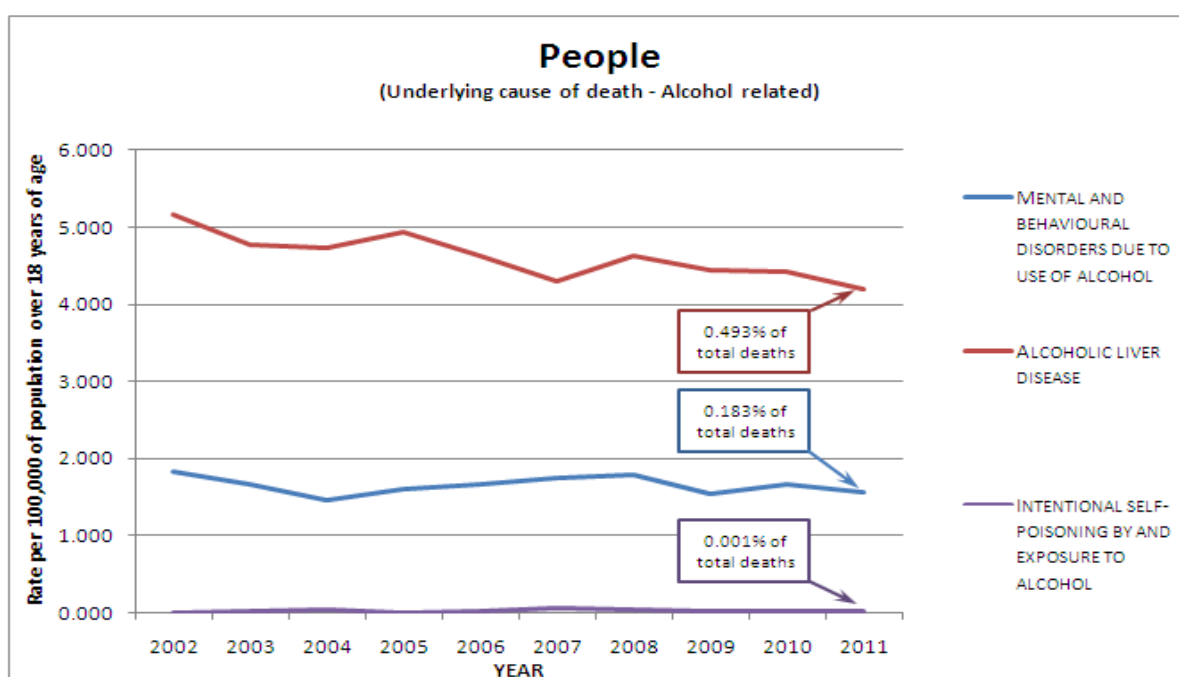
Clearly, the present regulatory and licensing framework in the Northern Territory could be said to specifically benefit a particular class of licence to the detriment of customers e.g.: There is no public policy benefit to forcing supermarket shoppers to be inconvenienced on a Sunday by travelling to a hotel bottleshop for their liquor purchases. There is no public benefit in denying Territory shoppers the opportunity to browse and purchase from an additional 3,500 beers, wines and spirits if a Dan Murphy's was to open.

- The Australian Bureau of Statistics (ABS) has charted a consistent decline in per capita consumption against a growth in overall liquor licences (availability) many of which are packaged licences and large-format 'destination' stores such as Dan Murphy's:

⁸ http://competitionpolicyreview.gov.au/files/2015/03/Competition-policy-review-report_online.pdf

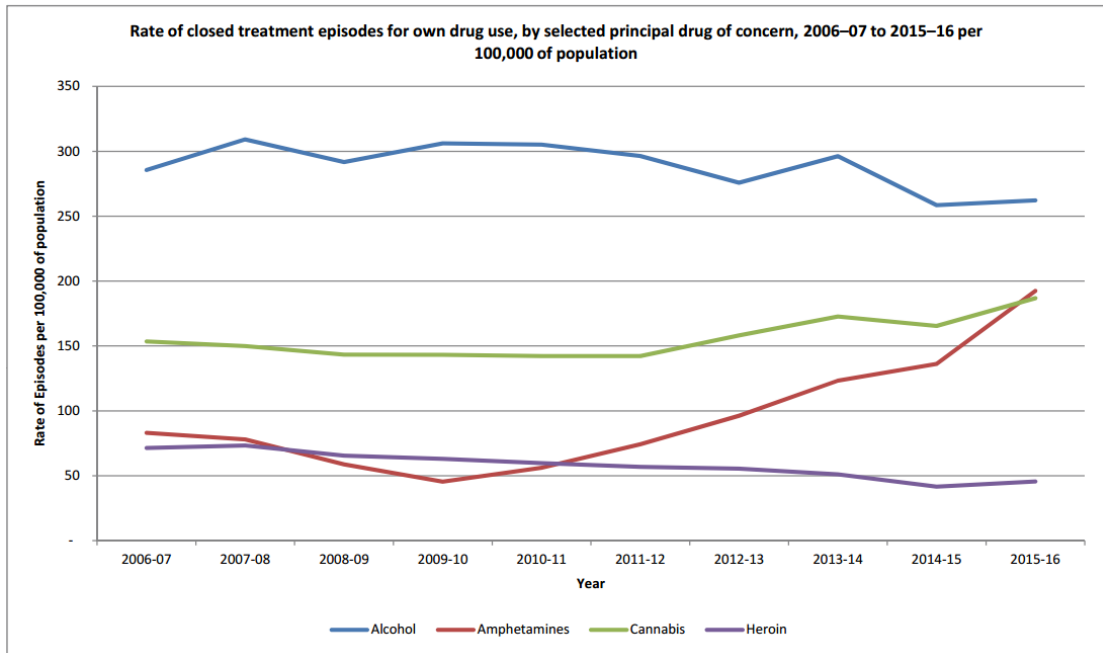


- The ABS has also charted a decline in chronic disease as manifested through alcoholic liver disease⁹:

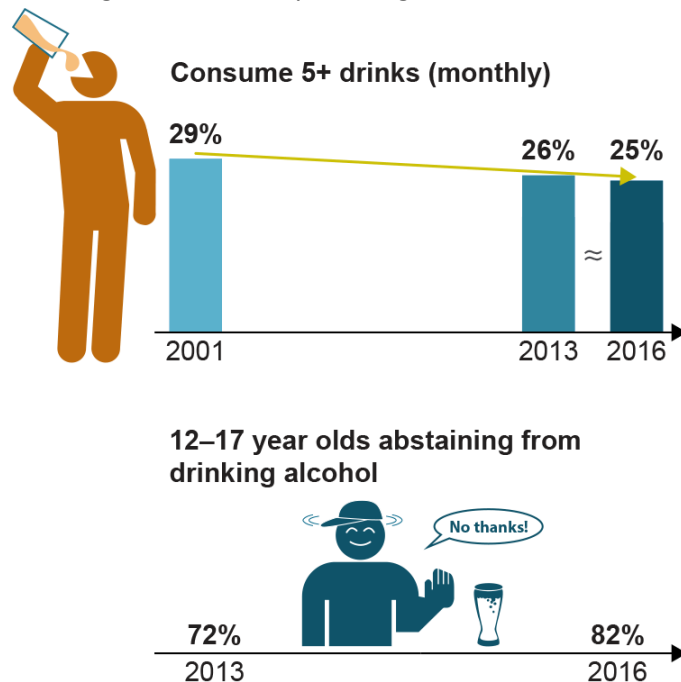


⁹ 3303.0 - Causes of Death, Australia, 2011. Australian Bureau of Statistics, March 2013

- The Australian Institute of Health and Welfare (AIHW) has charted a consistent decline in treatment services for alcohol as a percentage of the population against other drugs¹⁰. The only recently released AIHW report, *Alcohol and other drug treatment services in Australia 2015–16*, reveals that the percentage of treatment episodes due to alcohol has fallen 14 per cent, from 46% of all drug treatment episodes in 2011–12 to 32% in 2015–16:



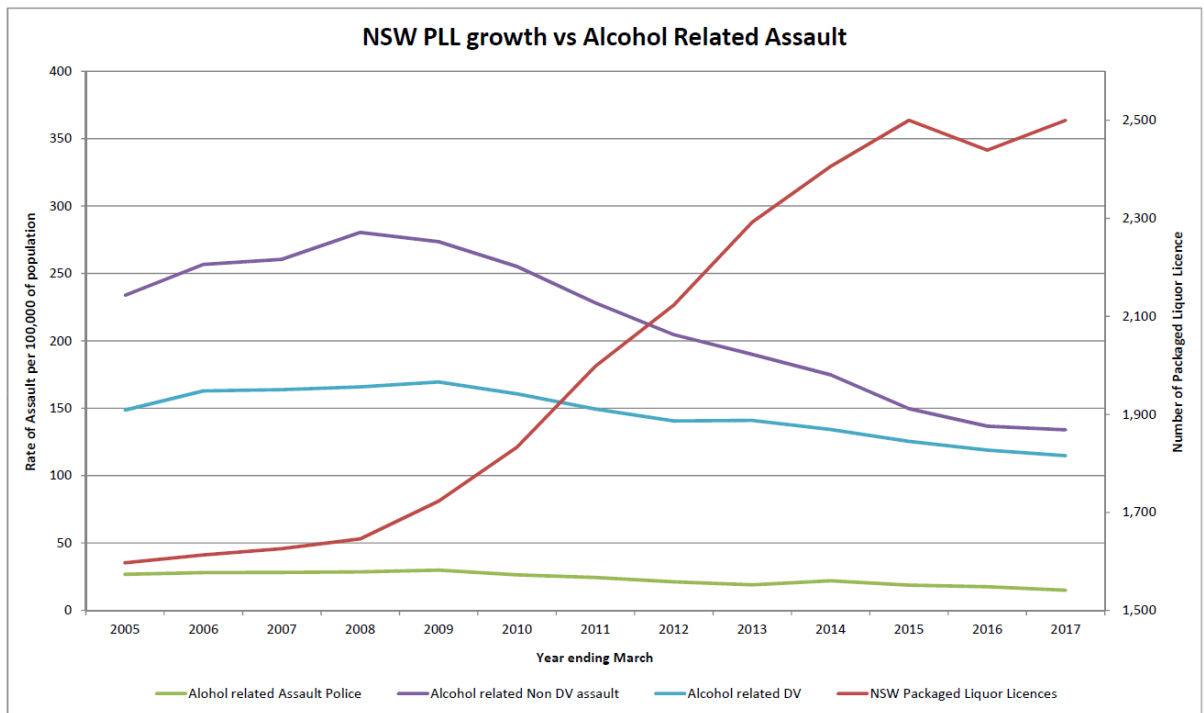
- Against an increase in packaged liquor licences across Australia, the AIHW has recorded a decline in lifetime and single occasion risky drinking and an increase in abstention¹¹:



¹⁰ <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129555353>

¹¹ <http://www.aihw.gov.au/alcohol-and-other-drugs/data-sources/ndshs-2016/key-findings/>

- Using data from the most independent and integral of police statistical collection agencies (and the only agency with consistency of recording and making available such information), the NSW Bureau of Crime Statistics and Research, EDG has charted a decline in NSW alcohol-related domestic assaults, and non-domestic violence alcohol-related assaults against a growth in packaged licences (in reading the graph, it should also be recognised that NSW introduced “lockouts” laws and 10pm bottleshop trading in February 2014):



- The AIHW National Drug Strategy Survey results for the Northern Territory also provide empirical evidence to support the view that the public does not wish to see further restrictions imposed on it:
The Northern Territory has the least support for the following three policies which are all population-level controls:

1. increasing the price of alcohol
2. reducing the number of outlets that sell alcohol
3. increasing tax on alcohol to pay for health, education, and the cost of treating alcohol related problems

The Northern Territory has the most support for the following three policies which are targeted policies:

1. more severe penalties for drink driving
2. stricter enforcement of the law against serving customers who are drunk
3. stricter enforcement of law against supplying minors

- One final point is simply observational for anyone that has travelled overseas to more liberally licensed countries. Alcohol is readily available in nearly all convenience-type stores during most hours of the day and night, yet rates of assault and harmful drinking are often less than in Australia or other strict licensing regime countries e.g.: as demonstrated in our earlier graph, the rates of harmful drinking in liberal licensing regimes such as Portugal, France and Italy are less than those in Australia.

The impact of a Dan Murphy's store on rates of harm and consumption

Many assertions have been made by the Northern Territory Government and anti-alcohol lobbyists on the impact of a Dan Murphy's liquor store (or equivalent) on the local Darwin community.

It should be noted that Dan Murphy's operate stores in every State and Territory of Australia with the exception of the Northern Territory. Some of these locations are in similar socio-economic and demographic areas such as far north Queensland, Western Sydney and regional areas in New South Wales, Western Australia and South Australia.

As NSW is the only jurisdiction that maintains high quality, integral and publicly available information on alcohol related assaults and domestic violence, EDG has been able to plot a Dan Murphy's store opening against rates of harm over time. Attachment D highlights a range of NSW Local Government Areas (LGA) in challenging socio-economic and demographic areas. The graphs demonstrate that a single-store opening or a multi-store opening in an LGA did not correlate to an increase in rates of domestic violence or assault. The Committee is welcome to conduct analysis in other LGAs than what we have selected and we would be pleased to provide the corresponding Dan Murphy's store opening date.

The impact of a Dan Murphy's store on the volume of alcohol in the community

The other claim which is often made about a Dan Murphy's store is that it will lead to an overall increase in consumption i.e. more volume sold in the market. As previous graphs have demonstrated, per capita consumption and risky drinking has declined over the period of time during which Dan Murphy's has increased its total number of stores to 219 (and close to another 100 competitor 'big box' stores).

EDG acknowledges that this provides a macro view of the market and doesn't really tell what occurs at a "local" level. As EDG operates both Dan Murphy's and BWS stores, we have internal data which shows that the opening of a Dan Murphy's store has a "cannibalising effect" on BWS sales. i.e. shoppers switch their purchases to a Dan Murphy's. This is not unexpected as Dan Murphy's is Australia's most loved drinks brand and a clear customer favourite.

Alcohol sales data is collected by a commercial provider, which in the case of Tasmania, can be provided in a State breakdown. At the request of the Review Committee, EDG can privately provide the Committee with commercial-in-confidence data showing that opening a Dan Murphy's did not grow the overall volume in the Tasmanian market - in fact, alcohol volumes declined in Tasmania for the year against a national growth trend.

We have sought a private meeting with the Review Committee to discuss this and other commercial in confidence information but as at the date of this submission have not been given that

opportunity. At the request of the Review Committee, EDG can privately provide the Committee with commercial-in-confidence data showing customers shopping preferences to support this assertion.

The impact of the Lowest Liquor Price Guarantee

Dan Murphy's maintains a historical connection to its original founder to always promise that it will beat a competitor's price offer which remains true to this day.

This promise is to give the customer an *assurance* that the Dan Murphy's team is working on their behalf to deliver value.

Price, however, is not the most important "driver" of customers to a Dan Murphy's or other liquor stores and comes in behind "Location and Access" and "Emotional Experience". If requested by the Committee, EDG would be pleased to privately share further commercial-in-confidence data on the relative importance of price as a driver of shopper choice against other factors.

The intended Dan Murphy's range for Darwin shows a significant investment in premium and boutique beers, wines, and spirits which are presently being denied to the Darwin population to explore and enjoy. In total, we anticipate to bring a little over 3,500 beer, wines, and spirit lines into the Territory.

Of the entire range, the most significant product lines will be in the premium and craft spirits range which makes up 21% of all products, while the wine offer is clearly dominant taking up a staggering 57% of all units stocked. The majority of the range will be in premium products (priced over \$20 a bottle in the case of wine) as demonstrated in the below tables (totals don't add to 100% due to rounding):

Category	Count	% of Total
BEER	263	7%
CIDER	88	2%
SPIRITS	738	21%
RTD	80	2%
CASKS	33	1%
WINE	2015	57%
NON-LIQUOR	335	9%
Total items	3552	100%

Wine Breakdown	Count	% of Total
WINE <\$5	63	3%
WINE \$5 - \$10	194	10%
WINE \$10 - \$15	313	16%
WINE \$15 - \$20	436	22%
WINE >\$20	1009	50%
TOTAL WINE items	2015	100%

In addition, EDG committed itself to the Darwin store operating to the highest standards of any Dan Murphy's in Australia. It has proposed the following as voluntary licensing restrictions:

1. No cask wine or fortified wines in containers larger than 2 litres.
2. No 2 litre glass (Flagon) products
3. No 2 litre fortified casks
4. No fortified wines in any type of container larger than 750ml
5. No fortified wine products sold for less than \$17
6. No 2L wine casks sold for less than \$17
7. No \$2 cleanskins
8. Vendor restrictions:
 - a. No Banrock Station Infusion casks
 - b. No Brown Bros Style Series casks
 - c. Hardy's RR 1Ltr and Hardy's Stamp 1Ltr ranges \$11.99 RRP are excluded from promotional activity
9. No 2 litres RTD casks
10. No RTD's over 500ml
11. No 750ml beer bottles (except for Darwin Stubby presentation packs)
12. No Cask Wine "Specials"
13. No 'multi buy' promotion on cask wine
14. One purchase per person per day (Best endeavours approach - very difficult to manage with different staff working across the day).
15. Wines in containers other than glass, and fortified wines may only be prominently displayed as part of a national promotional program and at all other times will be restricted to standard shelf locations and will not be otherwise promoted, advertised or featured differently to other stock
 - a. The abovementioned products, should they be part of a national promotional program will be notified in writing to the Commission at least 7 days prior to the commencement of the promotion.
16. Must maintain reasonable range and stocks of non-alcoholic drinks
17. No cask wine sold to pedestrian customers if the site further develops a drive-thru option in the future

We have also urged the Government to reconsider its "seven day notice" liquor tasting policy as it inhibits introducing customers to premium products and encouraging a culture that respects and appreciates the skills of showcased winemakers, distillers and brewers. Further it helps educate people to taste and appreciate a product.

Indigenous Issues

It would be remiss of EDG not to comment on the significant issues with harmful Indigenous alcohol consumption in the Territory given our long experience in these communities across Australia. We have recently provided a submission on *Incarceration rates of Aboriginal and Torres Strait Islander peoples to the Australian Law Reform Commission* which goes into great detail on these matters. We would welcome the opportunity to provide the Review Committee with a copy of that submission in confidence.

Conclusion

EDG welcomes the opportunity to comment on the Issues Paper. Our key points are:

- Alcohol should not be viewed discreetly as it is one component to chronic disease. It needs to be holistically reviewed including addressing many of social determinants which lead to alcohol abuse
- The Northern Territory has one of the world's most restrictive liquor regulatory environments. Further "supply controls" - particularly those around outlet density, trading floor size limits, and Sunday trading - are not warranted against the evidence. As part of a modern Australia lifestyle, Territorians are demanding a more relaxed and liberal licensing regime with targeted measures to address key risk areas and groups.

We are pleased to make ourselves available to the Committee for further questioning. If you require further information, please do not hesitate to contact me at andrew.wilsmore@edg.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Wilsmore', with a long, sweeping underline.

Andrew Wilsmore
Head of Risk & Reputation