Alcohol policy in the Northern Territory: toward a critique and refocusing

A submission to the Northern Territory Alcohol Policies and Legislation Review

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Aims

The purpose of this submission is propose a refocused approach to alcohol policy-making in the NT, by

- Describing historical and contemporary aspects of the context in which alcohol policies have been developed in the NT;
- Critically reviewing past approaches to alcohol policies in the NT, and
- Proposing to focus alcohol policy in future on a primary objective of reducing alcohol-related violence in the NT.

Background & overview

As a policy issue, alcohol problems in the Northern Territory are complex for at least four reasons:

1. They impose a significant economic, social and health burden on the community, more so than in any other Australian jurisdiction. Key indicators of the burden are summarised in the Issues Paper prepared for this review (1), and will not be repeated here, except to note that in 2005-06 the rate of alcohol-attributable deaths in the NT among non-Aboriginal people was double the national rate and, among Aboriginal Territorians, 9 to 10 times the national rate (2)
2. The drinking patterns that give rise to these problems are of long-standing in the NT and, therefore, deeply embedded in local drinking cultures. Attempts to bring about change almost inevitably generate resistance.
3. The ways in which drinking is both celebrated and problematized in the NT are inter-connected sociologically - though this is rarely acknowledged in public policy discourses - with structural, historical and cultural aspects of relationships between Indigenous and non-Indigenous Territorians. As in other settler societies with substantial Indigenous populations, governing alcohol use has historically been – and arguably continues to be – a vehicle for governing

Indigenous people (3).

4. The place of alcohol in the NT is also inter-connected with powerful economic – and therefore political – interests, some with links that reach well beyond the borders of the NT. To state this is not to imply some sort of shadowy presence that should not be there, but rather to be aware of the interests in play when we consider policies aimed at reducing alcohol-related harm.

These characteristics have several implications for any attempt to develop and implement a policy for reducing alcohol problems in the NT.

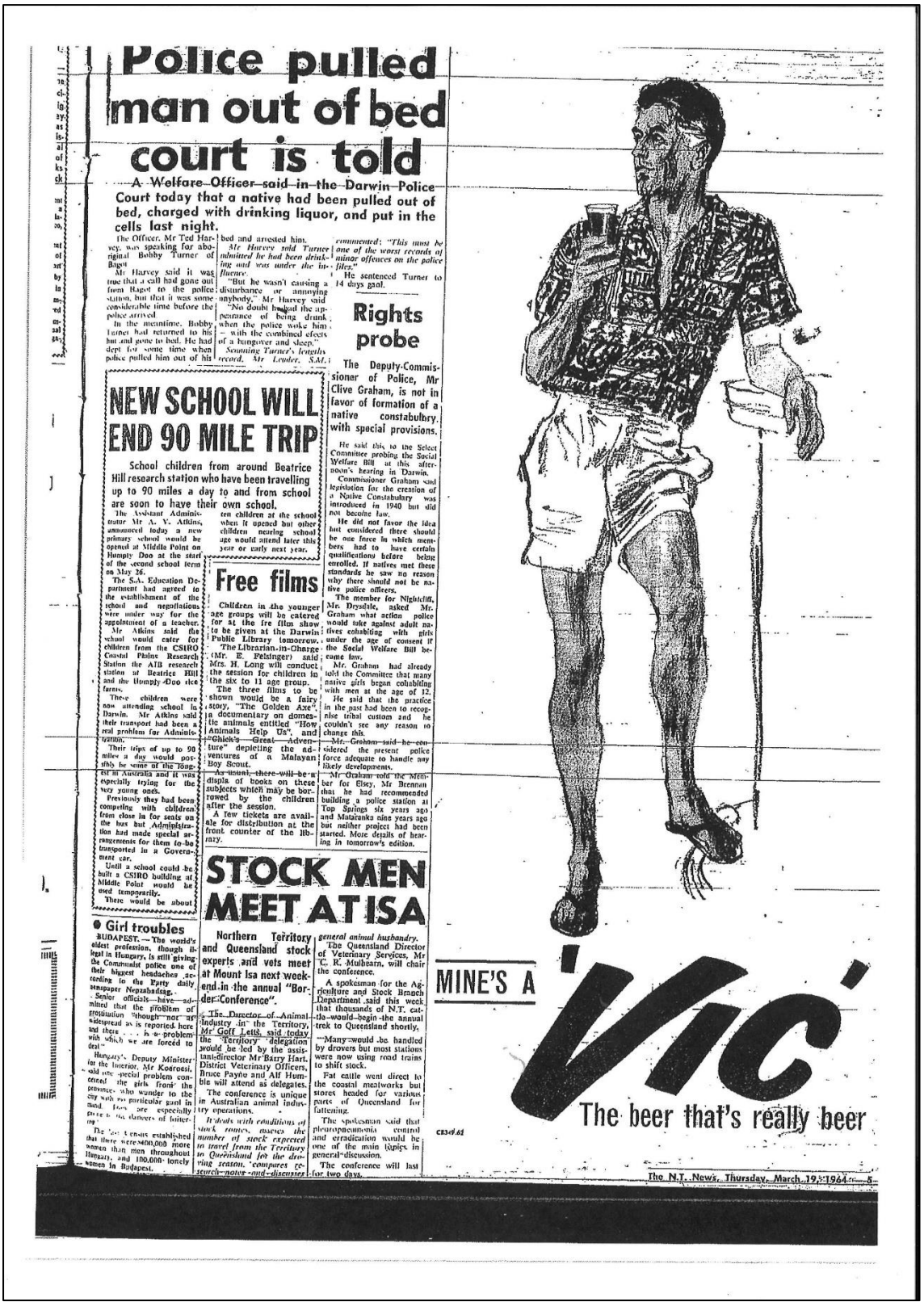
1. Firstly, any attempt to bring about more than tokenistic change will almost certainly generate resistance: both because drinking patterns - among both Indigenous and non-Indigenous Territorians - are culturally entrenched, and because they will be perceived as a threat to the vested interests of those who profit from the present situation.
2. For this reason, effective alcohol policy requires committed political leadership; if this is absent, the combination of culturally-based resistance and resistance by vested interests will almost certainly destroy any initiative that threatens to change the status quo.
3. It also requires long-term policy-settings, preferably with bipartisan political support. While drinking cultures are not as unalterable as people sometimes imagine - in fact they are constantly changing, in ways that are not always visible at the time – sustainable changes in alcohol-related harms will require cultural changes, and cultural changes need time to take root. Policies that look no further than the next election are worse than useless.
4. It requires policies and programs based on evidence of effectiveness, rather than perceived short-term electoral benefits for the government of the day.
5. It requires an ongoing capacity to monitor, evaluate and feedback information, not only to government, but also to local communities and the wider public.
6. While it is important not to overlook the needs of non-Indigenous Territorians with drinking problems, meaningful change in the NT requires a willingness to address the multiple drivers of harmful binge-drinking by some Aboriginal Territorians, and to engage in partnerships with Aboriginal organizations in identifying and implementing solutions, rather than devising endless attempts to drive binge-drinkers off the streets of towns, in the process further marginalizing people whose drinking is in part a response to their marginalization in the first place.

This discussion paper is intended to contribute to meeting these challenges, by drawing lessons from the past and offering suggestions for the future.

Defining the problem

For much of the NT's history, the focus of alcohol policy has been drinking by Aboriginal people. For the best part of a century up to the mid-1960s, Aboriginal people were forbidden to drink, partly by laws prohibiting them from possessing or consuming liquor, partly by prohibiting non-Aboriginal people from supplying them, and partly by denying or restricting Aboriginal people's access to towns. Aboriginal access to alcohol was viewed by those in power as posing a threat to the social, cultural, physical and sexual boundaries of the emerging settler society, so much so that in 1951 the then NT Legislative Council amended the *Licensing Ordinance* to provide for mandatory six-months imprisonment for a first offence of supplying liquor to 'a native', with no right of appeal (4, p. 75). The obverse of this stance, so far as policy-making was concerned, was discreet inattention to the evidence of heavy drinking among the non-Aboriginal population. (In 1968-69, retail sales of beer, wine and spirits in the NT amounted to 15.7% of total retail sales in the Territory, and annual per capita expenditure on alcoholic beverages, at $132, was 50% higher than in Australia as a whole (5).) In public discourse, non-Aboriginal drinking was represented, as it usually is today, benignly, as the two images below demonstrate.

Both are from the *NT News*, the first in February 1964, the second in 2012. Both are products of, and help to perpetuate, a dualistic framing of drinking in the NT: Aboriginal drinking is a problem, to be policed; drinking by non-Aboriginal people is, in the words of a former Chief Minister, a 'core social value' (6), part of the 'unique Territory lifestyle'. The text in the 1964 cutting tells the story of 'a native' in the Bagot settlement in Darwin who was woken up by police at night, arrested and charged with drinking liquor, for which he was sentenced to 14 days gaol. To the right of the text is a fit, lean, tanned white man holding a 'beer that's really beer' – testimony both to the favoured image of the true 'Territorian' of the time and, as an advertisement in the local newspaper, to the economic importance of the liquor industry. The second cutting, almost half a century later on, shows both continuity and change. The vocabulary has changed: in deference to sensitivities (and laws) about discrimination, words like 'native' or even, in this context, 'Aboriginal' are no longer used, but they are not needed in any case, since readers of the newspaper know perfectly well who is being targeted by the latest batch of measures for policing public drinking – and who, as the picture and caption so clearly indicate – is *not* being targeted. In keeping with the times, the young white man with a beer has been joined by a young white woman holding a glass of wine.



Police pulled man out of bed court is told

A Welfare Officer said in the Darwin Police Court today that a native had been pulled out of bed, charged with drinking liquor, and put in the cells last night.

The Officer, Mr Ted Harvey, was speaking for aboriginal Bobby Turner of Bagot.

Mr Harvey said it was true that a call had gone out from Bagot to the police station, but that it was some considerable time before the police arrived.

In the meantime, Bobby Turner had returned to his hut and gone to bed. He had slept for some time when police pulled him out of his bed and arrested him.

Mr Harvey told Turner submitted he had been drinking and was under the influence.

"But he wasn't causing a disturbance or annoying anybody," Mr Harvey said.

"No doubt he had the appearance of being drunk when the police woke him — with the combined effects of a hangover and sleep."

Scanning Turner's lengthy record, Mr Leader, S.M., commented: "This must be one of the worst records of minor offences on the police files."

He sentenced Turner to 14 days gaol.

Rights probe

The Deputy-Commissioner of Police, Mr Clive Graham, is not in favor of formation of a native constabulary with special provisions.

He said this to the Select Committee probing the Social Welfare Bill at this afternoon's hearing in Darwin.

Commissioner Graham said legislation for the creation of a Native Constabulary was introduced in 1940 but did not become law.

He did not favor the idea but considered there should be one force in which members had to have certain qualifications before being enrolled. If natives met these standards he saw no reason why there should not be native police officers.

The member for Nightcliff, Mr Dryadale, asked Mr. Graham what action police would take against adult natives cohabiting with girls under the age of consent if the Social Welfare Bill became law.

Mr. Graham had already told the Committee that many native girls began cohabiting with men at the age of 12.

He said that the practice in the past had been to recognise tribal custom and he couldn't see any reason to change this.

Mr. Graham said he considered the present police force adequate to handle any likely developments.

Mr Graham told the Member for Elsey, Mr Brennan that he had recommended building a police station at Top Springs six years ago and Mataranka nine years ago but neither project had been started. More details of hearing in tomorrow's edition.

NEW SCHOOL WILL END 90 MILE TRIP

School children from around Beatrice Hill research station who have been travelling up to 90 miles a day to and from school are soon to have their own school.

The Assistant Administrator Mr A. V. Atkins, announced today a new primary school would be opened at Middle Point on Humpty Doo at the start of the second school term on May 26.

The S.A. Education Department had agreed to the establishment of the school and negotiations were under way for the appointment of a teacher.

Mr Atkins said the school would cater for children from the CSIRO Coastal Plains Research Station the AIB research station at Beatrice Hill and the Humpty Doo rice farms.

These children were now attending school in Darwin. Mr Atkins said their transport had been a real problem for Administration.

Their trips of up to 90 miles a day would possibly be some of the longest in Australia and it was especially trying for the very young ones.

Previously they had been competing with children from close in for seats on the bus but Administration had made special arrangements for them to be transported in a Government car.

Until a school could be built a CSIRO building at Middle Point would be used temporarily.

There would be about ten children at the school when it opened but other children nearing school age would attend later this year or early next year.

Free films

Children in the younger age groups will be catered for at the fre film show, to be given at the Darwin Public Library tomorrow.

The Librarian-in-Charge (Mr. E. Feisinger) said Mrs. H. Long will conduct the session for children in the six to 11 age group.

The three films to be shown would be a fairy story, "The Golden Axe" a documentary on domestic animals entitled "How Animals Help Us", and "Chick's Great Adventure" depicting the adventures of a Malayan Boy Scout.

As usual, there will be a display of books on these subjects which may be borrowed by the children after the session.

A few tickets are available for distribution at the front counter of the library.

● Girl troubles

BUDAPEST. — The world's oldest profession, though illegal in Hungary, is still giving the Communist police one of their biggest headaches according to the Party daily newspaper Nepszabadsag.

Senior officials have admitted that the problem of prostitution "though not as widespread as is reported here and there . . . is a problem with which we are forced to deal."

Hungary's Deputy Minister for the Interior, Mr Kosrossi, said one special problem concerned the girls from the provinces who wander to the city with no particular goal in mind. Even are especially prone to the dangers of loitering.

The last census established that there were 400,000 more women than men throughout Hungary, and 100,000 lonely women in Budapest.

STOCK MEN MEET AT ISA

Northern Territory and Queensland stock experts and vets meet at Mount Isa next weekend in the annual "Border Conference".

The Director of Animal Industry in the Territory, Mr Goff Letts, said today the Territory delegation would be led by the assistant director Mr Barry Hart. District Veterinary Officers, Bruce Payne and Alf Humble will attend as delegates.

The conference is unique in Australian animal industry operations.

It deals with conditions of stock routes, assess the number of stock expected to travel from the Territory to Queensland for the dry season, compares research notes and discusses general animal husbandry.

The Queensland Director of Veterinary Services, Mr C. R. Mulhearn, will chair the conference.

A spokesman for the Agriculture and Stock Branch Department said this week that thousands of N.T. cattle would begin the annual trek to Queensland shortly.

Many would be handled by drovers but most stations were now using road trains to shift stock.

Fat cattle went direct to the coastal meatworks but stores headed for various parts of Queensland for fattening.

The spokesman said that pleuropneumonia control and eradication would be one of the main topics in general discussion.

The conference will last for two days.

Figure 1: 'Police pulled man out of bed': NT News 1964

Fines for drinking in public

By ALYSSA BETTS

THE screws are being tightened on public drinking — in some areas you'll cop a fine if you do it while being annoying, but in others all you have to do is be quaffing in the open.

It's part of a suite of changes the Government plans to use to tweak its recent alcohol reforms.

The new elements involve fines that are linked to the Banned Drinker Register (BDR), as well as greater powers for the alcohol tribunal. They include:

COPS to hand out $70 fines for public drinkers being a nuisance within 2km of a licensed premises.

THE same fine for public drinking — even if you're not being a nuisance — in "designated precincts", including Darwin CBD, Palmerston CBD and the town centres of Alice, Katherine and Tennant Creek.

GETTING three $70 fines in a year will land you on the Banned Drinker Register.

HABITUAL offenders — those referred to the Alcohol and Other Drugs Tribunal because they've been on the BDR three times — risk having up to 70 per cent of their dole managed under proposed tribunal powers.

NEW power for the tribunal to deal with people if they don't turn up to hearings.

Cops can already tip out booze in the designated precincts, as well as areas covered by the 2km rule.

No changes are being made to existing rules for "public restricted areas" — such as Darwin's Nightcliff and Rapid Creek — where you can be fined $137.

Under this set-up, some affected areas do allow public drinking during certain hours, just like Nightcliff's foreshore.

CLP alcohol policy spokesman Peter Styles said Labor had promised the toughest laws in the country.

"These changes are an admission that their grog laws haven't worked," he said.

Alcohol Policy Minister Delia Lawrie said the Government was always going to readjust the laws after the first period of operation.

"We're introducing legislation to further provide tools to police and the Alcohol and Other Drugs Tribunal to tackle the problem drinkers and get them into those rehabilitation pathways," she said.

NT News 28/3/12, p. 4

A beer or a wine at East Point won't be off limits under the new legislation, but changes to rules about drinking in other public areas might get you in strife

Figure 2: Fines for drinking in public: NT News 2012

The underpinnings of this policy were shaken in 1964 when prohibition on possession and consumption of liquor by Aboriginal people was rescinded. The change was fiercely resisted by several elected members of the Legislative Council, but at the time *ex officio* Council members appointed by Canberra had a majority on the Legislative Council, ensuring that the NT Administration's wishes prevailed on important issues. The change also aroused controversy in the community. The licensee of the Seabreeze Hotel in Nightcliff told a Select Committee inquiring into the proposed changes that whites would object to drinking beer from glasses which had been used by natives (7).

With the passing of the passing of the *Licensing Ordinance 1964*, Aboriginal people as individuals henceforth enjoyed the same drinking entitlements as other NT citizens (8). Unlike other Territorians, however, they could not take liquor into their communities, except with permission from the settlement superintendent, mission authorities or

pastoral lessee, depending on where they lived. In most instances, these authorities did not allow Aboriginal people to drink in their communities.

Ten years later, on 26 September 1974, the NT became the first jurisdiction in Australia to decriminalise public drunkenness (9, pp. 1149-50). Under *the Police and Police Offences Ordinance (No.5) 1974*, the offence of public drunkenness was replaced by a new section which provided for what came later to be known as 'protective custody'. Again, the reform was initiated not by elected members of the NT Legislative Council, many of whom opposed it, but by the Whitlam Labor government in Canberra. In fact, the day of its introduction into the Council was the last day on which the number of Council members appointed by Canberra outweighed the number of elected members.

The birth of limited self-government in the NT in 1978 was quickly followed by another significant change in policy mechanisms for controlling alcohol use. As of 1 January 1981, all special controls over access to alcohol in Aboriginal communities in the NT lapsed, leaving in place only the licensing laws that applied through the rest of the Territory, such as minimum purchasing age, conditions governing trading hours, and laws relating to serving intoxicated persons. The new provisions replaced the controls exercised by non-Aboriginal authorities under the previous *Licensing Ordinance* with a section of a new *NT Liquor Act* giving communities the right to choose their own alcohol control systems, subject to endorsement by a newly established NT Liquor Commission. Under Section VIII of the new *Liquor Act*, communities could elect to place limits on the amounts and/or kinds of liquor that could be brought into the community, and the conditions for doing so - including the option of establishing a licensed outlet in the community - or simply ban alcohol outright. The Liquor Commission was obliged to consider requests for restrictions under Section VIII and, if it endorsed them, these restrictions and the communities became Restricted Areas under NT Law.

Most communities exercised their rights either to ban or heavily restrict alcohol in their communities. By 1982, 45 communities had become Restricted Areas (10). By 1995 the number had more than doubled to 91 (11). As a result, most Aboriginal people wishing to drink liquor were forced to continue doing what they had long been doing, that is, travel to towns or roadhouses, where they could choose what, by Australian standards, was a very high *per capita* number of liquor outlets only too happy to accept their money. In doing so, however, the Aboriginal drinkers incurred resentment on the part of many non-Aboriginal town dwellers, who viewed their public displays of drinking - if not their very presence - as a threat to urban amenity.

Almost every alcohol policy or measure adopted in the NT, at least since commencement of self-government, is a response to the dynamic set in train by these developments: that is, communities that are dry or semi-dry by choice, Aboriginal people who wish to drink doing so in and around towns, a large number of liquor outlets catering to their and others' demands, and currents of resentment on the part of non-Aboriginal town-dwellers towards public drinking by Aboriginal people. The dynamic is also driven in part by the limited opportunities available in remote communities and the world-wide patterns under which people in small remote communities, especially young people, are attracted to the bright lights of urban centres.

Of course, this is not a complete or even accurate picture of the place of alcohol in the NT. For a start, it overlooks drinking by non-Aboriginal people. Not all Aboriginal Territorians live in remote communities. Many are permanent urban dwellers. Drinking is not the only reason for Aboriginal people to come to town, and many Aboriginal people who do come to towns do not drink. This basic dynamic does, however, frame the context in which policies have been devised and implemented over the past four decades. Three main approaches have been pursued. Under the first, 'communities' are assigned a primary role in managing alcohol. The second approach involves defining alcohol problems as problems of public drunkenness, and utilizing policing measures to combat them (supplemented in recent years with mandatory treatment for designated persons). A third approach, which operated over a ten-year period from 1991-2000, was a comprehensive public health-based policy called the *Living With Alcohol Program*, aimed at reducing alcohol related harms and per capita consumption of alcohol. Before proposing an alternative policy focus, I shall briefly discuss each of these approaches, attempting to draw lessons for future policy-making.

The community as agent for managing alcohol

The *NT Liquor Act* introduced by the newly self-governing NT in 1978 was imbued with the concept of communities exercising control over alcohol -particularly the Restricted Areas provision in Part VIII. The Commission's first Annual Report described the Act as being 'not only a piece of administrative law, it is a piece of social legislation as well', one that would 'directly assist Aboriginal communities to control liquor problems in their areas by making licensing arrangements which best suit those communities' (12, p. 15). As the Commission pointed out, the Restricted Areas provisions of the Liquor Act were unique in Australia at the time in providing for restrictions tailored to the wishes of individual communities, but having the force of NT-wide law.

In practice, determining the 'needs and wishes of the community' in situations where

views about alcohol within the community were sharply polarised, as was often the case, proved far from simple, and the Commission was also not above over-riding what appeared to be the wishes of a majority of community residents if it did not agree with their preferences. Nonetheless, the principle of community control over alcohol use, supported by the state through police and liquor licensing staff, became firmly established in NT Aboriginal communities, and several reviews of the Restricted Areas provisions, conducted in 1982, 1987 and 1993 all concluded that, while not without problems, the provisions had generated an important net benefit in the quality of life in the communities concerned (10, 13, 14, 15, 16).

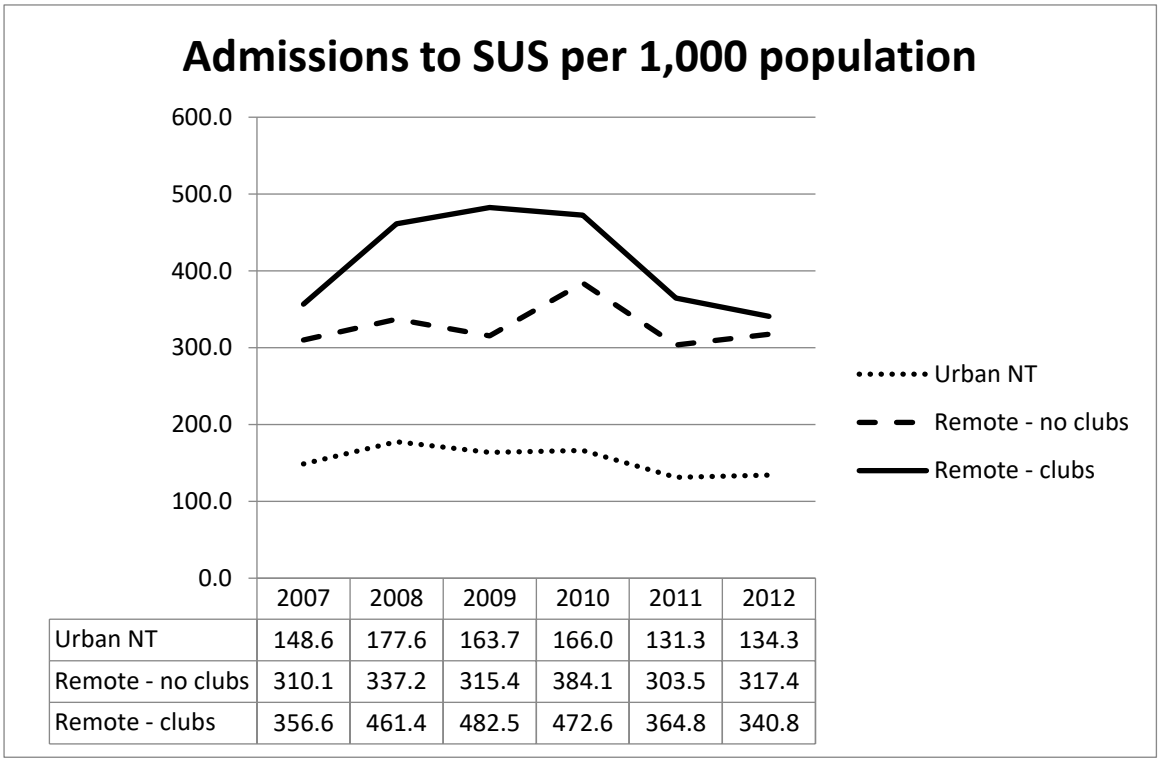
Licensed outlets in remote communities

As mentioned above, one option that has been open to communities throughout this period is to apply for a licence to operate a liquor outlet in a community. Over the years, this option has probably excited more interest among non-Aboriginal residents of towns and their political leaders than it has among the communities themselves, most of which have shown little interest in the idea. Its attraction in the non-Aboriginal community is due to a widespread belief that, if Aboriginal communities operated their own liquor outlets, Aboriginal people would be less likely to come to town from those communities and drink.

In fact, the limited evidence available does not support this thesis. As part of the 1987 review of the Restricted Areas legislation, I examined Protective Custody Apprehensions (PCAs) for public drunkenness made under Section 128 of the Police Administration Act – the main mechanism at the time for responding to public drunkenness. An analysis of PCAs in Darwin involving Aboriginal people between April and June 1986 showed that the highest rate of apprehensions per 100 population were from Belyuen, which was not a Restricted Area at the time, while the next three highest rates involved residents of Daly River, Milikapiti and Wadeye – all of which operated licensed outlets at the time. Similarly in Central Australia, the number of apprehensions over the same period involving people from Hermannsburg (22 apprehensions) which did not have a licensed outlet was similar to the number from Santa Teresa (25 apprehensions), which at the time operated a licensed outlet (13, pp. 67-8).

More recently, Shaw et al examined admissions to Sobering-up Shelters in the NT between 2007 and 2012 inclusive (17). The total number of apprehensions over the six-year period was 113,617, representing an average of 18,936 apprehensions per year. (Note that these were *apprehensions,* not individuals, some of whom accounted for many apprehensions.). Aboriginal apprehensions were categorized according to the

recorded place of residence as 'urban NT', 'remote community, no licensed club' and 'remote community with licensed club', and rates of apprehensions calculated per 1,000 population of the localities concerned. The analysis showed that, for each of the six years under review, the rate of apprehensions from communities with clubs was consistently *higher* than the rate from communities without clubs, as Figure 3 shows. While the analysis did not allow for a systematic examination of the complex mix of factors underlying rates of urban apprehension for public drunkenness, it showed clearly that the presence of a licensed outlet in a community did not mean that residents of the community concerned were less likely than residents of other communities to be apprehended in towns.



	2007	2008	2009	2010	2011	2012
Urban NT	148.6	177.6	163.7	166.0	131.3	134.3
Remote - no clubs	310.1	337.2	315.4	384.1	303.5	317.4
Remote - clubs	356.6	461.4	482.5	472.6	364.8	340.8

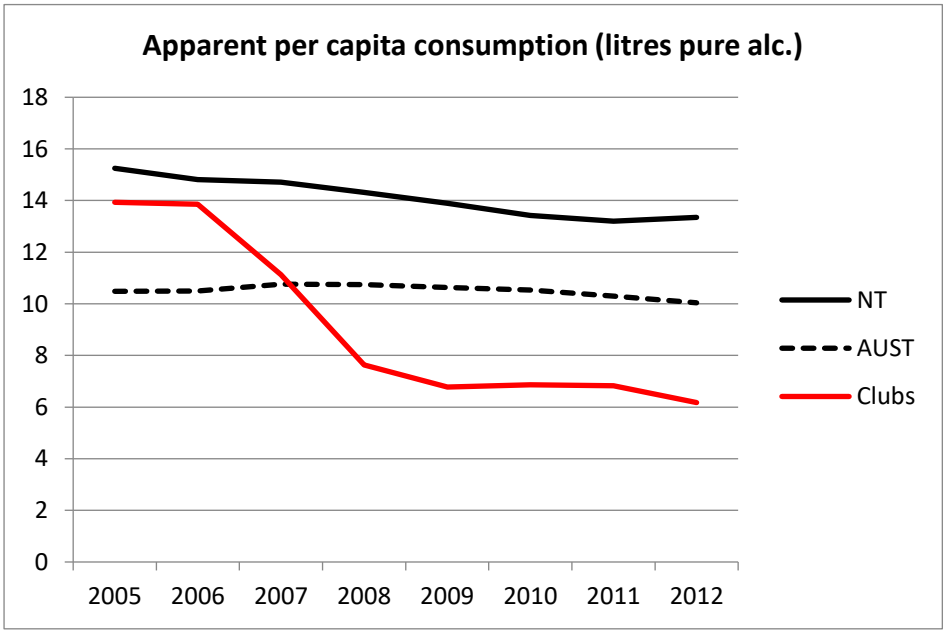
Source: (17)

Figure 3: Admissions to sobering-up shelters per 1,000 population

Of course, the rationale for having licensed liquor outlets in remote communities is not – or should not be – to enhance life in towns, but rather to create a setting in communities where liquor can be consumed in a way that does not harm the community, where drinking liquor can be integrated with other activities, and where local residents who want a drink do not have to go to towns to secure one. A study of apparent per capita consumption in the seven licensed outlets operating in NT Aboriginal communities in 1994-95 - derived from 'purchase into store' figures for each

outlet – estimated per capita consumption of pure alcohol among male drinkers aged 18 and over to be 42.5 litres, 76% higher than the level for the NT as a whole, which was in turn 42% above the national level. The corresponding level among female drinkers was 26.6 litres, nearly three times the NT level of 9.4 litres (18). In other words, licensed outlets in communities tended to be centres of heavy drinking, even by NT standards.

This situation changed in 2007, following the imposition of new restrictions under the Commonwealth Government's NT National Emergency Response. Licensed outlets in all communities except Kalkarindji – which is not on Aboriginal land, and was therefore not part of a 'prescribed area' under the NTNER legislation – were restricted to sharply reduced trading hours, and sales of light and mid-strength beer only. Figure 4 shows the impact of the new restrictions by comparing trends in apparent per capita consumption by persons aged 15 years and over in clubs in communities with apparent per capita consumption in the NT as a whole, and in Australia as a whole.



Source: (17)

Figure 4: Apparent per capita consumption of alcohol by persons aged 15 years+

As Figure 1 shows, prior to 2007, per capita consumption in communities with clubs was similar to the NT level, and both were well above the national per capita level. After 2007, consumption communities with clubs declined to a level below the national average, and from 2009 levelled off[1] (17).

[1] Some qualifications should be added to these figures. Firstly, the population base used is the

Shaw et al found that, in the seven communities with operating licensed outlets included in the study (one outlet declined to participate in the study), levels of assaults and other harm indicators were no higher than in the NT as a whole. They also reported that a majority of community members accepted the restrictions placed on their clubs' trading conditions under the NTNER, recognizing that the restrictions had helped to reduce violence and other harms. While most people surveyed were supportive of their clubs, the study also found evidence of concerns and dissatisfaction with regard to issues of accountability and governance. It made a number of recommendations to address these.

In all, the study suggested that, for communities that wish to establish licensed outlets – and the majority of communities in the NT to date have made it clear that they do not – they represent a viable option for managing drinking in the community, provided that they are given support in addressing governance and accountability issues.

The 2007 NTNER restrictions that curbed trading conditions in community-based liquor outlets also had a much wider impact. By imposing a near-blanket ban on possessing or consuming alcohol on all Aboriginal lands in the NT, they effectively over-rode all existing General Restricted Areas (GRAs)[2]. However imperfect the GRAs may have been in operation, they were expressions of community decision-making and community

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Estimated Resident Population aged 15 and over in the communities. The estimates do not take into account the proportion of people in the communities who do not drink at all, and are therefore likely to be an under-estimate. In contrast, the estimates cited earlier from the d'Abbs 1998 study were derived (a) by using the population aged 18+ as a base rather than 15+ and (b) factoring in estimates, based on other studies, of the likely proportions of males and females who consumed liquor. Secondly, the amounts should not be read as indicators of the amounts of alcohol consumed by residents of the communities, since some drinkers, even in communities with clubs, travel outside their communities to drink.

[2] In 2006 the *NT Liquor Act* was amended to create a new category of restricted area, known as a Public Restricted Area (PRA) (19). In order to distinguish these from the older form of restricted areas, the latter were relabelled 'General Restricted Areas' (GRA). All restricted areas in place prior to the new legislation were redesignated as General Restricted Areas. Despite the similarity in the names, the two types of restrictions serve quite different purposes. GRAs, as outlined above, were designed as legislative instruments to enable Aboriginal communities to exercise a high degree of control over alcohol use in their communities, either by imposing conditions on its use or banning it altogether. Under the *Liquor Act*, any person or body may apply to the DGL to have a designated area declared a GRA. PRAs, by contrast, were developed as one of several policy responses to public drunkenness in urban spaces. Applications for a PRA declaration can be made by only one of three agents: the Commissioner of Police, the DGL, or a local authority. In practice, they have been used by townships in the NT to have bans placed on drinking in public places within the town boundaries.

wishes. There is little doubt that the sudden, unilateral ban imposed by Canberra under the NTNER was experienced in communities as disempowering. It also had an additional consequence of making it illegal to drink in most of the unofficial drinking areas that had grown up around communities, outside the boundaries of the GRAs. In many cases, would-be drinkers were left with few options where they could legally drink alcohol, and some of those that did exist were in dangerous locations such as the strips of crown land that flanked highways.

Alcohol Management Plans under Commonwealth legislation

In 2010 the Commonwealth Labor government embarked on a new course of attempting to reinstate a degree of community control over alcohol by encouraging communities to develop local Alcohol Management Plans (AMPs). In July 2012, following expiry of the NTNER legislation under a sunset clause, the Commonwealth introduced successor legislation in the *Stronger Futures in the NT Act 2012 (SFNT)* (20). Central to managing alcohol under SFNT were AMPs, defined as 'plans, negotiated at a local community level, for the effective management of alcohol use among community members, and for the reduction of alcohol-related harm to individuals, families and the community' (21). Notwithstanding a return to the rhetoric of community control, however, the Commonwealth imposed such tight micro-management over the AMP development process that by the end of 2015 only one community had actually gained formal approval for its AMP. By this time, AMPs as a policy instrument in remote communities had begun to be phased out in favour of more vaguely defined local 'Alcohol Action Initiatives', to be established with funding from the Commonwealth and administrative support from NT Government staff.

Alcohol Management Plans under NT legislation

In the meantime, the NT Government had embarked on a policy of promoting its own Alcohol Management Plans. The foundation of the policy was an alcohol policy review (another one!) commissioned by the Martin Labor government in 2003, which resulted in a *Northern Territory Alcohol Framework* (NTAF) (22). The Framework emphasized the importance of local and regional action in managing alcohol throughout the NT, and recommended that the NT Government support such action through four mechanisms:

- legislative recognition of Regional and Local Liquor Supply Plans,
- legislative support for Local Alcohol Management Committees,
- the capacity to develop Local or Regional Alcohol Management Plans which may include or be complementary to existing or new Local or Regional Liquor Supply Plans, and
- a significant allocation of resources to manage and support the development of Liquor Supply Plans and Regional Alcohol Management Plans and to support

local community action (22, p. 46).

The Government accepted the recommendation to support the establishment of AMPs but declined to give them a basis in legislation (23, p. 4). Despite the lack of legislation, in the years that followed, AMPs under NT Government auspices were developed in Alice Springs, Tennant Creek, Groote Eylandt, the Gove Peninsula, and Katherine (24, 25, 26, 27, 28, 29). All of these initiatives were independently evaluated. The Groote Eylandt and Gove Peninsula AMPs were both based on local systems requiring liquor permits to purchase takeaway alcohol – applicable to all residents, not just Indigenous residents – and were shown in evaluations to be effective in reducing alcohol-related harms and widely, albeit not universally, supported by the communities concerned. Evaluations of AMPs in Alice Springs, Tennant Creek and Katherine have produced more mixed findings, and questions over the sustainability of recorded changes in harm indicators.

Community as agent: concluding comments

The whole question of the extent to which, and the conditions under which, local communities can be expected to manage local alcohol use is a complex one that cannot be adequately addressed in this discussion paper. However, a few comments are in order. Firstly, alcohol at a local level is usually a divisive issue, so much so that the notion of a community consensus is often a chimera. A more realistic goal of efforts to activate communities is probably an arrangement that is seen as a *legitimate compromise* of the interests and wishes of the various stakeholders. The issue of legitimacy, moreover, is often a matter of process rather than product; that is, whether or not a decision is perceived to be legitimate is often a function of how it was reached, rather than what it entails. Secondly, any policy that attempt to place responsibility on local communities for managing alcohol must consider seriously what kinds of support the community requires, and commit to providing that support.

Community-based restrictions on availability

A variant on the 'community as agent' approach to policy is the imposition of statutory controls on the sale of liquor, tailored for specific localities and imposed at the request of community groups. The best known example of this in the NT is the so-called 'thirsty Thursday' group of restrictions introduced into Tennant Creek in August 1995, initially for a six-month trial period, at the request of the Julalikari Association, and retained in place until July 2006, when they were lifted by the NT Licensing Commission and replaced by modified trading conditions (30). The original restrictions were evaluated in 1996, and again in 1998 and 2000 (31, 32, 33, 34). The evaluations demonstrated that the restrictions had led to significant reductions in levels of alcohol related violence and enjoyed high levels of community support, although several of the benefits

dissipated over time.

Following the apparent success of the Tennant Creek restrictions in reducing alcohol-related harms, a number of other regional centres in northern Australia adopted similar measures. A review of findings from evaluations conducted in Halls Creek and Derby in WA, as well as Tennant Creek and Curtin Springs in the NT, published in 2000, concluded that restrictions had led to a modest reduction in apparent consumption of liquor, and a substantial reduction in indicators of alcohol-related harms and, where evidence was available, appeared to enjoy high levels of community support (35). More recently, Chikritzhs et al have conducted a comprehensive review of local restrictions on supply, focusing on the impact on alcohol-related harm among Indigenous populations (36), while Kinnane et al have evaluated restrictions in place at Fitzroy Crossing in the Kimberleys over a two-year period (37). Duncan has reviewed initiatives to control alcohol availability in Aboriginal communities here and elsewhere in the Kimberleys (38). She cites several reports of the observed benefits of restrictions in contributing to reductions in alcohol-related violence, as well as evidence of the high level of local community involvement in developing the restrictions. She also cites observations that the restrictions in general reflect cooperation between Indigenous and non-Indigenous residents of the region. At the same time, she sounds a note of caution: in order for the benefits not to dissipate over time, complementary measures to reduce demand and strengthen treatment resources are also needed. Restrictions by themselves are an essential part, but only part, of effective alcohol control strategies. She also cites anecdotal reports of some negative consequences: while some local business report having benefited from more tourists now stopping in Fitzroy Crossing and Halls Creek, other businesses have reported adverse impacts. Sly grogging and 'rabbit running' – where people travel to other towns to drink full-strength beer, and purchase either for their own consumption back home or to sell to others – are both prevalent. Nonetheless, Duncan quotes a number of sources as insisting that, on balance, the benefits of the restrictions outweigh the negative consequences.

Law enforcement-based approaches to public drunkenness

In parallel with community-based approaches to managing alcohol, the NT Government has also pursued a policy of using policing measures to combat public drunkenness. In 1980 the Government established a working party under the chairmanship of Brian Martin, which proposed a return to a more punitive stance than the "social welfare" model that underpinned the earlier decriminalization of public drunkenness. Measures recommended included a broadening of the grounds upon which police officers could apprehend persons considered to be intoxicated, and the creation of a new offense of drinking liquor in a public place or on unoccupied private premises without the owner's

consent anywhere within two kilometers of licensed premises (Northern Territory Government, 1981). In 1982, the NT Government acted on the Martin Report by introducing what quickly became known as the Two Kilometer Law. The law has since been amended and strengthened on several occasions. In 1994 the government rediscovered a long disused 'habitual drunkard' provision which it promised would bring to heel the small number of 'problem drinkers' whose bad behavior was said to be responsible for the bulk of the NT's grog-related problems (39). Later, the Liquor Act was invoked to enable town councils to have urban spaces designated as 'Public Restricted Areas', in which drinking liquor became illegal (which in most cases it already was under the Two Kilometre Law).

In 2011, the then NT Government harnessed electronic technology to introduce a Banned Drinkers Register (40), which an incoming Country Liberal Party government threw out in 2012, replacing it with a raft of measures that arguably amount to *de facto* recriminalization of public drunkenness. These included provision for mandatory treatment for up to 12 weeks for any person apprehended for being intoxicated in public on three or more occasions in a two month period, and empowering police to impose *Alcohol Protection Orders* (APOs) on any person charged with an offence liable to a custodial sentence of six months or more, where the police had reason to believe that alcohol was associated with the offence. An APO prohibits the individual consuming alcohol or frequenting licensed premises, with breaches punishable by up to three months imprisonment, (41).

The impact of these measures was demonstrated by the case of DM, a 46 year old Aboriginal man in whose name an appeal was recently mounted in the NT Supreme Court (42). In August 2013, after being apprehended on several occasions for consuming liquor in a Public Restricted Area (PRA), DM was issued with a Mandatory Residential Treatment Order, under which he was detained from 23 August to 22 September 2013. Two days after his release, he was again found consuming liquor in a PRA, and issued with an infringement notice. In January 2014, he was again detained under a second Mandatory Treatment Order, this one to be in effect for a three-month period from 10 January to 9 April 2014. Over the next few weeks he absconded from the treatment facility on seven occasions, each time being apprehended by police and returned to the facility. Following the seventh occasion he was formally charged with absconding from residential treatment. Before the treatment order had expired, however, he absconded on three more occasions. Five days after expiry of the order, he was again found consuming liquor in a regulated area, and issued with an infringement notice.

Several weeks later, in July 2014, DM was arrested and charged with stealing property

to the value of $4.20 (a bread roll, some meat, and orange juice) from Coles supermarket in Darwin. Later in the year the stealing charge was withdrawn. On the same day he was charged with stealing, police also issued him with an Alcohol Protection Order, effective for three months. Three days later he was arrested, breath-tested, and charged with breaching the APO. Next day, police issued him with a second APO, this time for six months. A week later, after DM had again been apprehended by police for being intoxicated, he was issued with a *third* APO, this one for 12 months, to commence after expiry of the second APO. Between late July 2014, when the third APO was served, and February 2015, DM was charged on 18 further occasions with breaching an APO (43).

It is difficult to imagine a more wasteful exercise in petty oppression of an already disempowered individual – an exercise that evokes, moreover, the incident described in the NT News in 1964 (in Figure 1 above). As the proliferation of measures attacking public drunkenness suggests, and as the example of DM illustrates, the main outcome of such measure is to foster new forms of resistance on the part of determined Aboriginal drinkers, who by now have many decades of experience. It is a classic example of what the anthropologist James Scott has called the 'weapons of the weak' (44).

NT-wide alcohol strategies: the Living With Alcohol Program

On 23 November 1989, the NT Government, in response to a motion table by Labor Opposition MLA Neil Bell, established a bipartisan Sessional Committee on the Use and Abuse of Alcohol by the Community, with terms of reference empowering it to inquire into patterns and trends in alcohol consumption in the NT, the social and economic consequences of these patterns, services currently available for dealing with alcohol-related issues, causal factors underpinning current patterns and problems, and appropriate policies and services for preventing and treating alcohol problems in the NT[3]. Two years later, in August 1991, the Committee tabled a report calling for radical reforms in alcohol policy (45). In response, the NT Government on 8 November 1991 introduced a new and comprehensive policy to reduce alcohol-related problems. Named the "Living With Alcohol Program" (LWAP), the initiatives contained in the program involved a ten-year commitment by government with the aim of bringing levels of alcohol-related harm in the NT down to the national level by the year 2000

[3] Bell's motion to establish the committee was tabled on the 17 October 1989 and recorded in the NT Legislative Assembly, Fifth Assembly, First Session, Parliamentary Record 15, Minutes of Proceedings pp. 587-588. The Government's amended terms of reference and motion to establish the Committee are recorded in the NT Legislative Assembly, Fifth Assembly, First Session, Parliamentary Record 16, Debates pp.8233-8237.

(46).

The LWAP was based on a three-pronged strategy involving education, controls on availability and expanded treatment and rehabilitation services. Underpinning the reforms was a new levy which came into effect on 1 April 1992 and which had the effect of virtually doubling licence fees payable on full strength alcoholic beverages, while licence fees on beverages containing not more than 3% alcohol were reduced to 4%. The new levy was to be paid into a separate "Living with Alcohol" Trust Account, for purposes associated with the new policy (47).

The LWAP embodied at least five significant innovations in alcohol policy. Firstly, it was initiated through a bipartisan political approach in which parliament, rather than the government, played an initial role in consulting extensively throughout the NT, and setting a policy agenda to which the government could and did respond. Secondly, it was comprehensive in scope and inter-sectoral in structure. It brought together into one strategic framework activities of the health, law enforcement and regulatory sectors, and incorporated an explicit harm-minimisation objective. Thirdly, it incorporated a commitment to evidence-based measures, and to evaluating initiatives. Fourthly, in committing itself to a ten-year program, the government implicitly acknowledged the complexity of the task and attempted to quarantine the policy from the short-term electoral cycles that make long term policy planning so difficult in Australia. Finally, by imposing a levy specifically to fund the policy the government ensured that alcohol-related programs received a significantly higher level of per capita funding than corresponding programs in other states and territories. The levy was discontinued in 1997 following a High Court ruling that under the Australian constitution state and territory governments did not have the power to raise licence fees on alcoholic beverages, although for several years the Commonwealth agreed to collect equivalent amounts on behalf of states and territories and reimburse them.

An independent evaluation of the impact of the program in its first four years – 1991-92 to 1995-96 – by Stockwell et al concluded that it had resulted in significant reductions in levels of hazardous and harmful drinking, rates of alcohol-related road injuries both fatal and non-fatal, and in rates of alcohol-related mortality and morbidity (48). The

authors conceded that not all of the changes in alcohol use that occurred at this time could be attributed solely to the LWAP, but contended that program effects were nonetheless significant. The fact that falls in per capita alcohol consumption in the years immediately following introduction of the LWAP were greater than corresponding falls elsewhere in Australia lend weight to this argument (49). A subsequent evaluation by Chikritzhs et al examined the impact of the LWAP both up to and beyond the cessation of the levy in 1997, using comparable regions in WA and Queensland as controls, and distinguishing between acute and chronic alcohol-attributable deaths (50). They reported that acute alcohol-attributable deaths in the NT declined significantly between 1992 and 1997, although the effect was not sustained between 1998 and 2002 – the end of the study period. Chronic alcohol-attributable deaths in the NT, however, declined significantly in the post levy period. The fact that the CLP government responsible for the LWAP was returned to office twice in elections in 1994 and 1997, before losing power to a Labor government in 2001, suggests that the LWAP also enjoyed wide acceptance in the community.

Today, the value of revisiting the LWAP lies not so much in dusting off specific policy measures, which may or may not be as relevant today as they were then, but in learning from the policy-making *processes* involved. In its commitment to an NT-wide approach, its willingness to insist on the liquor and hospitality industries accepting a share of responsibility for reducing alcohol problems (notwithstanding their initial public and not-so-public antagonism to the levy), its use of evidence-based measures and its commitment to a long-term policy, the LWAP was exemplary.

Toward a refocus: alcohol-related violence

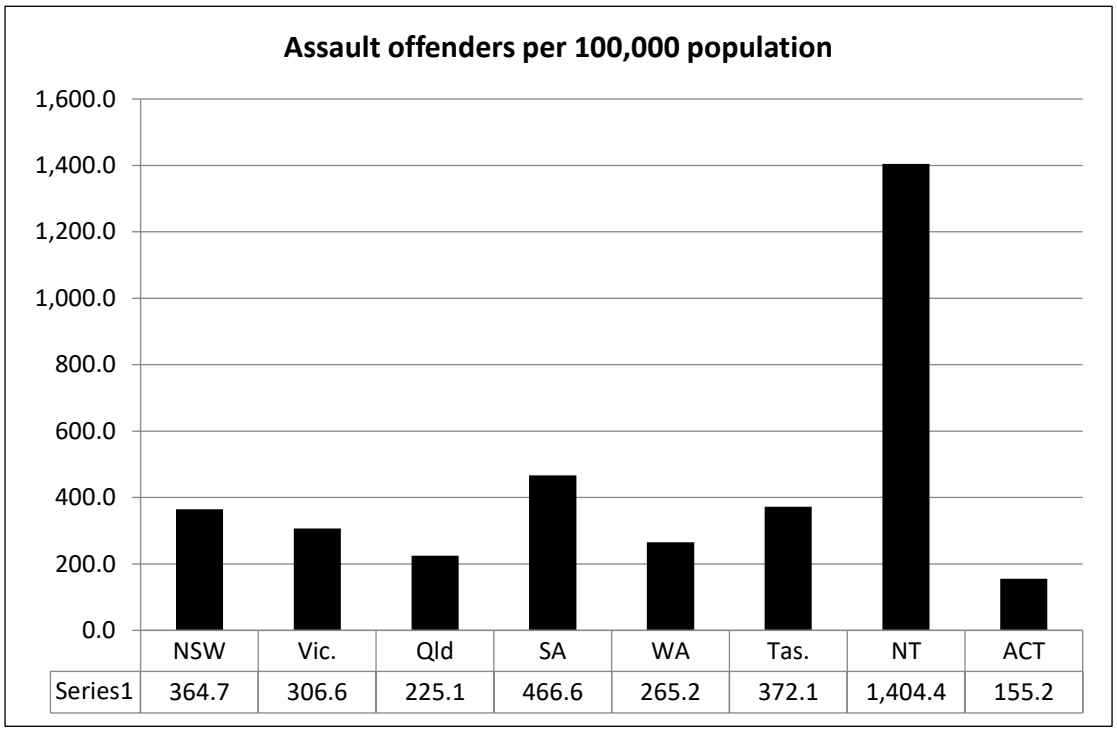
Each of the policy approaches outlined above has its strengths and weaknesses. Assigning responsibility to communities encourages the formation of strategies tailored to local needs, but the policy levers available at the community level to deal with the powerful and complex forces that underlie both supply of and demand for alcoholic beverages are limited and for the most part weak. Similarly, the levels of expertise, time and other resources available at a community level are at best limited.

Focusing on public-drunkenness and relying largely on law enforcement measures to combat public drunkenness, while appearing to offer suburban would-be voters the promise of tough, effective action, has been shown over many decades to be ineffectual. Despite attempts to conceal its rationale in wording chosen to avoid any hint of racial

connotations, it is usually discriminatory and oppressive in its application, and consequently invites well-honed strategies of resistance on the part of its intended targets.

The Living With Alcohol Program was an outstanding example of a comprehensive public health-based approach to alcohol policy that had positive outcomes and appeared to enjoy acceptability in the electorate. Moreover, the *processes* through which it came into being provide an example of informed, evidence-based policy-making that could usefully be emulated today. However, it is not certain that all of the ingredients that contributed to the formation of the policy exist today or could be conjured up, and policies in any case need to be tailored to the requirements of today, not several decades ago. The program's primary objective – that of reducing *per capita* alcohol consumption to the national level – was probably too abstract to serve as a focus of sustained support, and may also have served as something of a red rag to vested interests.

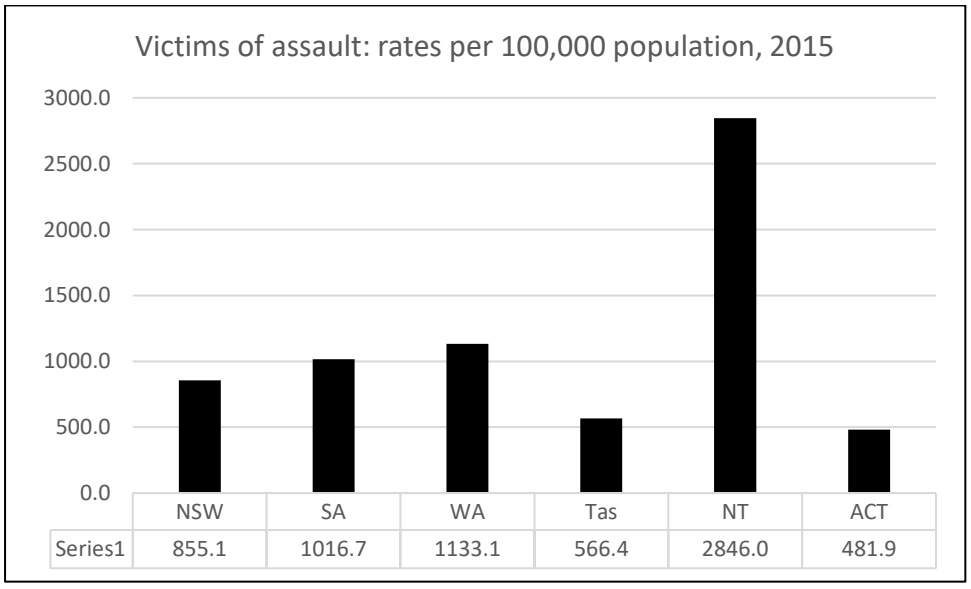
In my view, a sharper policy focus is required today. To be effective, an alcohol policy – like any public policy – should have objectives that are clearly defined, feasible, measurable, and broadly acceptable to the community. An objective that meets these criteria is that of reducing alcohol-related violence in the NT. Measured by assault rates, the NT is by far the most violent jurisdiction in Australia. In 2014-2015, as Figure 5 shows, the rate of recorded offenders with a principal offence of assault per 100,000 population was 1,404.4 - more than four times the national level of 326.0 offenders per 100,000 population, and more than three times the next highest jurisdiction – South Australia (51).



Source: Australian Bureau of Statistics, 4519.0 - Recorded Crime - Offenders, 2014-15

Figure 5: Assault offenders per 100,000 population, 2014-2015

Victimisation rates tell a similar story. In 2015, the rate of victimisation for assaults in the NT was 2,846.0 per 100,000 population. As Figure 6 shows, this is more than 2.5 times any other jurisdiction for which data are available (i.e. all except Victoria and Queensland.)



Source: Australian Bureau of Statistics, 4510.0 - Recorded Crime - Victims, 2015

Figure 6: Rates of victimisation for assault, 2015

NT, SA and NSW are the only jurisdictions for which the Australian Bureau of Statistics publishes victimisation rates by Indigenous status. In 2015, the rate among Indigenous people in the NT – 6354.6 per 100,000 – was almost six times the non-Indigenous rate of 1,108.2, which was in turn was more than 50% higher than the corresponding rate for NSW and 26% higher than the rate for SA. As Table 1 shows, females experienced a much higher rate of victimisation than males in all three jurisdictions. In the NT, the rate for females was 9921.1 per 100,000 – almost one-in-ten Indigenous women – and more than ten times the rate among Indigenous males.

Table 1: Victims of assault, rates per 100,000 population, 2015

Jurisdiction	Aboriginal & TSI	Non-ATSI	Persons
Males			
NT	2875.3	1317.0	1883.6
NSW	1731.4	804.1	920.2
SA	3011.1	896.9	976.8
Females			
NT	9921.1	872.6	3877.9
NSW	3181.4	651.9	788.3
SA	7779.5	858.0	1053.2
Persons			
NT	6354.6	1108.2	2846.0
NSW	2456.2	728.6	855.1
SA	5410.1	877.6	1016.7

Source: Australian Bureau of Statistics, 4510.0 - Recorded Crime - Victims, 2015

Alcohol, as is well known, is deeply implicated in these high levels of interpersonal violence. In calendar year 2015, according to NT crime statistics, 53.9% of all assaults recorded in the NT were associated with alcohol, and 58.7% were associated with domestic violence (52). Taken together, these figures point to a need for change. Unlike documented high levels of alcohol consumption in the NT, they cannot be shrugged off as products of isolation, hot weather or a youthful population. Most people made aware of them, I suggest, would agree that they represent an unacceptable situation.

Targeting alcohol-related violence as the focus of policy offers several advantages over other approaches. Firstly, it does not challenge cultural values about a 'right' to drink and does not attack drinking *per se*. Drinking is an activity embedded in moral ambivalence, which makes it a problematic target for policy-making. While most people

disapprove of displays of obvious drunkenness, we have all heard young people boast to each other about how 'pissed' they got last weekend. Culturally, drinking is also an activity closely associated with freedom from the constraints that regulate much of our lives, especially workplaces and educational institutions, so people are wary of anything that smacks of governmental intrusion into our drinking times and spaces. Interpersonal violence does not share these connotations of moral ambivalence. There is nothing wowserish about taking a stand against it, or against patterns of drinking that give rise to it.

Secondly, targeting alcohol-related violence avoids the traditional stance of finger-pointing at Aboriginal drinkers by non-Aboriginal people, while simultaneously turning a blind eye to alcohol misuse among non-Aboriginal people. It directs attention to the unacceptably high levels of interpersonal violence among Aboriginal people, but at the same time entails an equally attentive focus on similar practices among non-Aboriginal people.

Thirdly, it creates a frame for deploying the full range of policy instruments potentially available for prevention and treatment, including fiscal measures, regulatory action, education, counselling and treatment, and local community actions. Fourth, properly presented as a policy objective, it should enjoy wide community support. Finally, the goal of reducing alcohol-related violence is a limited but significant goal; it can feasibly be addressed at an NT governmental level, and progress in achieving it can be measured.

This objective should be linked to a return to the evidence-based, inclusive and inter-sectoral policy-making *processes* that characterised the Living With Alcohol Program years. Alcohol policy in the NT is too important and complex an issue to be addressed in any other way.

In keeping with the need for evidence-based policy-making, an independent alcohol and other drug research unit, funded in part by the NT Government, should also be established, with a charter of conducting independent, high quality evaluations of interventions and policies, and of initiating research into the causes, patterns and consequences of alcohol and other drug misuse in the NT.

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