



*Explore Arnhem Land - Australia*

20<sup>th</sup> June 2017

## **NORTHERN TERRITORY ALCOHOL POLICIES AND LEGISLATION REVIEW 2017**

Dear Members of the Review Board,

Following my appearance before the full committee of the Alcohol Policy Review Members in Nhulunbuy on Monday 5th June 2017 and the request by the Chair for written submissions, please find my comments below.

This document provides a brief historical overview of the changes that have occurred in Nhulunbuy and the feedback requested by the Chair in relation to matters being reviewed by the Review Committee.

The community of Nhulunbuy and ALL the licensed premises (The Arnhem Club, Gove Golf & Country Club, The Gove Boat Club, Gove Surf Club and The Walkabout Tavern and Lodge) and the Community have embraced many changes in liquor licensing laws/regulation/restrictions over the last twelve (12) years. These changes have been driven by the Community, Licensee's and both the Federal Government and the Northern Territory Government Licensing groups. Many of these changes have had positive influences and outcomes in regard to "supply issues" and on-premise patron behaviour.

The Walkabout Tavern and Lodge have positively embraced these changes as well as many internally developed procedures and policies that have improved the outcomes of alcohol use and consumption, which can be measured in the reduction in reportable Police, Ambulance and Hospital incidents over the last eight years.

The Walkabout Tavern is a venue located in the township of Nhulunbuy and the venue employs more than fifty (50) staff and has been operated by the current owners for twelve (12) years. This venue is possibly one of the most heavily scrutinised within the Northern Territory, with a full time Department of Justice Office within two hundred metres of the venue and a Licensing Inspector stationed in the township for the four venues within the town and district for a major part of the year. In addition, the Walkabout Tavern is opposite the town's emergency services and Police station.

The Walkabout Tavern has worked co-operatively with Licensing Inspectors and the local Nhulunbuy Police Command and its officers to ensure we maintain the highest standards possible.

### **Background and History**

The Walkabout Tavern is located in the township of Nhulunbuy which services a very large area made up of mine employees, Government service providers, health service providers, tourists and a very large Indigenous population within the township and the surrounding districts.

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The diversity of population and cultures create a unique blend of patrons that need to be managed in a respectful manner but still allow people the freedom that we all expect to enjoy in our country.

It should be stated that in the past, communities like Nhulunbuy and its licensed premises have not always enjoyed the “best of reputations”. It has taken a lot of hard work and consistent effort by the Walkabout Tavern management over the last twelve years to change the perceptions of the local community members, Indigenous groups, Police and regulatory authorities such as Racing Gaming & Licensing (RGL), Justice Department, as well as the perception of many of the long-term residents and patrons of the venue to the reputation that exists today - as a caring and responsible member of the community.

To achieve the changes required which is still is “a work in progress”, the efforts to date have produced excellent results and will only build to achieve a better bench mark for the future.

Following is a short summary of the changes that have occurred which have influenced the outcomes to date.

### **Changes to date:**

- In November 2005, the Walkabout Tavern changed ownership and management. This created an opportunity to address many of the issues that the township had been facing with alcohol related incidents and the high level of Indigenous drinkers that frequented the township.

### **On Premise Changes:**

- During 2006, Management introduced a number of in house policies to address the community concerns, which included:
  - No service of straight shots or double shots of spirits;
  - Removal of wine from Public Bar service; and
  - Closure of the Thursday “late night” trade, ensuring no venue was available after 12 midnight on a work day;

Closure of this late-night venue came about following consultation with a number of Mine Contractors and Indigenous Groups who employed local people. The 3.00am trade had caused issues regarding staff non-attendance at work on Friday, therefore in the spirit of Community cooperation, the Walkabout Management reduced the trading hours on this work night.

### **Off Premise changes:**

- The removal of cask wines greater than 2 litres from sale. This was a combined initiative of ALL “take out” licensed premises in Nhulunbuy and was supported by the local Police. The outcome was dramatic as the supply of large quantities of cheap alcohol became less available to the “long grass” or “high risk drinkers” within the community that frequented the township;
- The removal from sale of beer in 750ml glass long neck bottles;
- Not promoting or advertising specials such as spirits “two for \$ deals”; and
- In June of 2006, an Alcohol Management Plan was developed by the Walkabout for on premise use and an “in-house” training program for all Staff to undertake before commencing service of alcohol.

In 2007 further measures were introduced to assist with better outcomes when dealing with patrons:

- Compulsory training of ALL staff under the “In-House” Alcohol Management Plan;
- All new staff must obtain or hold a Certificate in “Responsible Service of Alcohol”, either from the NT or any other Australian jurisdiction (NOTE: In 2007 the requirement to hold-of an RSA Certificate was not mandatory in the NT);
- Crowd Controllers were sourced from a Contracting Company in Darwin. These staff operated on a rotating roster basis from Darwin to ensure “fresh eyes” and overcome the issues of being “too close to the local patrons”;
- Following consultation with RGL officers, a new camera surveillance system was developed and implemented which exceeded the Camera Surveillance Requirements of NT RGL;
- The new enhanced camera system has allowed our Bar Staff to better monitor patrons as well as allowing extended hours monitoring of the whole premises; and
- A Public Awareness Program was funded by the Walkabout Tavern with the local radio station, with a key focus on Responsible Service of Alcohol and re-enforcing the personal responsibility that patrons had when on licensed premises.

### **Liquor Permit System**

During 2007 (following an application by the local “Harmony Group” seeking a “take out” Liquor Permit Policy) we commenced the actions and the outcomes have seen great results in reducing alcohol related issues among local Indigenous people and saw almost the complete relocation of “long grass” people within the town. This outcome also greatly reduced many associated alcohol related issues.

To gain this result, it required the involvement and support of many groups and individuals. Some of the actions that took place are as follows;

- The NT Licensing Commission held hearings in Nhulunbuy in response to the local Harmony Group's request (this prevented people from having to travel to Darwin for hearings which often resulted in them not coming home for some time. The alcohol laws in Darwin have never had the restrictions that exist within the township and alcohol was once again easily attainable to an "at risk" person);
- The Licensee of the Walkabout Tavern supported the Harmony Group's application for restrictions and the introduction of an I.D system for takeout alcohol purchased at the Licensing Commission hearings held in Nhulunbuy;
- In November 2007, the Liquor Commission handed down its decision to introduce a “Liquor Permit System” with an introduction date of March 2008 where ALL purchases of “take out alcohol” would require a permit issued by the NT Justice Department;
- A Federal Government Anti-Discrimination Hearing deemed that ALL persons who purchased alcohol were required to hold a “Liquor Permit”; and
- The Walkabout Management worked in close relationship with the NT Justice Department and a software developer to introduce the electronic ID system required to effectively run and manage this system, ensuring privacy concerns were addressed. This was an example of true community co-operation between ALL parties to develop the best operational and cost-effective system to be implemented.

### **Liquor Permit “Roll Out”**

- March 2008 saw the “roll out” of the East Arnhem Land Liquor Permit System;
- A public education program and permit application system was successfully implemented;

- ALL persons wishing to purchase take away alcohol were required to acquire a Liquor Permit; and
- Liquor Permit Committees were established in Nhulunbuy and the surrounding communities.

### **Advantages of the Permit System**

- Every approved Permit Holder is accountable for their actions and the loss of the permit right is well documented and understood by the community at large;
- The Liquor Permit Review Committee consists of a balanced and diverse group which provides a managed and balanced process for people to return to being Permit Holders following any issues that have created a suspension/cancellation;
- Management at the retail outlet “point of sale” is easily controlled and applied as the Permit ID System clearly identifies individual’s rights or restrictions on the purchase of “take away” alcohol;
- There was a reduction in “long grass” people living around the township, seeing an increase in the number of these people returning to their local communities (estimates indicate that the number of “long grass” people remaining in the township fell from approximately 150 to about 10); and
- Investigations of breaches by Licensed Premises or Permit Holders was more easily achieved by Police and Licensing.

### **Disadvantages of the Permit System**

- Tourists have been adversely affected in obtaining a permit, either due to trading hours of the permit office or poor communication of the requirements for tourists to obtain a permit;
- Not all “long grass” people return to their community, they move to other townships such as Katherine or Darwin where a supply chain exists for them. (I personally observe these Arnhem Land people who are now “long grassers” in Katherine and Darwin during my regular visits to these locations.);
- Operationally, the Permit Computer system does not allow “in car service”. This creates its own service issues as purchasers do not want to leave the car for service, especially if they have small children with them in the vehicle; and
- There is limited communication/co-ordination between Police and Health and Licensing. This requires more “open” exchange of information to ensure those people who need to be regulated and require some form of intervention are part of a better co-ordinated process.

With the introduction of a Northern Territory wide “Banned Drinker’s Register” (BDR), the Nhulunbuy and Groote Eylandt Permit Systems will “dovetail” in without any real issues and should enhance the off premise take away alcohol issues in other regions.

**With the introduction of the “Permit System”, and now a BDR, it requires greater vigilance by Licensed Premises of Patrons in respect to on premise Responsible Service of Alcohol.**

Following the introduction of the Liquor Permit System it quickly became a greater challenge in managing on premise patrons who could not obtain a Permit or who had been given restrictions. The challenges identified are following:

- With limited access to take away alcohol for many Indigenous people, bar patron numbers increased. This caused additional friction between the town locals and the new patrons that had not previously drank within the premises;

- A new approach was required as follows:
  - Additional Crowd Controllers were introduced, mainly with the aim of monitoring and educating patrons on responsible consumption of alcohol;
  - Additional Bar Supervisory staff were rostered on to monitor and train bar staff in an “on the job” training program to help identify repetitive problem patrons;
  - Additional surveillance camera viewing stations were set up within the bars where patrons could see so they could watch their own and others' behaviour and understand they were being monitored;
  - Camera surveillance viewing was also installed at Manager Locations through computer monitors to enhance the opportunity to view patrons; and
  - Compulsory viewing of I.D. for patrons entering the premises.

**The additional capital equipment purchase of \$80,000 in CCTV and additional Crowd Controller staff and Bar Supervisory staff costs of \$8,000 per week, as well as the additional staff training has imposed much higher costs onto the operation of the on-premise business.**

In the latter part of 2008 and early 2009, it became obvious that further and stronger action was required and a program of temporary bans and the issue of Trespass Notices to patrons who displayed issues of adverse patron behaviour was introduced.

Patrons were excluded for the following reasons:

- Repeat offenders who failed to follow bar staff direction on Responsible Service;
- Display of any anti-social behaviour towards fellow patrons or staff; and
- Disruptive or abusive actions whilst on the premises.

To achieve successful outcomes, it was necessary to work co-operatively with the Nhulunbuy Police to notify and communicate any issues or problem patrons and/or loiters who were not following the local liquor requirements.

Over the last eight years, the issuing of the NT Liquor Act “Trespass Notice” has become a large part of our patron behavioural management program. Currently we have a large number of people unable to gain access to alcohol at The Walkabout Tavern due to no take-out liquor permit and no access to the premises.

Although this can be difficult to manage on a day to day basis, the results have been very good and we now see success in this “tough love” approach to poor patron behaviour and disregard for responsible drinking.

The positive outcomes of the Trespass process have shown over the last eight years, a reduction in the number of repeat persons on the list.

### **Federal Intervention of NT Indigenous Communities, 2006**

The Walkabout Tavern has also worked and conformed with the 2006 Federal Government’s Indigenous Intervention Program in NT.

The intervention created many “alcohol prohibited” zones within Indigenous communities and regions, this prohibition created a migration of “indigenous community” people into the townships where alcohol was available. By 2008, the introduction of the Permit System saw these transient drinkers move to other towns and communities across the Territory where “easy” alcohol was available.

## Northern Territory “Banned Drinkers Register” I.D. System of 2011

Licensed premises in Nhulunbuy (including the Walkabout Tavern) remained under the 2008 Permit System and therefore, did not see any real changes to the supply of “off premise” liquor supply.

### Nhulunbuy Liquor Accord

During 2011, as Licensee of the Walkabout Tavern, I was encouraged by the AHA(NT) to consider developing a Liquor Accord with fellow Licensees, NT Police and other interested parties. This was a difficult project to gain traction on at the time as there was a common and strongly held suspicion by most NTG Departments and authorities that could not understand why a Hotel Licensee would want to improve the liquor outcomes within the community.

I continued to persevere and in 2014, Malcolm Richardson of NTG Liquor Licensing became involved and the current Nhulunbuy Liquor Accord was implemented and is based almost in its entirety on the original document proposed by the Walkabout in 2011.

Liquor Accords are not mandated under the Licensing system and have proved to be an extremely effective tool that has strong co-operation between all parties in Nhulunbuy. The Accord is driven by its members, the Nhulunbuy Liquor Accord has been (and remains) a successful communication and co-operation tool for all parties involved within the liquor industry and the associated community groups.

The Nhulunbuy Liquor Accord members are as follows;

- The Arnhem Club
- Gove Golf Club
- Gove Boat Club
- Gove Surf Club
- Walkabout Lodge and Tavern
- NT Police (OIC-Nhulunbuy)
- NT Health Department (Alcohol and Community Health)
- Nhulunbuy Corporation (Town Administrator)
- East Arnhem Shire Council (Night Patrol)
- NT Liquor Licensing (Local Officer)

This group meets regularly, participates in “open and frank” discussion covering the current issues and endeavours to find solutions to issues that all/any members of the group can implement to improve community outcomes.

The Nhulunbuy Liquor Accord has proven to be a useful group in achieving positive outcomes in communication, expanding the understanding of the greater issues of alcohol or anti-social behaviour within the community and “Communities”. This had led to a steady progression of better co-operation between Police, Licensed Premises, Health Department and other associated groups.

Liquor Accords are NOT a “silver bullet” but they are an effective management tool in bringing “involved entities” together to share and understand the bigger picture and have proved to be able to develop outcomes that can assist managing the community issues associated with alcohol.

**Community driven outcomes are a much better system than regulated outcomes, therefore I would NOT see any advantage in mandating Accords or their membership.**

### **Arnhem Land Alcohol Reference Groups (Federal Government funded initiative run through NT Liquor Licensing representative)**

This reference group was established about three years ago with the “terms of reference” established and driven by the Federal Government. While there may be some merit in its existence in other locations, for East Arnhem Land and Nhulunbuy, it is a duplication of other effective groups such as the Liquor Permit Committee and the Nhulunbuy Liquor Accord. The same people are members of groups represented. In the past three years it has failed to define its objective and many of the recommendations cannot be implemented due to other regulations.

These Federal Government funds and the valuable human resources from the community and liquor industry could be better directed to supporting the existing alcohol programs within the region and the valuable resource of the Menzies Institute of Health which could support the efforts of NT Health or Miwatj Health in East Arnhem Land.

### **Northern Territory Regional Areas – confusion of Licensing jurisdiction.**

The Northern Territory liquor licensing rules and laws vary dramatically from region to region and the administration/enforcement varies greatly. Darwin basically functions in a similar manner to most other major population centres around Australia where the Liquor Licensing Compliance is regulated by the appropriate Government Department, particularly in reference to infringements, breaches and management of the Liquor Licensing Laws.

In numerous NT remote locations such as East Arnhem Land, authority is shared between NT Police and Liquor Licensing. Liquor Licensing operates under the “Licensing Administrative System” (LAS). NT Police either refer LAS, or in Nhulunbuy, have issued charges under the “Summary Jurisdiction” and is heard by an NT Court. There is NO clarity on this under the current guidelines and creates a situation of “double jeopardy” for a Licensee in a regional location. If a conviction is handed down by the judiciary then the Licensee’s “fit and proper person” standing to hold a Liquor Licence is then to be assessed by the Licensing Administration System, it imposes a second punishment for the same matter.

There are TWO standards, one for Darwin and another for regional areas. This is unacceptable and all premises should be regulated and complied by NT Liquor Licensing under the Licensing Administrative System.

Where NT Police lodge complaints against a Licensed Premises, these accusations should be resolved quickly and fairly by Liquor Licensing in a “Conflict Resolution Process” with suitably experienced Licensing Department people prior to any consideration of Licensing proceedings.

### **Discrimination of Indigenous Patrons within the NT**

During my twelve years in the industry in the NT, both in Darwin and Nhulunbuy, there are issues of heightened scrutiny of Indigenous patrons, both on and off premise. While this scrutiny by Police, Liquor Licensing and RSA staff in venues is to assist and protect ALL patrons and ensure the safest form of alcohol consumption, it is fair to say that Indigenous patrons are “singled out” for special attention, particularly by some Police. There is an overall lack of co-ordination between Industry, Government authorities and associated service/Government providers to help manage the problem people. These ongoing frustrations have led to isolating the Indigenous community who want to assist in the solution, while prohibition and lack of education has only exacerbated the situation leading to “discrimination out of frustration” from the frontline authorities such as Police and Licensees.

In communities like Nhulunbuy, the Permit System was introduced to control and manage the off-premise alcohol supply chain, which was initiated from the Indigenous "Harmony Group". Only after a challenge from anti-discrimination advocates was the Permit System extended to include ALL purchasers, again reinforcing the discrimination issue that exist.

These types of discrimination have led to an increase in complaints to the Anti-Discrimination Tribunal for refusal of service under RSA. Our personal experience in the last year has been two cases of "complaints lodged" with the Tribunal for refusal of service of goods on grounds of "race" when in fact it was an RSA decision in both cases. Both complaints were subsequently discharged, but it has stood to raise the ongoing issue of discrimination "felt" by this section of the Community. During both "mediations" it was disclosed by the complainant that their perception of ongoing discrimination within the greater community and by authorities had led them to pursue their case with the Anti-Discrimination Tribunal.

These matters have risen from the "stereo-typing" of Indigenous drinkers and a lack of co-ordinated management of the situations. Education and understanding instead of punishment will be required if this discrimination is to be resolved.

### **Business Cost Impacts**

The capital investment in developing and operating large licensed premises is extremely high. The return on investment is continually eroded by ongoing taxation and licensing attacks on the income stream from the business. These ongoing increases in Government imposed costs and charges makes the business marginal and threatens the viability of ongoing business and employment. Business owners/investor must be able to achieve a return on their efforts and investments if we are to maintain the overall industry. These businesses generate large amounts of tax revenue for both the Commonwealth and Territory Government in the form of:

- GST
- Payroll Tax
- PAYG (through its large employee base)
- EGM Tax and Licenses

**Note: Increased EGM Taxes are being imposed upon the business in July 2017 and increased again in 2018 which will substantially decrease operating income.**

- TAB Taxes
- Keno Taxes
- Wine Equalisation Tax (WET)
- Alcohol and Beer Excises
- Licence Fees for;
- NT Health Tobacco Licence
- Accommodation/Boarding House Licenses,
- Fish Sellers Licence
- Machine Managers EGM Licenses
- Security & CC Licenses

**In addition, there are high costs of compliance to Liquor Licensing requirements such as;**

- Mandatory Crowd Controller Staff
- High Definition CCTV Systems and Management

- Fire Safety Standards and Compliance

**These are legislated, imposed or mandated costs already existing upon our business. In addition, there should be consideration of the extremely high costs of “doing business in remote areas” (for freight, labour access and housing) which place massive financial pressure on our business. This business has foregone significant profits in implementing all of the responsible drinking and harm minimisation measures outlined in this document and the introduction of any proposed annual licensed fee counterproductive to the significant investment the venue has made in managing patrons at the Walkabout Tavern. Further impost of a License Fee to operate the business should not be imposed in the interest of promoting “better management outcomes” in the supply and services of alcohol provided that identified harm issues are being managed.**

### **Regional Hotels and Taverns are Community Contributors**

The Walkabout Tavern, along with many other regional Licensed premises, contribute positively to the financial and social fabric of the region(s) that they exist in.

The Walkabout Lodge and Tavern directly employs more than fifty (50) people, many of them locals from the community of Nhulunbuy. The contribution of work to local trades to operate the premises is significant. This generates a positive economic impact within the region and it also supports the growing tourism opportunities that are developing in East Arnhem Land.

While criticism is levelled at the alcohol industry on numerous fronts, the positive contributions these businesses make to the Community must be recognised. The social congregation of people sharing sporting, entertainment, family and fundraising events or just having “down time” occur either within the venues or with support from these businesses. While the NT Government “collect” the “Community Gaming Tax” from venues like the Walkabout, the additional financial support provided to local organisations or individual sponsorships contributes greatly to the success of those groups or individuals. Without this support, many small community organisations would not survive or would be seeking more financial support from the Northern Territory Government.

### **In Conclusion**

The Responsible Supply and Service of Alcohol in our industry is a continual work in progress. As well demonstrated by the Walkabout Tavern management since 2006, our commitment has not changed. This has been demonstrated by the many positive changes outlined previously that have been embraced, implemented and are working well.

As a community we have seen in the last twelve months a further reduction in domestic assaults within the region by 40%, property break-ins a 50% reduction - these figures have continually fallen since 2008 (source NT Police Crime Statistics). The Community of Nhulunbuy and the East Arnhem Region has a “good” story to tell.

This outcome has come from the collaboration of the Walkabout Lodge and Tavern, Gove Golf Club, the Arnhem Club, Gove Boat Club, Surf Life Saving Club, Woolworths BWS Liquor and the Indigenous Harmony Group along with the current support of the NT Police, the Liquor Licensing Office, NTG Department of Business, NT Health, East Arnhem Night Patrol, Nhulunbuy Corporation and the Community members.

Further intervention or financial pressure from additional charges, licenses or taxes from Government will stifle further capital investment in maintaining good operating standards within the venues and reduce the “return on investment” which is already under pressure.

Nhulunbuy, with regards to alcohol policy and outcomes, is an example of a working program that has made significant change without major government intervention. It would be a poor outcome to ignore this good work and impose further restrictions or costs on the Venues or the Community.

I would welcome any opportunity to further discuss this important matter at any time and invite you to contact me should this be possible.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Tourish', with a large, stylized flourish at the end.

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