

Submission by NTPFES

to the Alcohol Policy and Legislation Review



Summary of Considerations

- 1: Consider the implementation of a long term harm minimisation framework that focuses on supporting a cultural change through concerted supply control efforts.**
- 2: Consider the implementation of a risk based licensing framework and annual licence system to apply to the industry. Licence conditions should be consistent, based on category and include regulatory direction on promotion of beverages.**
- 3: Consider a legislative overhaul including repeal and replacement of the *Liquor Act*. The focus of the overhaul should be to ensure community amenity, reduce social harms and rectify inconsistencies in restricted areas.**
- 4: Consider a review of existing sobering up facilities and their periods of availability, ensuring available hours correspond with demand.**
- 5: Consider compulsory liquor trading accords grounded in mandated sanctions for non-conformance, and as a means to improve community and social amenity. These could be used to set consistent conditions for trading and designated localities.**
- 6: Consider implementing a legislative framework which supports alcohol supply reduction.**
- 7: Consider introducing legislation specific to major events, which would support both law enforcement and the industry. The aim of this legislation would be to provide sufficient regulatory control for emergency management, law enforcement as well as to meet both licence and licensees expectations.**
- 8: Consider reducing the number and density of liquor licences, particularly in Alice Springs.**
- 9. Consider alternative maritime safety options from other jurisdictions and possible application to the NT.**

Alcohol consumption in the NT is the highest per capita in Australia. Alcohol fuelled violence, particularly domestic violence in the NT, is well documented. Alcohol-related anti-social behaviour is also a significant factor in and around the Central Business District (CBD) of Darwin, Katherine, Tennant Creek and Alice Springs. The excessive consumption of alcohol also contributes to serious health issues and often goes hand in hand with poor eating habits and risky behaviour. Alcohol-related road deaths are also high in the NT, again being the highest per capita in Australia; over one weekend in July, 23 drink drivers were detected across the Territory.

NT Police respond to an average of 923 calls per day, many of which are alcohol-related. Of the 22,000 domestic violence incidents each year, 60% are alcohol-related.

For NT Police, an average day sees:

- 26 people taken to police watch-houses under protective custody provisions
- 61 domestic and family violence incidents, of which 60% (37) are alcohol-related
- 19 road traffic incidents

Harm minimisation framework

The pillars of the *National Drug Strategy 2017-2026*, and subsequently the draft *National Alcohol Strategy* remain that of the triad of harm minimisation – supply, demand and harm reduction. The concept is simple – reducing the demand for, and supply of a drug (including lawful products such as alcohol and tobacco) will lead to harm minimisation.

Governments have successfully applied this methodology to tobacco products, with significant success in the reduction of smoking, decreased uptake of smoking, and sustained cultural change through a refusal to accommodate the industry and its significant lobby powers.

Advertising and promotion of tobacco is banned in Australia, and its ill effects and harms are clearly communicated, often graphically. Culturally smoking is no longer glamorised and is frowned upon by the majority with restrictions in place in many public arenas. This took time, sustained efforts and a bipartisan commitment to achieve this.

A similar commitment is also required to address the alcohol problem through a continuing assurance that policy makers can develop deep rooted reform.

These long-term goals are readily supported by short-term gains and sustained opportunities to manage the availability of products. Supply management can be applied at the point of sale controlling the volume and type. Problem products that are aimed at vulnerable cohorts such as high volume, cheaply priced cask wine could be better offset through a minimum floor pricing regime, and quantity capped to prevent over-consumption. Recent reported reductions in alcohol supply cannot be taken as enduring as the market has evolved with online sales increasing. The supply chain must be managed in a way that provides for responsible supply, and in turn responsible consumption of products.

A commitment to long-term harm minimisation is vital, otherwise the NT will retain the unenviable record of most litres of alcohol consumed; most DV incidents involving alcohol; and most drink drivers.

Lessons learned through the tobacco minimisation strategy and its long-term sustained efforts could be translated to that of alcohol management.

1: Consider the implementation of a long term harm minimisation framework that focuses on supporting a cultural change through concerted supply control efforts.

Liquor licensing frameworks

The NT liquor licensing framework, unlike other jurisdictions, does not incorporate annual fees for those with a full liquor licence. Once the application fee of \$200 is paid, the licence is granted with no requirement for renewal.

A regime of risk based licensing, such as those in place in New South Wales and Queensland, could have benefits for the NT. The recent flux of licensed premises and increased outlet density has led to a competitive environment, resulting in drastically reduced prices to attract patrons to late night venues. A review of promotions for Friday nights clearly shows a drastic price reduction, with some venues offering drinks for less than \$4.

Whilst some may see this as economics balancing out the markets, it contributes to individual and community harm. The reality of pre-loading and binge drinking adds to the culture of drinking to intoxication. The marketing of cheap alcohol necessitates a consistent police presence at entertainment precincts to deal with protective custody incidents, alcohol-related assaults and domestic violence.

Risk based measures offer incentives to those operators who have demonstrated responsible business practises, who use quality venues, ambiance and good food as the priority attracters. Risk based licences support harm minimisation strategies. Business models must also focus on community amenity and contribute to that amenity rather than detract from it.

The introduction of annual fees should offset the costs attributed to the administrative and compliance requirements.

Introduction of licence categories is also an opportunity to improve consistency with conditions, including hours, product availability options, and sale and security controls. This framework could eliminate the complexity that currently applies. Each licence could be granted based on a business plan that recognises a myriad of individual circumstances (such as a restaurant licence where purchasing a meal is not required in order to purchase alcohol). This could ensure that all conduct is equal and of a uniform standard.

2: Consider the implementation of a risk based licensing framework and annual licence system to apply to the industry. Licence conditions should be consistent, based on category and include regulatory direction on promotion of beverages.

Liquor Act enforcement

Current liquor enforcement operations are primarily vested with the Department of the Attorney-General and Justice through Licensing NT, however, Licensing NT have only actioned a small number of breaches.¹

NT Police do not currently have the power to instigate action against an existing licensee without same action initiated by Licensing NT.

Alternative models, such as that used in WA, have a dual pathway approach with the primary regulator and the Commissioner of Police (with a few exceptions) being able to instigate actions. A suitable option for the NT could be that police are vested with the enforcement of breaches, and for the licensing of premises to be continued through current arrangements. NT Police expect management of serious breaches may improve under a dual pathway approach, compared to existing arrangements with Licensing NT.

Where a public safety risk exists and/or dangerous practices are observed both authorities should have the powers to close venues or restrict further entry of patrons should an event exceed licensed capacity. This is particularly relevant under the current National Safety

¹ Licensing NT Annual Report https://justice.nt.gov.au/_data/assets/pdf_file/0006/387627/Annual-Report-2015-2016-Director-General-of-Licensing.pdf

Framework modelling relating to crowded places or identified vulnerability. Nationally and internationally we live in a changing environment and current thinking, policy and legislation should support this.

Liquor Act limitations – community amenity

To a certain extent, the present legislative framework is problematic in that it thwarts prosecutions for alcohol-related offences.

The application of restricted areas, and the variants that can apply allows for complexities that under the Act, means it is possible to reside in a private restricted premises, that is within a Public Restricted Area (PRA), that is in turn also a regulated place, that sits within a General Restricted Area (GRA), that by virtue of the Stronger Futures Legislation² is also considered an Alcohol Protected Area (APA). It should be noted that the private restricted premises could prevent an individual from being provided a liquor permit, which is required to lawfully consume in the GRA, but dependent upon the special permit applied to the PRA, the same person could consume and possess lawfully if in accordance with the conditions such as hours afforded, however could also be banned under provisions that apply if a Designated Area has also been declared.

Whilst such a situation could seem unlikely, the reality is that examples of such a complex and ineffective overlay include Alice Springs, Katherine and Tennant Creek. This situation is confusing for the consumer, resident, tourist or enforcement officer.

The complexity and ineffectiveness of restricted areas alone is grounds to consider a substantial overhaul of the Act, as is the lack of industry meeting the objects of the Act.

The objects of the Act primarily relate to community amenity and social harms, however the application of these considerations is lacking, evidenced by a view that the business of selling liquor is to comply with a licence condition only. This effectively means that premises can sell cheap wine (\$5 per bottle) at a rate of two cases (24 bottles) to an individual at 9am on a Saturday morning, without regard for any negative impact that may have and its direct disruption of community amenity.

This sale is not uncommon when supply measures, such as Point of Sale Interventions (POSI), are not in place. Police recently conducted an exercise in Alice Springs where POSI activities were eased to assess whether there would be an increase in the supply of products which could impact on social harms and community amenity. The outcome of this exercise was a substantial volume of cheap alcohol products destined for rapid consumption. This clearly demonstrated that the Act and its application by the regulatory authority is deficient in meeting its objective of ensuring improved social and community amenity.

The Review of the South Australian *Liquor Licensing Act 1997*, completed on 29 June 2016, included a recommendation (No. 72) that their 'needs test' in sections 58 and 61 of the Act be replaced with a 'Community Impact and Public Interest Test' to apply to certain high risk categories of licence. This change would require the applicant to satisfy the Licensing Authority that granting the application will not detract from the safety and well-being of the community and is in the public interest. The review considered relevant matters to include the potential harm, health and social impacts alongside proposed benefits.

From a law enforcement perspective it would be useful to have provisions in the Act that, where a venue engages in selling alcohol that contribute to antisocial behaviour, property damage, violence or public drinking, sanctions will apply. This may require practical solutions, which are reasonable and achievable, such as store identification on products to determine the origin of the alcohol (in particular in locations with high liquor outlet density).

Community amenity should apply equally to consumption on premises and in consideration of the groups of intoxicated people that mill about entertainment precincts (such as Darwin CBD)

² *Stronger Futures in the Northern Territory Act (Cth)*

after they have left their last licensed premises for the night. Whilst food consumption is encouraged, limited transport options delay their departure from the location and prolong the opportunity for further social disruption. This requires a greater emphasis on the community interest test, and not solely reliant on the Responsible Service of Alcohol (RSA) provisions as the only measure to ensure community amenity.

Generally, it is the submission of the NTPFES that consideration should be given to the following *Liquor Act* amendments:

- Simplify legislation regarding designated areas, Public Restricted Areas, General Restricted Areas and Special Restricted Areas and their application to locations across the NT will allow for a better understanding of the specific laws. Whilst accepted that this is a complex area to reform, it is precisely the complexity that poses the issues that create an unenforceable environment – subsequently negating the effectiveness of such declared areas.
- Simplify Banning Notice Provisions to improve police awareness of their powers under certain situations.
- Amend legislation to compel consumers to provide their name and address and where they will be drinking the alcohol purchased when requested by police.
- In relation to combating secondary supply, licensees should be compelled to provide relevant material, records, and ID where the purchase is destined for secondary supply. Stronger penalties should be considered for this offence, including forfeiture of any vehicle used in the commission.
- Similar legislation to the Declared Drug Area provision introduced to allow for a Declared Liquor Supply Area with the ability to search and detain those who may be involved in secondary supply.
- Adopt consistent language in the Acts for example, a decision made between using reasonable belief or reasonable suspicion when triggering certain powers.

3: Consider a legislative overhaul including repeal and replacement of the Liquor Act. The focus of the overhaul should be to ensure community amenity, reduce social harms and rectify inconsistencies in restricted areas.

Protective custody

An average day sees 27 people placed in a police watch house when taken into protective custody. Taking people to a watch house is used as a last resort when there are no appropriate alternatives available, such as a responsible carer or sobering up facility. Watch houses are not ideal facilities to manage acute intoxication, and a person may also be taken to an emergency department or health clinic.

Alcohol-related triggers, including protective custody, will feature in the re-introduction of the BDR. A person who has been taken into protective custody three times in two years (or met other triggers) may be placed on the BDR and have access to treatment options, however, this is not conducive to alternative care arrangements. It is not uncommon for a number of persons at one time to leave protective custody in the morning once individuals have reached a level of sobriety that facilitates their release. Some individuals do not have lodgings to return to, while others are known to await the opening of a liquor outlet.

Many of those who repeatedly drink alcohol excessively also have very poor health and are in need of specialist care and treatment. Shelter facilities may be more appropriate than police watch houses, however shelter availability, referrals and healthcare services must meet the specific needs of clients.

4: Consider a review of existing sobering up facilities and their periods of availability, ensuring available hours correspond with demand.

Voluntary liquor accords

Police have been involved in progressing a number of voluntary “accords” in various locations, including the inner city “packaged liquor” accord.

These accords are useful in establishing community expectations around the behaviour of licensees. However, because they are voluntary there is no consequence for failure to comply.

Research indicates that accords work well in relative isolation where there is strong ownership of all stakeholders. However, they are only as strong as the commitment of the signatories.

The problem with voluntary accords is that once a venue has withdrawn their commitment there is no reason for the other venues to remain committed. An example of this is the sale of cheap drinks in the Darwin CBD precinct – once a venue starts offering \$3 or \$4 drinks, other establishments are compelled to follow in order to remain competitive.

The NTPFES considers that all conditions/restrictions on the sale of alcohol should be included on the liquor licence rather than a voluntary accord. Compulsory restrictions or conditions are believed to be superior to voluntary accords as voluntary conditions/restrictions are not enforceable and, therefore, vulnerable to commercial pressure.

Compulsory membership of accords could apply to existing and new licences. If conditions of the accord are not met, a breach and suspension of licence would follow; compliant businesses could attract a reduced fee under a risk based licencing fee arrangement.

Accord membership could also be used as a means to offset a portion of annual or risk based fees.

5: Consider compulsory liquor trading accords grounded in mandated sanctions for non-conformance, and as a means to improve community and social amenity. These could be used to set consistent conditions for trading and designated localities.

Operation Leyland

Point of Sale Intervention controls introduced by police highlight the significant impacts in reducing alcohol-related violent crime when supply reduction measures are put in place.

Operation Leyland was implemented in Alice Springs in February 2014 and focused on a permanent police presence at all bottle shops, with full coverage during opening hours. It was designed to counter the displacement effect of the ad hoc Temporary Beat Location (TBL) arrangements and ensure there was not the frenzied purchase of alcohol when the situation allowed.

The results over the six week operation were a 54% reduction in violent crime and a 19% reduction in the demand for police services. Anecdotally there was a significant decrease in Emergency Department presentations and the need for crisis accommodation at the Women’s Shelter. These successes led to the adoption of a Full Lockdown Temporary Beat Location model staffed by a dedicated Social Order Unit.

Subsequent to Operation Leyland, POSIs were extended to Tennant Creek (Operation Disrupter) and then Katherine (Operation Veto). Initially the coverage in Katherine was staffed through overtime and additional staff brought in from Darwin. In both towns the strategy too proved successful, particularly in Tennant Creek where the limited number of bottle shops (four) and the established Liquor Accord provided for full lockdowns with little impact on police staffing.

The success of this strategy reinforces the importance of having in place alcohol supply mechanisms into the future, the BDR being one of these measures. However, the sustainability of POSI’s requires significant police resources across the three centres (36 police daily). Consequently, supply reduction and other measures must be considered.

Successful Regional Strategies

The section below outlines a number of Police and community initiated measures aimed at combating alcohol-related crime, which could be adopted elsewhere. In remote and regional areas communities are managed by a mixture of Government, non-Government, and grass roots organisations which work in partnership to ensure communities and people are kept safe from harm.

– Groote Eylandt and Milyakburra Liquor Management Plan

NT Police in Groote Eylandt, in concert with the local community, developed a liquor permit system. The Groote Eylandt and Milyakburra (Bickerton Island) Liquor Management Plan was the result of commitment to mitigate alcohol issues and commenced after discussion between the then Chairman of the Anindilyakwa Land Council and the then Officer in Charge of the Groote Eylandt Police Station (Fuller, 2006).

Alcohol rationing was initially imposed on nine individuals identified by the local land council in 2002. Eventually, a formalised rationing system, aimed at protecting Indigenous members of the Anindilyakwa communities who were being pressured into supplying other family members was introduced. The rationing system grew and so too did the intent of some to “double-dip” by purchasing from multiple locations.

By 2004, despite persistent efforts, community issues with alcohol were again increasing, and efforts to manage them involved local community leaders, local police and the local mine operator which employed the majority of employees in the region. By this stage, requests to the then NT Liquor Commission were enacted seeking declaration of a liquor management system to apply to the township, incorporating formalised liquor permits. Whilst the local-led solution of rationing was relatively successful, it was not recognised nor supported by the then Liquor Commission.

Following a legislated consultation requirement, and primarily driven through the commitment of the local Indigenous leaders and local police in consultation with the local mine operator and licensed premises, the declared restricted area was announced with the decision dated 11 May 2005.

Stark outcomes and results evidenced, include:

- Sexual assaults decreased by 67%
- Aggravated assaults down 62.5%
- Residential dwelling break-ins down 86%
- Lowest numbers of adults from Groote Eylandt admitted to correctional centres for 4 years
- Improved work attendance among Indigenous employees at the local mine; and
- Significant improvements in social function and increased community harmony (AIC, 2008)

The success of the region’s strategy is well researched and documented, and has stood the test of time, with permits still being successfully utilised some 12 years post implementation. A notable mention is the winning of the Australian Institute of Criminology (AIC) 2008 National Australian Crime and Violence Preventions Awards (AIC, 2008³).

– Gove Peninsula Liquor Permit System

Building on the success of the Groote Eylandt example, and with the Officer in Charge transferring to the region in late 2004, the Gove Peninsula underwent a similar process with the declaration of their respective GRA in 2007 and implemented in 2008.

³ http://www.aic.gov.au/crime_community/acvpa/previous/2008.html

It should be noted that both permit systems have been maintained despite economic downturns in the region as a result of decreased (or as in Gove Peninsula ceased), mining activities.

6: Consider implementing a legislative framework which supports alcohol supply reduction.

Temporary licences and Major Events

By virtue of our climate, major events are scheduled during the dry season. This creates a situation where NT Police are challenged through monitoring and attending a significant number of public events.

The issue of alcohol at events continues to demonstrate the NT's deficiencies when compared against common practice in other jurisdictions. Simple measures could be undertaken to maximise the positive benefits of major events whilst minimising the impacts of alcohol misuse. These could include:

- Mandated service of only light and mid strength (one standard drink per serve) beverages and caps on the number of beverages per service per person as a mandatory minimum condition.
- Risk based application which could ensure targeted demographics (young persons aged 18–25 for example) have additional controls in place to assist in the delivery of a safe event.
- Currently, Major Events are publicised and advertised as having liquor available prior to liquor licence applications being finalised. Ideally, Major Events should be required to apply for liquor licences with reasonable time for community safety and social amenity aspects to be addressed.
- Appropriate safety provisions in amendments to the Liquor Act, relevant policing Acts or in possible new major events legislation to provide NT Police with appropriate powers to be able to close down an event upon certain safety standards not being met. Such measures should incorporate ability for a member of NT Police to cancel or shut down an event or licensed premises upon a prescribed offence or breach of licence. This could include exceeding licenced patron numbers, liquor offences or drugs on premises.

7: Consider introducing legislation specific to major events, which would support both law enforcement and the industry. The aim of this legislation would be to provide sufficient regulatory control for emergency management, law enforcement as well as to meet both licence and licensees expectations.

Outlet Density

Research has shown that alcohol outlet density is a factor for consideration in domestic violence rates: '*Alcohol outlet density was associated significantly with rates of domestic violence, over time*'.⁴

There are examples of excessive density of liquor licences in Alice Springs with several takeaway alcohol outlets, including supermarkets, in close proximity with each other.

Other measures which could be put in place to reduce outlet density problems include:

- Reduce takeaway licence numbers/density especially supermarkets selling alcohol.

⁴ Brennan, S., 2013, Domestic & Family Violence Analysis (2008-2012), Northern Territory Police.

Livingston, M., 2010, A Longitudinal Analysis of Alcohol Outlet Density and Domestic Violence, Addiction Research Report, Centre for Alcohol Policy Research, Turning Point Alcohol and Drug Centre, Fitzroy, VIC. And School of Population Health, Melbourne, Australia.

- Reduce trading hours of takeaway outlets with consistency across the NT and cancel Sunday trading (except bottle-shops attached to a pub/tavern).
- Redefine and clarify the ancillary arrangements for supermarkets to restrict their volume of alcohol sales. E.g. a defined percentage of sales can only come from the bottle shop component.
- Compulsory CCTV in and around takeaway liquor outlets, to strengthen the ability to detect offences particularly those involved in secondary supply.

8: Consider reducing the number and density of liquor licences, particularly in Alice Springs.

Alcohol and Maritime Safety

Currently Northern Territory does not have legislation relating to the consumption of alcohol while in charge of a vessel, and police do not have legislative power to compel a skipper to undergo a breath test if intoxication is suspected. There is also no requirement for vessel drivers' licences or vessel registration in the NT. Due to the absence of legislation or policy in relation to alcohol consumption on marine vessels NTPFES are unaware of any empirical data available on alcohol related incidents on the water.

In exploring alternative maritime safety models in other jurisdictions, the Queensland maritime safety model is a possible option for further exploration. The Queensland model requires that boat drivers carry a licence with blood alcohol limits imposed depending on the type and class of vessel. Such a model may not fully take into account the particular circumstances of the Northern Territory, and careful consideration and public consultation would be required.

Moreover, enforcing any future legislative reforms in the NT would require changes in the way the Territory's waterways are patrolled and policed. This would entail significant additional resourcing in staffing and capital equipment by NTPFES.

Nonetheless, NTPFES is supportive of further consultation regarding alcohol and maritime safety issues to ensure the safety of all persons on NT waterways.

While not directly related to the issue of alcohol and maritime safety, NTPFES is highly supportive of any initiative which will make vessel identification and ownership easier. This need not be overly-onerous for boat owners. For example, a simple regulative change requiring boat owners to identify their craft with their vehicle registration numbers might be sufficient to assist police and others.

9. Consider alternative maritime safety options from other jurisdictions and possible application to the NT.