

People's Alcohol Action Coalition

Submission to the

Alcohol Policies and Legislation Review in the Northern Territory

July 2017

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Recommendations

Strategy 1: Reducing alcohol availability

Introduce a minimum price for alcohol

- Amend the *Liquor Act* to allow Licensing NT to set the price of alcohol.
- Licensing NT then to introduce a Minimum Unit Price for take-away alcohol products equivalent to the existing price of take-away full-strength beer, currently at approximately \$1.50 per standard drink.

Reduce the number of liquor outlets

- Introduce a moratorium on new, transferred and reactivated liquor licences for all licensed premises, with no exemptions.
- Introduce a buy-back scheme for liquor licences in the Northern Territory, with a focus on licences that are causing the most harm, particularly take-away licences at roadhouses and petrol stations; alternatively, for roadhouses, introduce residence-based ID scanning.

Review trading hours

- Introduce 12am last drinks and 1am closing time for late night on-premises licensed venues across the Northern Territory.
- Introduce mandatory licence conditions for the responsible service of alcohol at all licensed venues in the Northern Territory. This should include restrictions on alcoholic drinks such as on the sale of 'shots' and ready-to-drink beverages with more than five per cent alcohol content; time limitations on sales; and no drink stockpiling by patrons.
- Introduce a take-away sales free day each week in locations where a need is identified.

Strategy 2: Targeted supply reduction

Licensed clubs in Aboriginal communities

- Implement the recommendations of the Bowchung review of licensed clubs in remote Aboriginal communities in the Northern Territory.
- Continue the Australian Government's restrictions on the operations of licensed clubs in remote communities, and impose similar restrictions on any proposed new clubs, along with any additional requirements under locally developed Alcohol Management Plans.

The Banned Drinkers Register and Point of Sale Interventions

- Retain Point of Sale Interventions (POSIs) (previously known as Temporary Beat Locations or TBLs) as needed, up until and after the Banned Drinkers' Register is reinstated and until it can be demonstrated that they are no longer required.
- Re-introduce the Alcohol and other Drug Tribunal and therapeutic specialist courts for problem drinkers who commit offences.

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- Collect and regularly publish comprehensive consumption, criminal justice, hospital and health data.
- Commission expert independent evaluations of the Banned Drinkers' Register and other initiatives to reduce alcohol-related harm such as POSIs, and publicly report on their effectiveness.

Strategy 3: An effective licensing system

Introduce a risk-based licensing system

- Introduce a risk-based liquor licensing scheme in the Northern Territory which includes: establishing three-year liquor licences; differentiated fees for all licence types commensurate with the risk of alcohol-related harm; and annual indexation of all licence fees.

Increase community involvement in liquor licence regulation

- Reinstatement of the Northern Territory Licensing Commission and its full functions and powers as it operated under the *Northern Territory Licensing Commission Act*. Major decisions and determinations must be made by the Commission, with hearings conducted by a panel of members selected by the Chairperson of the Northern Territory Licensing Commission to ensure transparency.
- Provide \$2 million over four years to develop and fund a Northern Territory Community Defender's office based on the successful New South Wales 'Alcohol Community Action Project' pilot.

Public interest in decision-making

- Amend the Northern Territory *Liquor Act* to more effectively protect the public interest, by placing the onus of proof on applicants for new or significantly varied liquor licences to establish the merit of their application, and to satisfy the licensing authority that granting the application is in the public interest.
- Amend the Northern Territory Liquor Act to allow police to order liquor sales to cease, premises to be closed and or to determine the types and volume of liquor that may be sold, for reasons of public safety, for a specified period or until the threat has abated.

Strategy 4: Increase treatment services capacity

- Fund additional voluntary, evidence-based, culturally suitable alcohol treatment and rehabilitation services, including aftercare, across all regions in the Northern Territory.
- Ensure adequate and appropriate alcohol diversion programs are available across the Northern Territory to address the over-representation of Aboriginal and Torres Strait Islander people in the Northern Territory's criminal justice system.

Strategy 5: Supporting healthy public policy

- Ban political donations in the Northern Territory from the alcohol industry and its representatives.

Strategy 6: Early Childhood Development

- Provide long-term and sustained investment in evidence-based early childhood development programs throughout the Northern Territory as a key strategy for the prevention of alcohol-related harm, and to end the inter-generational cycle of the harmful use of alcohol.

About the People's Alcohol Action Coalition

The People's Alcohol Action Coalition (PAAC) is an Alice Springs-based community alcohol reform group. It developed in response to a growing awareness of excessive alcohol use and associated harm in the Central Australian region, and provides a platform for community action to reduce alcohol-related harm. Its formation in late 1995 followed a public rally on alcohol problems instigated by the late Dr Charles Perkins, Aboriginal activist and Australian and Torres Strait Islander Commission (ATSIC) Central Zone Commissioner.

PAAC aims to work towards reducing the impact of alcohol-related harm through a number of strategies, including: developing constructive reforms to the sale of alcohol; advocating controls on public consumption; advocating responsible service of alcohol; and promoting healthy lifestyles.

Members include social workers, lawyers, medical practitioners, Aboriginal organisations, trade unions, churches, social service organisations and individuals. Collaborating organisations include the Central Australian Aboriginal Congress, Central Land Council, Aboriginal Medical Service Alliance Northern Territory, Northern Territory Council of Social Services, Central Australian Youth Link Up Service, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (Aboriginal Corporation) and the Public Health Association of Australia NT.

Introduction

The facts about the amount of alcohol consumed in the Northern Territory and the harm that it does to all Territorians are well known. They have been extensively documented by numerous reports and inquiries over several decades, and it is not our intention to repeat them here.

There have been some improvements in recent years, driven largely by effective public policy interventions such as the former Banned Drinkers Register (BDR), the withdrawal from sale of the cheapest forms of alcohol in the form of large casks of wine, and more local interventions such as the Northern Territory Police's Temporary Beat Locations (TBLs), now known as Point of Sale Interventions (POSIs). Such measures have seen a marked decrease in the amount of alcohol consumed, from around twenty-two standard drinks per week for every adult in the Territory in 2008 to around eighteen standard drinks per week in 2015¹.

Despite this, the harm that alcohol does to Territorians – either directly through ill health, injury, accident and early death, or indirectly through economic and social costs – remains extreme. It affects all Territorians, wherever we live, Aboriginal and non-Aboriginal, men, women and children. PAAC believes that the Northern Territory Government has a responsibility to address alcohol as the most pressing health, social and economic issue that we face. We also believe that the Government is in an excellent position to do so.

The evidence about 'what works' to reduce alcohol-related harm has never been stronger, and there is growing support amongst Territorians for policies that will work to reduce that harm.

We have structured this submission around six evidence-based strategies:

Strategy 1: Reducing alcohol availability

Strategy 2: Targeted supply reduction

Strategy 3: An effective licensing system

Strategy 4: Increasing treatment services capacity

Strategy 5: Supporting healthy public policy

Strategy 6: Early Childhood Development

Strategy 1: Reducing alcohol availability

The most effective way of reducing alcohol related-harm, and the most cost-efficient for governments, is through reducing its availability. It is not 'just another commodity'; like other substances with the potential to cause significant public harm, alcohol needs careful regulation. There is incontrovertible evidence from numerous settings in Australia and around the world that reducing the availability of alcohol, either through increasing its price (economic availability) or reducing or placing restrictions on the number and types of outlets (physical availability) reduces consumption, and consequently reduces harm such as ill-health, injury, accidents, family violence, and anti-social behaviour.

Introduce a minimum price for alcohol

A Minimum Unit Price (MUP) or 'floor price' sets a cost per standard drink (or unit of pure alcohol) below which alcoholic beverages cannot be sold. It is a regulatory measure that increases the price of the cheapest alcohol products, and decreases discounting and product bundling of more expensive products. It can prevent retailers from using alcohol as a 'loss leader', whereby a product is sold at a price below its market cost to attract customers into stores; and it guarantees that a product will not be discounted below a certain amount.

A de facto minimum price has been established in some areas of the Northern Territory on a number of occasions over the past fifteen years. For example, the Alice Springs Liquor Supply Plan of October 2006 banned the sale of four- and five-litre cask wine and fortified wine in containers of more than one litre. This resulted in a mean standard drink price increase from 80 cents to \$1.10 per standard drink and the minimum price per standard drink increasing from twenty-five to fifty cents per standard drink². Following the introduction of the restrictions, there was a twenty per cent reduction in pure alcohol sales and a significant reduction in alcohol-related harm. Protective custody orders halved and there was an overall reduction in alcohol-related crime of twelve per cent. The restrictions were particularly significant in halting the severely increasing rates of hospitalisation of Aboriginal women for assault³.

These findings mirror those from elsewhere in the world. In Canada, for example, a ten per cent increase in the minimum price of alcohol in Saskatchewan and British Columbia saw a significant reduction in alcohol consumption in both provinces⁴.

Alice Springs also has a voluntary floor price implemented by some individual retailers and which has been in place for several years⁵. None of the supermarkets in the town sell take-away liquor at less than around \$1 per standard drink. There is no accord under the *Liquor Act*, and the two hotels have not participated, although nor have they historically discounted their products in the same way as have the large supermarket chain. This voluntary pricing has at least helped to keep extremely cheap grog from being sold in the town, but of course the POSIs and TBLs, discriminatory as they are in their application, have succeeded in deterring very many potential purchasers and thus reducing sales and consumption.

In 2015 the *Northern Territory Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorders* recommended that a minimum price of at least \$1.30 per standard drink be introduced⁶.

The Northern Territory Government currently has the power to introduce a minimum price for alcohol. Section 6 of the *Northern Territory (Self-Government) Act 1978* gives power to the Northern Territory Legislative Assembly to amend the *Liquor Act* to control liquor pricing without needing consent from the Australian Government. In addition, the provisions of Part XA of the *Liquor Act* authorises restrictive trade practices by licensees who are parties to a liquor accord (section 120C).

What we are calling for:

- **Amend the *Liquor Act* to allow Licensing NT to set the price of alcohol.**
- **Licensing NT then to introduce a Minimum Unit Price for take-away alcohol products equivalent to the existing price of take-away full-strength beer, currently at approximately \$1.50 per standard drink.**

Reduce the number of liquor outlets

There is a strong association between the density of liquor outlets (the number of active liquor licences in an area) and a variety of alcohol-related harm, including general assaults, domestic assaults, drink-driving, homicide, suicide, child maltreatment, adolescent drinking, and alcohol-related chronic disease⁷.

There is a particularly strong association between the concentration of take-away outlets in an area and domestic violence, with a ten per cent increase in off-licence liquor outlets associated with a three per cent increase in domestic violence. Chain outlets (such as 'big box' stores with large floor areas and the ability to substantially discount alcohol) contribute even more substantially to risk, with recent research estimating that every additional chain outlet in an area was associated with a thirty-five per cent increase in intentional injuries and a twenty-two per cent increase in unintentional injuries⁸.

There are 727 licensed premises in the Northern Territory, 514 of which are currently active; this translates to around one licence for every 350 people over the age of fifteen in the Northern Territory⁹. Approximately seventy per cent of licensed venues are licensed to sell take-away liquor.

Moratoriums on liquor licences are an effective way to halt the growth in alcohol outlet density. A large increase in take-away licences in the early 2000s led to a moratorium being introduced in the Northern Territory in 2007 with no new take-away liquor licences to be granted. Unfortunately, the Northern Territory Government relaxed the moratorium in 2014 to again allow new take-away licence applications, leading to an increase in the number of such licence applications in the Territory. PAAC welcomed the October 2016 announcement that the Northern Territory Government would bring back a moratorium on new take-away liquor licences, but note that it allows new licences 'in exceptional circumstances' such as in new residential or commercial land developments¹⁰.

In addition, buy-back schemes can be used to reduce the density of licenses. Such a scheme was introduced by the Australian Government in 2007 as part of the measures associated with the Northern Territory National Emergency Response. This resulted in two Alice Springs take-away licences being bought with funds provided by the Australian Government. In 2009, the Northern Territory Government indicated that it would introduce its own buy-back scheme, but this has not eventuated.

Given the high density of alcohol licenses – and particularly take-away licenses – in the Northern Territory, a moratorium on new licenses should be introduced, accompanied by a 'buy back' scheme that focuses on those licences likely to cause the most harm.

Such a scheme should examine buying back take-away licences from roadhouses and petrol stations, many of which in Central Australia at least are associated with very high levels of harm in surrounding communities¹¹. Roadhouses in Central Australia commonly keep a manual register and voluntarily attempt to limit sales to local Aboriginal people to six cans of full-strength beer per person per day, at highly inflated prices - \$36 or \$37 for six¹². The alcohol is often consumed in drinking camps near the roadhouse, with no control in relation to on-selling, sharing and therefore actual levels of individual consumption. Such licences also create a strong association between drinking and driving; an association which has led a number of countries (such as France and Switzerland) to ban the sale of alcohol from petrol stations.

An alternative to buying back these licences would be to implement a residence-based scanning system akin to the highly successful one introduced in Coober Pedy in 2013, whereby photo ID is scanned and sales refused to anyone who resides in or is travelling to specified communities in the NT, SA and WA cross-border region¹³. The very successful Coober Pedy restrictions also put a daily volume limit on all take-away purchases.

What we are calling for:

- **Introduce a moratorium on new, transferred and reactivated liquor licences for all licensed premises, with no exemptions.**
- **Introduce a buy-back scheme for liquor licences in the Northern Territory, with a focus on licenses that are causing the most harm, particularly take-away licences at roadhouses and petrol stations; alternatively, for roadhouses, introduce residence-based ID scanning.**

Review trading hours

Trading hours are a key strategy in the management of alcohol-related harm. An increase in take-away trading hours is associated with an increase in harm and extended on-premises trading hours are associated with an increase in consumption and hence assaults¹⁴, domestic violence¹⁵, road crashes¹⁶ and child maltreatment¹⁷. Conversely, restrictions on late-night on-premises trading reduce the amount of alcohol-related harm, particularly assaults, as has been incontrovertibly demonstrated by two examples from NSW, where restricting pub closing times to 3 am in Newcastle reduced assaults by thirty-seven per cent; and the Kings Cross and Sydney CBD entertainment precincts restrictions (1:30 ban on entry to licensed premises; 3am last drinks) reduced assaults by up to seventy per cent with similar reductions in anti-social behaviour¹⁸.

In Sydney, last drinks policies were accompanied by Responsible Service of Alcohol (RSA) measures that included the cessation of the sale of ready-to-drink (RTD) beverages with more than five per cent alcohol after 10pm, and not allowing patrons to be sold more than four drinks at one time.

In the Northern Territory, unlike any other jurisdiction in Australia, there are no standards for late trading hours, and for on-license premises opening times are determined on a case-by-case basis, with some venues known to trade until 4am, particularly in Darwin and Alice Springs. In this situation, and given their effectiveness in reducing harm, it is unfortunate that the Chief Minister has chosen to rule out the introduction of so-called 'lock out laws' in the Northern Territory.

Reducing take-away hours, particularly through introducing take-away alcohol free days, has also been shown to be effective in reducing alcohol-related harm. In August 1995, Tennant Creek introduced 'Thirsty Thursday' restrictions for a six-month trial. Take-away alcohol purchases were restricted on Thursdays to coincide with the timing of social security payments. Initially no take-away sales were allowed on a Thursday, but in November 1995 this was modified to allow take-away sales from the bottle shop and front bar between 3pm and 9pm on Thursdays. Alcohol-related emergency department presentations and incidents attended by police reduced considerably following the introduction of the original measures, with a thirty-four per cent and a fifty-five per cent drop respectively observed, compared to the same period in the previous year.

When sales were reintroduced on Thursday afternoons, however, the reduction in harm was not as high, with only a thirteen per cent drop in incidents attended by police. This pilot clearly showed that the tighter the restrictions, the greater the reduction in alcohol-related harm¹⁹. The modified restrictions continued until early 2006, when they were removed following a review by the Liquor Commission.

What we are calling for:

- **Introduce 12am last drinks and 1am closing time for late night on-premises licensed venues across the Northern Territory.**
- **Introduce mandatory licence conditions for the responsible service of alcohol at all licensed venues in the Northern Territory. This should include restrictions on alcoholic drinks such as on the sale of 'shots' and ready-to-drink beverages with more than five per cent alcohol content; time limitations on sales; and no drink stockpiling by patrons.**
- **Introduce a take-away sales free day each week in locations where a need is identified.**

Strategy 2: Targeted supply reduction

Licensed clubs in Aboriginal communities

While licensed clubs are historically rare, short-lived and in fact are currently non-existent in Central Australia, some remote northern NT Aboriginal communities have established such outlets. These have largely operated without government support, guidance or review. Consequently, communities with licensed clubs were often marked by high levels of drinking and associated harm²⁰.

In 2007, however, the Australian Government imposed regulations on licensed clubs operating in remote communities. These included restricting opening hours to twelve hours per week, permitting only the sale of low- and mid-strength beer; and a ban on take-away sales. In addition, residents of these communities were subjected to income management under the Northern Territory Emergency Response (NTER) under which half of residents' Centrelink income was quarantined from spending on alcohol or tobacco. A review of the effects of these changes (the Bowchung review) was completed in 2014²¹. It revealed:

- a significant reduction in the apparent consumption of alcohol through the clubs, from around fourteen litres per year per person over the age of fifteen, to around six litres, although residents continued to obtain significant quantities of alcohol from other sources;

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- slightly lower hospital admission rates for alcohol-related causes for communities with clubs compared to those without clubs;
- a reduction in the proportion of assaults which were alcohol-related, although the overall number of assaults in the communities did not decline; and
- high levels of support for the clubs and the restrictions under which they operate, from both drinkers and non-drinkers, and from other service providers.

Overall, the Review concluded that with the restrictions in place *'there is no evidence to suggest that communities with clubs experience higher rates of alcohol-related harms than other communities'* (page 102). The Review made a number of important recommendations including:

- restrictions on trading hours and on selling full-strength beer be maintained and required of any proposed new clubs;
- strengthened governance arrangements for all clubs;
- focused support from the Northern Territory Government to work with communities to ensure that clubs function responsibly; and
- a range of standards for clubs, including the provision of hot meals, appropriate layout and design, high levels of governance, collaboration with local health services on alcohol-related health issues, transparency of decision-making and re-investment of profits, and regular review and evaluation.

We note that any new licensed clubs in remote communities would currently need to satisfy the Alcohol Management Plan (AMP) criteria set out in the Stronger Futures legislation²². Under this regime, community AMPs require extensive consultation, including with vulnerable community members, must take into account the views of health services and other service providers, and must identify community-based strategies to reduce harm from alcohol abuse to individuals, families and communities. AMPs must also include clear governance arrangements.

What we are calling for:

- **Implement the recommendations of the Bowchung review of licensed clubs in remote Aboriginal communities in the Northern Territory.**
- **Continue the Australian Government's restrictions on the operations of licensed clubs in remote communities, and impose similar restrictions on any proposed new clubs, along with any additional requirements under locally developed Alcohol Management Plans.**

The Banned Drinkers Register and Point of Sale Interventions or Temporary Beat Locations

The Banned Drinkers' Register (BDR) was introduced in 2011 as part of a range of measures to address alcohol-related harm in the Northern Territory. Under the scheme, people who had been taken into police custody three times in three months or committed an alcohol-related offence were given a Banning Alcohol and Treatment (BAT) notice banning them from purchasing take-away alcohol for three months.

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This was achieved through the use of identification (ID) scanners at take-away outlets that were linked to the BDR. A person issued with a BAT notice was encouraged to undertake treatment. If they did so, the period for which they were banned from purchasing, consuming, or possessing alcohol could be reduced. Treatment, however, was in effect voluntary (even if ordered by the then Alcohol and Other Drugs Tribunal, which, not being a court, could not enforce its own orders), and the person could choose to stay banned for the duration of the notice.

Other reforms introduced at the time included:

- an Alcohol and Other Drugs (AOD) Tribunal to deal with non-criminal matters such as three or more breaches of a BAT notice. Police, health practitioners, and family members could refer a person to the AOD Tribunal for assessment. Once someone was referred, treatment if ordered was compulsory (but not enforceable), and the person was required to undertake a clinical assessment; and
- a Substance Misuse Assessment and Referral for Treatment (SMART) Court with the power to refer people who had been found guilty of certain criminal offences involving or related to alcohol or other drug use to treatment, rather than sending them to gaol. Treatment was voluntary and those who completed treatment had the double benefit of addressing their substance misuse and avoiding imprisonment.

In September 2012, the then new Country Liberal Party (CLP) Government dismantled the BDR and associated initiatives. Police, however, increased the use of Temporary Beat Locations (TBLs), whereby police are stationed outside take-away liquor outlets to determine where purchased alcohol is likely to be consumed, with the aim of preventing people from taking alcohol to areas where drinking is prohibited.

While no formal evaluation of the BDR has been undertaken, the National Drug Research Institute (NDRI) undertook an analysis of the Alice Springs Hospital's emergency department and hospital admission data, and concluded that the BDR had led to a reduction in alcohol-related harm in Alice Springs²³. Similarly, the House of Representatives Standing Committee on Indigenous Affairs final report into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities noted that, 'evidence shows... that the BDR was working effectively to reduce the supply of alcohol to problem drinkers, and that its abolition was associated with increases in alcohol-related harm'²⁴.

The SMART Court was an effective way of dealing with people who had a health problem, allowing them to address their substance use and the cause of their offending, reducing the impact on the health system, the justice system and the child protection system²⁵.

The TBLs, now formally designated POSIs – Point of Sale Interventions – have continued in Alice Springs, Tennant Creek and Katherine. From police data and general observation they appear to have been highly effective in reducing alcohol consumption and related behaviour, although to date there has been no formal evaluation. They continue to be controversial because of:

- their racially discriminatory application;²⁶
- doubt as to the lawfulness of the exercise of police powers used to conduct POSIs;
- their resource intensiveness, arguably in diverting police away from other duties;
- lack of support from the NT Police Association; and
- public concern at the intrusiveness of a conspicuous police presence at supermarkets.

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PAAC commends the NT Police for establishing and maintaining this measure, which has seen a very substantial reduction in violence in the communities where it is used. PAAC is, however, opposed to the racially discriminatory manner in which POSIs are currently conducted.

When police are stationed at an outlet, all patrons should be challenged, not just those of Aboriginal appearance. PAAC has previously urged police to adopt this approach, without success.

If POSIs are to continue, amendments should be enacted to the *Liquor Act* to expressly authorise their operation. PAAC accepts that the continued operation of POSIs places a substantial burden on police, and would not be opposed to its transfer to, for example, the Licensing Commission, provided additional funding were provided to enable POSIs to be effectively maintained.

Importantly, PAAC notes that to effectively operate POSIs, it is essential to have officers on duty at all the take-away outlets in a particular locality. Experience has shown that patrons rapidly find out on the 'bush telegraph', especially using mobile phones, when an outlet is unsupervised, and go there to make their purchase.

The difficulty in sustaining POSIs has been demonstrated recently with media reports that they were going to be discontinued²⁷.

In Alice Springs in the past few months, PAAC has documented and advised police and NT Government Ministers numerous times of the frequent and increasing absences of POSIs in the town. The absences have resulted in 'rushes' on some premises, increased public drunkenness and littering including broken glass, and anti-social behaviour. Strong community concern has led to Government and police assurances that the POSIs will continue with full coverage, at least until the end of the year, and thereafter as needed. In late June and early July, however, there were still significant gaps occurring and in fact police have stated that there was no assurance of full coverage²⁸.

The gaps in POSI coverage have included Friday and Saturday evening trading times. On Friday 7th July, Show Day in Alice Springs, for example, the Eastside IGA supermarket was, according to bottle shop staff spoken to at 5:30 pm, had not been attended by police on that day, and in the late afternoon there were ten or more very intoxicated people in the immediate area, in vehicles including a taxi, and on foot. Some were argumentative and abusive. Coles had closed its Liquorland store by 7:30pm on that day, which it has previously done from time to time when there are large numbers of intoxicated people about and consequent disturbances in the vicinity. The Northside IGA was unattended by police when observed at 4:30 pm on Friday, and at 5:30 pm on Friday there were no police either at Northside or at the Gapview Hotel.

The Todd River bed on the same afternoon was the scene of numerous drinking parties, and at time of writing large areas of the river bed and surrounds were strewn with empty bottles, broken glass and other rubbish. Unfortunately the Chief Minister had declined requests on the Thursday prior to limit trading hours over the long weekend, instead relying on police to cover outlets.

There have been many fires in the river in the past few months, some no doubt lit by drinkers; river gums are damaged or burnt out and sirens are frequently heard at night. In a relatively short time the social amenity of the town has plummeted due to the increased access to take-away alcohol.

No doubt the level of drinking that has been going on of late has contributed to the large numbers of children on the street. This situation bolsters the argument, not only for preventative measures, but also for transparency and timeliness in the provision of criminal justice, health and sales data.

PAAC welcomes the Northern Territory Government's reintroduction of the BDR linked to ID scanning at the point of sale. We note that the Government plans to place up to 1,000 people on the BDR on its introduction this coming September. These will largely be people who are currently under Alcohol Protection Orders implemented by the previous government, and which will be abolished. Nevertheless, until sufficient numbers of the problem drinkers who are targeted by the new BDR are actually placed on the Register (noting that in its first iteration in June 2012, there were almost 2,500 listed by the time it was abandoned), and until there is some objective evaluation that shows its effects, POSIs remains a necessary part of reducing alcohol-related harm in the community.

What we are calling for:

- **Retain Point of Sale Interventions as needed, up until and after the Banned Drinkers' Register is reinstated, until it can be demonstrated that they are no longer required.**
- **Re-introduce the Alcohol and other Drug Tribunal and therapeutic specialist courts for problem drinkers who commit offences.**
- **Collect and regularly publish comprehensive consumption, criminal justice, hospital and health data.**
- **Commission expert independent evaluations of the Banned Drinkers' Register and other initiatives to reduce alcohol-related harm such as POSIs, and report publicly on their effectiveness.**

Strategy 3: An effective licensing system

Introduce a risk-based licensing system

Venues that sell alcohol should contribute to the cost of managing the regulatory system, policing, and other services. Accordingly, risk-based licensing (RBL) has been introduced into most Australian jurisdictions to mitigate the risks associated with alcohol. Under such a system, on-licence fees are commensurate with their likely risk of alcohol-related harm according to their trading hours, patron capacity and, in some cases, their location, venue type, and compliance with licensing legislation. Off-licence fees are paid according to the wholesale value of liquor sold. Higher risk licensees pay higher fees than lower risk ones.

The additional revenue from an RBL scheme is available to recover the costs associated with policing and regulation of alcohol-related incidents. It can also provide an incentive to modify risk factors such as trading hours and occupancy.

In 2010, the Australian Capital Territory introduced an RBL scheme which calculates licensing fees according to risk factors such as venue type, occupancy, trading hours and volume of gross liquor sold (for take-away liquor outlets). The impact has been positive, with a study identifying declines in the absolute number of all offences, including those involving alcohol, since the introduction of the scheme²⁹.

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No such system exists in the Northern Territory despite a recommendation made by the Allen Consulting Group in 2010³⁰. To make matters worse, licensees in the Territory pay the lowest fees in the nation for liquor licences. Every other state and territory charges higher application and annual fees. The fees payable for each licence type in the NT and other relevant details are detailed below³¹.

LICENCE	FEE	PAYABLE	NOTES
Liquor licence	\$200	Upon application	Licence provided in perpetuity
Continuing special licence (not-for-profit)	\$20	Upon application and renewal	Annual renewal required
Special licence	\$20	Upon initial application	One-off licence
Transfer liquor licence	\$2	Upon application	One-off fee

Applicants are also required to pay a fee for police checks as part of the application and renewal processes, ranging from a police history name check costing \$57 to a police history fingerprint check costing \$161. Once these fees are paid, liquor licences are granted in perpetuity and no annual fees are required, unless applying for a continuing special licence. The same fee applies to all venues, regardless of the location, type or size of the venue, its trading hours or monetary turnover. These fees have not changed for at least the last seven years.

What we are calling for:

- **Introduce a risk-based liquor licensing (RBL) scheme in the Northern Territory which includes: establishing three-year liquor licences; differentiated fees for all licence types commensurate with the risk of alcohol-related harm; and annual indexation of all licence fees.**

Increase community involvement in liquor licence regulation

The need for consultation with the public in relation to the granting, variation or transfer of liquor licenses is paramount, given the harm that such licences can potentially impose on the community. Such consultations need to take place at a time and place, and in a manner which encourages and facilitates public participation in the decision-making process. It is particularly important to ensure adequate consultation with Aboriginal and Torres Strait Islander communities.

Prior to 2015, the community had the opportunity to contribute to liquor licensing decisions in the Territory through a consultative process conducted by the then Northern Territory Licensing Commission. The Commission as an independent statutory authority was required to conduct hearings under the *Liquor Act* which involved community members and were conducted by a panel at or near the location which was the subject of the application or complaint. This meant that people were easily able to engage with the process, even if they lived in remote communities³².

In January 2015, the Northern Territory Licensing Commission was abolished and Licensing NT established in its place. This was a step backwards in facilitating public engagement (particularly of Aboriginal and Torres Strait Islander people) with the liquor licensing process, with many decisions being delegated to licensing staff rather than being made through any consultation process³³.

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This led to a significant reduction in the number of liquor licensing complaints and decisions, an indication that the community is not engaged in the process and that real or perceived barriers exist to community involvement in decisions.

In addition, there was no requirement for the Director-General to conduct public hearings, effectively transforming what was previously a consultative, semi-judicial process into more of an administrative function with little incentive for the community to engage on important liquor licensing matters and no support for those wishing to contribute to decisions affecting their community.

In February 2017, new guidelines were introduced to allow for public hearings under certain circumstances, for example: for new licence applications, significant variation of licence conditions, transfer of licenses, or significant alterations to licensed premise; for the hearing of complaints; or for an application for a specified area of land to be declared a restricted area³⁴.

This is a positive step and one which PAAC welcomes. Barriers to proper public consultation nevertheless remain: an objection must be lodged within thirty days of the licence application notice being published and, should a hearing be held, the grounds for objection can only be based on the facts laid out in the complainant's original objection³⁵.

The applicant, however, is not restricted in the time available to respond to the objection, and is not limited to addressing only the objections laid out in the complaint when making its response³⁶. An appeal can be lodged once a decision is made through the Northern Territory Civil and Administrative Appeals Tribunal, but the cost required to lodge an application (currently \$400) is a financial barrier to many people.

In relation to this, PAAC notes the Alcohol Community Action Project (ACAP) pilot in New South Wales³⁷, which was developed to help individuals and organisations who wanted to reduce alcohol-related harm in their community through the liquor licensing and planning systems. The ACAP pilot assisted communities to lodge objections to liquor licences and related applications and provided advice to individuals who were not aware of their rights. The strong demand for support through ACAP demonstrated the need within the community for such a service.

Lastly, and as discussed above in relation to licensed clubs in remote areas, any consideration of changes to alcohol availability in (or near) Aboriginal communities must involve the whole community, including women, non-drinkers, and service providers such as police, education, and health agencies.

This process must be transparent so there is independent evidence that a decision to declare a community dry, or to amend or lift its dry status, is one that is supported by the whole community. Aboriginal communities that declare themselves dry have had some effect in reducing alcohol-related harm where the communities have had some control over alcohol policy³⁸. Changes to liquor outlets in regional proximity to Aboriginal communities are also of valid interest to those communities.

What we are calling for:

- **Reinstate the Northern Territory Licensing Commission and its full functions and powers as it operated under the *Northern Territory Licensing Commission Act*. Major decisions and determinations must be made by the Commission, with hearings conducted by a panel of members selected by the Chairperson of the Northern Territory Licensing Commission to ensure transparency.**
- **Provide \$2 million over four years to develop and fund a Northern Territory Community Defender's office based on the successful New South Wales 'Alcohol Community Action Project' pilot.**

Public interest in decision-making

Given the range and extent of public harm that can potentially result from the grant, variation or transferral of liquor licences, the consideration of public interest (and not just the private interests or wishes of an applicant) in any decision-making process about licensing is crucial.

Under the Northern Territory *Liquor Act*, section 6 requires that the decision-maker, in relation to the granting or conditions of a liquor licence, considers a wide range of public interest criteria, including harm or ill-health to the community; public order and safety; and the avoidance of offence, annoyance, disturbance or inconvenience to nearby residents or businesses. While this is of course proper, the exceptional levels of consumption and alcohol-related harm in the Northern Territory, driven in part by the historical proliferation of licences that have failed adequately to take into account the public interest, indicate that a greater emphasis on the public interest may be required.

The Western Australian legislation provides a model that more effectively balances the private interests of applicants with the public interest. Under section 38(2) of that jurisdiction's *Liquor Control Act 1988*, the onus of proof is upon the applicant to establish the merit of their application and to satisfy the licensing authority that granting the application is in the public interest³⁹.

Applicants for new licences and some variations to existing licences must complete and submit a Public Interest Assessment (PIA) with their application, which sets out how the proposed premises will affect a community and provide an outline of how the applicant will mitigate any adverse impact.

Applicants are expected to liaise with key stakeholders and interest groups in the community in the preparation of their PIA⁴⁰; specifically it is noted that 'letters of support from business people purporting to speak on behalf of consumers simply does not go far enough to satisfy the Commission that the general public has a requirement for liquor and related services'⁴¹.

Under the Western Australian legislation there is also provision (s114) for police to order premises to cease sales or to close for reasons of public safety. Under s33A of the Northern Territory *Liquor Act*, the Minister may make urgent alterations to the trading conditions of liquor licences; this includes changes in opening hours and the types of liquor that may be sold. The Director-General may vary licence conditions in an emergency under s48A of the *Liquor Act*. Each declined to use their respective powers in Alice Springs on the July Show weekend, with disastrous results (see above at p13.)

It is our submission that NT police of the rank of Sergeant or above should have the power, for reasons of public safety, to alter temporarily the trading conditions of licensed premises. We believe such powers would be useful in circumstances such as occasions involving large gatherings of people where excessive drinking is likely to lead to violence or disorder, for example at football carnivals, Show weekends or the Mitchell Street precinct in Darwin.

What we are calling for:

- **Amend the Northern Territory *Liquor Act* to more effectively protect the public interest, by placing the onus of proof on applicants for new or significantly varied liquor licences to establish the merit of their application, and to satisfy the licensing authority that granting the application is in the public interest.**
- **Amend the Northern Territory *Liquor Act* to allow police to order liquor sales to cease, premises to be closed and or to determine the types and volume of liquor that may be sold, for reasons of public safety, for a specified period or until the threat has abated.**

Strategy 4: Increasing treatment services capacity

Treatment is an important part of any response to alcohol and other drug harm in the community. It has been proven to be effective in reducing the demand for alcohol and other drugs through decreasing consumption, improving health, reducing criminal behaviour, improving psychological well-being, and increasing participation in the community⁴². Alcohol and other drugs treatment has also been shown to be cost effective, providing a return of just over \$7 for every \$1 invested⁴³.

In order to maximise effectiveness, treatment options must be culturally suitable and adapted to the particular cultural context and setting⁴⁴.

Unfortunately, the community sector as a whole is plagued by a struggle to meet demand, with an overwhelming majority (eighty per cent) of sector services reporting that they were unable to meet demand. The largest gaps are in areas of the greatest need. Over half (56 per cent) of services delivering AOD treatment are in the community sector. A key factor in insufficient service provision is the lack of adequate and sustained funding⁴⁵.

There are approximately twenty-three publicly funded alcohol and other drug (AOD) treatment services in the Territory. These provide residential and outreach assistance to urban, rural and remote locations and offer withdrawal, assessment, rehabilitation and aftercare programs as well as health promotion, education and prevention activities. In 2015-16, they provided 5,222 completed treatment episodes to 3,126 clients, sixty-six per cent of whom were Aboriginal or Torres Strait Islander.

Significantly⁴⁶:

- the rate of clients in the Northern Territory (1,315 per 100,000 population) is more than double the national rate (559 per 100,000); and
- alcohol was by far the most common principal drug of concern, making up nearly half (48%) of all episodes, two-and-a-half to three times more than the next most common drugs of concern, cannabis (19%) and amphetamines (14%).

This supports the view of community and service providers that there are not enough services to meet current needs, and that better integration and co-ordination is required across the alcohol and other drugs, community mental health, and primary healthcare sectors.

In the Northern Territory, treatment services have also had to cope with additional demands from the former government's mandatory approach to alcohol treatment. The Country Liberals had, before elected, promised to build 'prison farms' for problem drinkers.⁴⁷

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PAAC in its submission on the Alcohol Mandatory Treatment Bill, supported compulsory treatment orders on a trial basis for those with serious alcohol problems, *provided* there was adequate protection of clients' rights (similar to Mental Health Act provisions); a high level of care and treatment; no criminal sanctions; and agreement on a rigorous and comprehensive evaluation from commencement.

Our original misgivings have been borne out by the recent review of the AMT program which found that the program was: poorly designed; expensive (costing \$18 million in 2015-16 to treat just 190 people); able to provide but few effective interventions; and had no long term health benefits⁴⁸.

PAAC therefore welcomes the decision of the Northern Territory Government to repeal the AMT legislation and program and create better pathways to treatment. This should be based on supply-side interventions (see above) combined with voluntary treatment that includes a range of service delivery options to accommodate the diverse needs of clients and their families. In addition to primary prevention and residential rehabilitation programs, there is a need for evidence-based non-residential treatment for Aboriginal and Torres Strait Islander clients with alcohol problems⁴⁹. More alcohol diversion programs are also needed to address the over-representation of Aboriginal and Torres Strait Islander people in the Northern Territory's criminal justice system.

What we are calling for:

- **Fund additional voluntary, evidence-based, culturally suitable alcohol treatment and rehabilitation services, including aftercare, across all regions in the Northern Territory.**
- **Ensure adequate and appropriate alcohol diversion programs are available across the Northern Territory to address the over-representation of Aboriginal and Torres Strait Islander people in the Northern Territory's criminal justice system.**

Strategy 5: Supporting healthy public policy

In the Northern Territory, alcohol industry representatives continue to be amongst the biggest spenders when it comes to donations to political parties and candidates⁵⁰. Independent studies show that political donations do have an undue influence on political and policy making processes⁵¹. The ability to influence ministerial or government decisions raises questions of fairness, independence and quality, such as whether decisions are made in the public interest or instead to satisfy some private or commercial interest.

The community is also concerned about the ability of the alcohol industry to influence policy. Well over half (fifty-seven per cent) of Australians believe that the alcohol industry makes donations to influence government decisions, and almost three quarters (seventy-two per cent) believe that political parties should not be able to receive donations from the alcohol industry⁵².

What we are calling for:

- **Ban political donations in the Northern Territory from the alcohol industry and its representatives.**

Strategy 6: Early Childhood Development

The NT has the highest rate of substantiated child neglect in Australia⁵³.

Parental alcohol use is frequently associated with anti-social behaviour and the neglect of children during their early years, causing deficits in development which children carry into their school years and beyond. In particular, the link between poor development in the early years and the subsequent development of addictions and other life-long problems has been demonstrated by many studies, including the longitudinal study from Dunedin in New Zealand⁵⁴. It followed more than one thousand children from birth to age thirty-two, and found that the lower the self-control or emotional development in early childhood, the greater the risk of developing substance dependence in later life.

The Australian Early Development Index (AEDI)¹⁵⁵ involved a 2009 snapshot of 261,147 children (97.5 per cent of the estimated five-year-old population) in their first year of full-time school across Australia. It found that almost 30% of Aboriginal children are vulnerable on two or more developmental areas such as physical health and well-being, social competence, emotional maturity, language and cognitive skills, communication skills and general knowledge. In some regions, the figures are much worse: for example, 46.8% of Aboriginal children in the Northern Territory have vulnerabilities on two or more areas compared to 8% of all Australian children.

Once this pattern of development and behaviour is established, youth interventions, while necessary, are far more costly and less effective. There is ample evidence that it is much more effective – and efficient in terms of resources – to invest in early childhood development programs which aim to prevent the development of this pattern of behaviour⁵⁶.

Examples of such preventative programs include Nurse Program Home Visitation and the Abecedarian model of Educational Day care. These programs work with children before developmental problems arise. Their approaches assist children to gain access to the stimulation, quality relationships and access to services needed for healthy development.

What we are calling for:

- **Provide long-term and sustained investment in evidence-based early childhood development programs throughout the Northern Territory as a key strategy for the prevention of alcohol-related harm, and to end the inter-generational cycle of the harmful use of alcohol.**

Notes

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⁵ <http://www.smh.com.au/national/coles-tackles-alcohol-problem-with-a-floor-price-of-8-a-bottle-20110623-1ghhg.html> Woolworths had done this earlier, but does not discuss in the public arena. Other local supermarkets also 'participate' although as noted, there is no formal or joint agreement.

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¹¹ See for example Chlanda E (2014). "Roadhouse suspends selling takeaway alcohol after killing." Alice Springs News Online 11 May 2014.

¹² Personal inquiries, PAAC member Wycliffe Well, Aileron and Wauchope roadhouses, early to mid-2016.

¹³ <https://www.cbs.sa.gov.au/assets/files/CooperPedyFlyer.pdf>

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