

# **LIQUOR COMMISSION PROPOSED VARIATION OF LIQUOR LICENSES IN THE 'BARKLY'**

## **CURRENT CONDITIONS AND PROPOSED VARIATIONS**

1. The principal conditions currently applicable to Tennant Creek licensees are as follows:
  - a. takeaway liquor will only be available for sale Monday through to Saturday between 4:00 pm and 7:00 pm
  - b. takeaway sales on Sunday is prohibited
  - c. sale of the following products will be limited to no more than one of the following per person per day:
    - i. 30 cans or stubbies of mid-strength or light beer; or
    - ii. 24 cans or stubbies of full strength beer; or
    - iii. 12 cans or bottles of ready to drink mixes; or
    - iv. One two litre cask of wine; or
    - v. One bottle of fortified wine; or
    - vi. One bottle of green ginger wine; or
    - vii. Two x 750 ml bottles of wine; or
    - viii. One 750 ml bottle of spirits.
  - d. the sale of port, wine in a glass container larger than 1 litre and beer in bottles of 750ml or more remains prohibited.
  
2. In its reasons published on 6 January 2021, the Liquor Commission proposes to vary the licence conditions of all affected licensees by inserting the following conditions:
  - a. The licensee must install, maintain and operate a camera surveillance system in compliance with the requirements and guidelines prescribed by the Director of Liquor Licensing, including CCTV camera surveillance at the point of sale designed and operated so as to record information regarding the items purchased, the use of the BDR scanner, interactions between the purchaser and the salesperson, the appearance of the purchaser and the appearance of the salesperson. The licensee must

retain all data captured by the camera surveillance system for not less than 14 days.

- b. If a PALI or POSI officer is in attendance at the premises, the licensee must not conduct the sale of liquor for consumption off the premises until the PALI or POSI officer has completed checking the customers' credentials and indicated they do not intend to prevent the customer from entering or remaining on the premises, and do not intend to direct the licensee or the licensee's employees not to sell liquor to the customer.

The Liquor Commission proposes to vary the licence conditions of the Tennant Creek Hotel, the Goldfields Hotel and the Elliott Hotel by inserting the following condition:

- a. The licensee must use and maintain the identification system established by the Minister under Part 6, Division 1 ("Patron identification system") of the Liquor Act when selling, supplying or serving liquor to patrons for consumption on the premises.

The Liquor Commission proposes to vary the licence conditions of the Tennant Creek Hotel, the Goldfields Hotel and the Headframe Bottle Shop by inserting the following condition:

- a. The licensee must not knowingly sell liquor to a member of a household on a day when that person or other members of that household have purchased liquor on three or more previous occasions that day.
- b. The licensee must take reasonable steps to ascertain whether a sale of liquor would give rise to a breach of the foregoing condition. For the purpose of this condition, it is a reasonable step for the licensee to check that an attending PALI or POSI officer has completed checking the customers' credentials and indicated they do not intend to prevent the customer from entering or remaining on the premises, and do not intend to direct the licensee or the licensee's employees not to sell liquor to the customer.

## RELEVANT PROVISIONS OF THE LIQUOR ACT

3. Pursuant to section 3 of the *Liquor Act 2019*, the primary purpose of the Act “is to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale, supply, service, promotion and consumption of liquor.”
4. The secondary purposes of the *Liquor Act* are:
  - (a) to protect and enhance community amenity, social harmony and community wellbeing through the responsible sale, supply, service, promotion and consumption of liquor; and
  - (b) to regulate the sale, supply, service, promotion and consumption of liquor in a way that contributes to the responsible development of the liquor industry and associated businesses in the Territory; and
  - (c) to facilitate the diversity of licensed premises and associated services for the benefit of communities in the Territory; and
  - (d) to regulate the sale, supply, service, promotion and consumption of liquor in a way that stimulates the tourism and hospitality industries.
5. To achieve its purposes the *Liquor Act*:
  - (a) regulates the sale, supply, service, promotion and consumption of liquor; and
  - (b) prohibits certain products and activities in relation to the sale, supply, service, promotion and consumption of liquor; and
  - (c) provides for the appointment of persons to administer and enforce compliance with this Act; and
  - (d) establishes offences and processes to enforce compliance with this Act.
6. Section 3(4) provides that: “A person exercising a power or performing a function under this Act must have regard to the primary and secondary purposes of this Act and must exercise the power and perform the function in a way consistent with those purposes.”
7. Pursuant to section 19 of the *Liquor Act*, the Liquor Commission is responsible for deciding the following matters:

- (a) an application to issue a licence or an authority;
- (b) an application to vary the conditions of a licence or an authority;
- (c) an application to substitute other premises for the licensed premises;
- (d) an application to approve a material alteration to licensed premises;
- (e) an application to authorise the transfer of a licence;
- (f) taking disciplinary action;
- (g) any other matter the Director refers to the Commission.

8. Section 20 of the *Liquor Act* provides that the Liquor Commission may establish codes of practice to regulate the following matters:
- (a) the advertising and promotion of liquor by licensees;
  - (b) the conduct of business under a licence or an authority;
  - (c) the operation of licensed premises;
  - (d) the management of customers, purchasers and patrons by licensees, including the management of their safety;
  - (e) the establishment of ethical standards and practices for licensees.

Pursuant to section 20, the Liquor Commission must also publish any Code of Practice it establishes in the way the Commission considers appropriate and it is a condition of a licence that the licensee comply with the provisions of any Code of Practice established and published by the Liquor Commission.

9. On 21 October 2020, the Liquor Commission established a Code of Practice for the Responsible Advertising and Promotion of Liquor. There are no other Codes of Practice listed on the Liquor Commission's internet page.
10. Part 6, Division 2, sections 132 to 135 of the *Liquor Act* relate to local liquor accords and provide that the Director must take all reasonable steps to enter into a local liquor accord with licensees to prevent or reduce any anti-social behaviour, disorder, harm and violence, including domestic violence as defined in section 5 of the *Domestic and Family Violence Act 2007*, in which liquor is involved.

11. Section 133(1) of the *Liquor Act* states that a local liquor accord may provide for anything that might prevent or reduce alcohol-related violence, including the following actions by licensees:
  - (a) ceasing or restricting the sale, supply or service of liquor on or in the licensed premises earlier than otherwise allowed;
  - (b) restricting the public's access to the licensed premises;
  - (c) prohibiting or restricting the use of glass containers;
  - (d) maintaining a register of incidents of alcohol-related violence;
  - (e) installing and operating video surveillance or other security systems;
  - (f) providing a specified number and type of security staff on or in the licensed premises;
  - (g) charging higher prices for liquor.
  
12. Section 113 of the *Liquor Act* regulates the conduct of the Liquor Commission's current review. The procedure is in two stages. First, the Liquor Commission issues this notice of proposed variation of licence conditions. Second, after inviting affected licensees to comment within 28 days, the Liquor Commission issues a notice of any variations it has determined to make to licence conditions.
  
13. The *Liquor Act* permits (although it does not compel) the Liquor Commission to conduct a hearing before varying licence conditions. If the Liquor Commission decides to conduct a hearing, it may do so either before or after issuing its notice with reasons for the proposed variation.
  
14. After issuing the notice of proposed variation, the Liquor Commission is required to consider any responses from the licensees received within 28 days. The view of the Liquor Commission is that section 113 also permits the Commission to consider the responses from non-licensees to the notice of proposed variation, provided the licensees are given a reasonable opportunity to comment on any responses from non-licensees, consideration of which might give rise to findings or determinations that adversely affect the affected licensees.

15. Section 113(3)(c) of the *Liquor Act* requires the Liquor Commission to consider “the public interest and community impact requirements” before varying licence conditions on its own initiative.
16. Section 110(2) of the *Liquor Act* provides that a licensee who applies to the Liquor Commission to vary licence conditions must satisfy the Commission that doing so is in the public interest and would not have a significant adverse impact on the community. Similarly, in the view of the Liquor Commission, when exercising its powers under section 113, the Commission should only vary licence conditions if satisfied that to do so is in the public interest and would not have a significant adverse impact on the community.
17. Section 49(2) of the *Liquor Act* sets out ten objectives the Liquor Commission is required to consider for the purpose of determining whether the issue of a licence is in the public interest. In the view of the Liquor Commission, those objectives are all relevant to determining whether a licence variation under consideration is in the public interest.
18. Similarly, section 49(3) of the *Liquor Act* sets out ten matters the Liquor Commission is required to consider for the purpose of determining whether the issue of a licence would have a significant adverse impact on the community. In the view of the Liquor Commission, those matters are all relevant to determining whether a licence variation under consideration would have a significant adverse impact on the community.
19. Part 8, Division 5, sections 188 to 199 of the *Liquor Act* relates to ‘Restricted Premises’ and provides the authority for the Director to declare a range of premises Restricted Premises upon application, including an application for a declaration of a public housing residence, to become a Restricted Premises by a police officer of or above the rank of Assistant Commissioner.
20. Part 6, Division 1, sections 128 to 131 of the *Liquor Act* provides that the Minister may establish an identification system for licensees to determine

whether a person is prohibited from purchasing or consuming liquor and that the licensee is required to operate the identification system.

21. Regulation 106(1) of the *Liquor Regulations 2019* states that for section 129(1) of the Act, a licensee with any of the following authorities must use and maintain the identification system established by the Minister:
- (a) a grocery store authority;
  - (b) a takeaway authority.

Despite subregulation (1), the identification system is not required for the licensed premises for which a licence was issued under the *Liquor Act 1978* and that is listed in Schedule 4.

## CONSIDERATION OF THE ISSUES

22. The Final Report for the ‘Alcohol Policies and Legislation Review’ (**Riley Review**) is very clear about what’s needed to minimise the harmful effects of alcohol noting that it will take a sustained, coordinated and appropriately resourced effort to develop and implement an effective alcohol harm minimisation framework to address the problem. The framework will necessarily include a comprehensive approach to reducing alcohol related harm focussed on:<sup>1</sup>
- targeting the availability of alcohol
  - supporting those who are adversely affected by alcohol
  - addressing social determinants
  - educating the population about the detrimental effects of excessive and sustained alcohol consumption
  - being culturally responsive
  - strengthening and supporting licensing and enforcement agencies
23. As d’Abbs et al. argue, in isolation, restrictions do not provide a simple answer to the problems associated with excessive alcohol consumption. Attention to both the demand for, and supply of, alcohol is crucial. However, restrictions

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<sup>1</sup> Alcohol Policies and Legislation Review: Final Report, October 2017, p 29.

can be an effective part of a broad public health strategy to deal with alcohol-related problems.<sup>2</sup>

24. In February 2014, a new Tennant Creek Alcohol Reference Group was established to provide community and industry expertise, advice and input into the development, implementation, monitoring, and review of the 2014-2017 Tennant Creek Alcohol Management Plan and Action Plan. The Key Goals of the Alcohol Management Plan were: (1) Supply Reduction, (2) Demand Reduction, (3) Harm Reduction, and (4) Governance Communication Monitoring and Evaluation.
25. With a change of government in August 2016, responsibility for Alcohol Management Plans was transferred under the Administrative Arrangements Order from the Department of Business to the Department of Health. However, support, including secretariat support, effectively ceased resulting in the Plan effectively sitting on the shelf for nearly three years.
26. During a public consultation in Tennant Creek on 19 July 2017 for the 'Alcohol Policies and Legislation Review' a local stakeholder raised concerns directly with Mr Trevor Riley about the lack of support being provided by the NT Government for the implementation of the Alcohol Management Plan. A Department of Health employee who was present agreed to follow this matter up and find out why support had ceased.
27. On 1 September 2017, the Banned Drinker Register was reintroduced. The Department of Health website states that "the register will identify people who are banned from purchasing takeaway alcohol and stop them from buying it" and "it will assist in reducing alcohol-related harm to individuals, families and the community".

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<sup>2</sup> d'Abbs P, Togni S, Crundall I. The Tennant Creek liquor licensing trial, August 1995 – February 1996: An evaluation. Darwin: Menzies School of Health Research, 1996. Menzies Occasional Papers Issue No.: 2/96.

28. Territory wide, there were 503,503 Banned Drinker Register related point of sale transactions at takeaway outlets in December 2020. Yet, of these transactions, there were only 535 (0.11%) refusals due to the person being on the Banned Drinker Register.
29. The Banned Drinker Register Monthly Report for December 2020 shows there were a total of 10,934 sale transactions of takeaway alcohol in Tennant Creek with only 16 (0.15%) of those transactions resulting in a 'no sale'.
30. In the absence of any information being provided by the Liquor Commission and the Northern Territory Government about the actual number of people subject to a Banned Drinker Order in Tennant Creek, it is extremely difficult to assess what impact the Banned Drinker Register alone is having on preventing the purchase of alcohol and whether it is providing any assistance in reducing alcohol-related harm to individuals, families and the community.
31. In October 2017, the Final Report for the 'Alcohol Policies and Legislation Review' (Riley Review) was released and highlighted that, for real success to be achieved in reducing alcohol-related harm a bipartisan, long-term, culturally responsive, public health, social determinants approach must be taken towards this issue.
32. The Riley Review made a number of recommendations including 1.1.3 that a strong focus be given to addressing social determinants to support alcohol harm and minimisation efforts; 2.12.7 the Northern Territory Government reinvigorate the Alcohol Management Plan process; and 3.5.2 that the Department of the Chief Minister coordinate more effective collaboration between police, sobering up shelters, community patrols and local government to ensure a coordinated approach to tackling alcohol related problems in the community.
33. The Riley Review clearly noted that the Northern Territory needs a comprehensive, coordinated and sustained approach to reducing alcohol related harm. It was made very clear that this approach must focus on

supporting those affected by alcohol misuse, addressing social determinants (in particular housing, employment, education and access), educating the population about the detrimental effects of excessive and sustained alcohol consumption, ensuring measures are culturally responsive, targeting the supply of alcohol, and strengthening and supporting licensing and enforcement agencies and regulations.

34. In 2018, the Minister for Health, developed an 'Alcohol Harm Minimisation Action Plan 2018-2019' for implementation across the Northern Territory with four key response areas:
  - Strengthening Community Responses
  - Effective Liquor Regulation
  - Research, Data and Evaluation
  - Comprehensive, Collaborative and Coordinated Approach by Government
  
35. At the time of rolling out the 'Alcohol Harm Minimisation Action Plan 2018-2019', the Northern Territory Government stated that it was 'committed to preventing and minimising harms associated with alcohol misuse.' The Plan went on to state: 'In order to achieve this goal, relevant government agencies must work together and share necessary information as required. Successful implementation will require a whole-of-government approach with a high cross-agency coordination, cooperation and information sharing. Government must also work in partnership with industry, non-government organisations and the community, in order to implement the Action Plan, as everyone has a role to play when it comes to minimising alcohol related harms.'
  
36. The Northern Territory Government's 'Alcohol Harm Minimisation Action Plan 2018-2019' also outlined a number actions that it promised to deliver including 'empowering PHSOs and Police to make an application for a public housing residence to be declared a Restricted Premises'. Despite this promise, PHSOs have still not been empowered under the *Liquor Act* to declare a residence a Restricted Premises.

37. On 21 December 2018, via a media release, we were told by the Northern Territory Government that it was tackling alcohol fuelled crime and anti-social behaviour through the most significant alcohol reforms in history and promised to provide twelve (12) Police Auxiliary Liquor Inspectors (PALIs) for Tennant Creek. The media release also stated that once the PALI recruitment was complete they would form part of a 97-member strong unit within the NT Police aimed at reducing the alcohol-fuelled crime and violence on our streets.
38. Presently, there are only five (5) PALIs in Tennant Creek and the promise made by the Northern Territory Government has never been fully implemented leaving a situation where trained police constables are often taken away from their core duties of preventing crime and anti-social behaviour and required to stand out outside bottleshops.
39. On 7 April 2018, via a media release, the Northern Territory Government promised three (3) Public Housing Safety Officers (PHSOs) for Tennant Creek to support community safety and policing activities on a full-time basis. Residents of Tennant Creek were told that, the new PHSOs team would work with tenants, neighbours and visitors to respond to and reduce anti-social behaviour in and around public housing. The PHSO program effectively ceased in October 2020 and has placed enormous pressure back on police leaving trained police constables to do the work of PHSOs. It is only now after recent public pressure that the Minister has decided to readvertise the positions.
40. If offenders and potential offenders learn that the possibility of arrest or detection of offences is low because police (and PHSOs) are either not available or busy with other matters, offenders will not only continue to offend, but they will likely escalate their offending behaviour.
41. In the Barkly, (and I've said this many times) this is precisely what happened when the Minister for Police, Fire and Emergency Services made an incredibly poor decision to close the police station in the border community of Alpururulam back in February 2018. Within a matter of weeks alcohol was

being brought in from Queensland and violence in the town skyrocketed. Things were so bad that the elders and the Local Authority begged and are continuing to beg for police to be returned to the community on a permanent basis.

42. The Minister has done little to reinstate a police presence and the residents of Alpururulam, the Sandover region and throughout the Barkly have had to deal with increased grog running, violence and crime ever since.
43. To a large extent, what we are seeing in Tennant Creek and across the Barkly is a shortage of trained police constables, less than half of the number of PALIs promised and a complete absence of PHSOs since October 2020. It's no wonder, we are seeing an increase in property crime, domestic violence, alcohol related assaults, a secondary supply of alcohol, people driving long distances to purchase and consume alcohol, binge drinking, a negative impact on tourism and the economy, an increase in young people being hungry and walking the streets, and young women allegedly performing sexual favours in exchange for alcohol.
44. Given the Northern Territory Government's failure to implement a comprehensive, coordinated and sustained approach to reducing alcohol related harm, the absence of PALIs and PHSOs combined with an overall shortage of trained police constables who were all supposed to be available to prevent and reduce alcohol related crime and anti-social behaviour, it now seems that the Liquor Commission is trying to maintain and implement a policy of alcohol prohibition to tackle crime and plug the gaps left by the Northern Territory Government's broken promises.
45. The latest blow for Tennant Creek is news that the Northern Territory Government funded COMMIT Program will cease on 31 March 2021. The 12 Residential Rehabilitation beds at BRADAAG, funded by the Department of Attorney-General and Justice, will close. This will result in a 37% reduction in Residential Rehabilitation bed capacity and a significant reduction in the level of service capacity of the Alcohol and Other Drugs sector here in the Barkly.

46. The cessation of this funding will also result in the loss of jobs for Tennant Creek residents, many of whom are Aboriginal.
47. Failure to maintain and grow the alcohol rehabilitation and treatment sector as part of a comprehensive, coordinated and sustained approach to reducing alcohol related harm will greatly undermine the effectiveness and purpose of the current and any new supply reduction measures and will risk a reversal of any very modest gains made to date.
48. On 20 June 2020, via a media release, the Northern Territory Government even went to the extent of advising the public that their alcohol policies are cutting violence and crime across the Northern Territory. Clearly they are not.
49. From review of the Liquor Commission's government web page relating to liquor accords it is noted that there are a number of local liquor accords in place across the Northern Territory except for Tennant Creek and the Barkly region.
50. In Tennant Creek the Alcohol Reference Group has introduced a new Alcohol Harm Minimisation Plan 2019-2024, which was recently endorsed by the Health Minister so rather than continuing down the path of prohibition and treating the people of the Barkly as 'guinea pigs', why not try, as recommended by the Riley Review, a comprehensive, collaborative and coordinated approach to tackle the real issues.
51. The Tennant Creek Alcohol Harm Minimisation Plan 2019-2024 is seeking to address some of the real issues. It includes a number of areas of focus including:
  - Strengthening the capacity and capability of young people to live safely with alcohol and to make positive life choices
  - Promoting Tennant Creek as a harmonious community with cultural connectedness and pride
  - Making public areas of Tennant Creek a safe place for everyone.

52. The Tennant Creek Alcohol Harm Minimisation Plan 2019-2024 has four clear goals – (1) Supply Reduction, (2) Demand Reduction, (3) Harm Minimisation, and (4) Governance, Communication, Monitoring and Evaluation. Under the Local Decision Making framework, the Alcohol Reference Group needs to be supported and given a chance to implement and conduct regular evaluation of the Alcohol Harm Minimisation Plan rather than the Liquor Commission introducing additional punitive measures which focus on prohibition only.
53. For the reporting period 1 January 2020 to 31 December 2020, crime remains high in Tennant Creek when compared to the same reporting period in 2019. Whether we look at it over the past term of government or the past year, or over the last five years, property related crime and crimes against the person remain high.
54. Specifically, the most recently released Northern Territory Crime statistics show that over the past year to December:
- Assaults are up 30 per cent;
  - Domestic violence related assaults are up 40 per cent;
  - Alcohol related assaults are up 55 per cent;
  - House break-ins are down 45 per cent;
  - Commercial break-ins are down 43 per cent; and
  - Property damage is down about 3 per cent.
55. While property crime has reduced over the most recent reporting period, the statistics should be read with some caution because, for the three years prior, monthly statistics have continued to show an increase and when you look at it over five years, house break-ins are up somewhere between 200 and 250 per cent, on average.
56. Anecdotal information also currently suggests that offences against the person and property crime have, once again, commenced rising again in Tennant Creek.

57. In the Barkly region, property crime, domestic violence, alcohol related assaults, a secondary supply of alcohol, people driving long distances to purchase and consume alcohol, binge drinking, a negative impact on tourism and the economy, an increase in young people being hungry and walking the streets, and reports of young women performing sexual favours in exchange for alcohol are all strong indicators that government policy has swung too far towards prohibition.
58. Prohibition of alcohol exists for people living in every community, town camp and community living area in the Barkly except for the town areas of Tennant Creek, Elliott, Borroloola and Ti Tree (unless living in restricted premises).
59. The feedback I regularly receive is that the remote towns and communities in the Barkly want help to develop and implement Alcohol Management Plans which in some cases may involve the consideration of liquor permits.
60. In fact, the Riley Review recommended that, in line with the commitment to local decision making, the Northern Territory Government use the partnership between the Regional Network Group in the Department of the Chief Minister and APONT, to reinvigorate the Alcohol Management Plan process with communities.
61. The Alcohol Management Plan process is finally underway in Elliott, but every other community in the Barkly continues to be ignored by this government.
62. The Bowchung report showed that Licensed Clubs in remote communities as part of a community-led process could be seen as a tool for harm minimisation and even the Riley Review recommended clubs should be considered as part of a Local Decision Making framework.
63. It is clear that the liquor restrictions, as set down by the Liquor Commission in 2018 are not working as intended. The Liquor Commission has limited previous and current alcohol restrictions to its interpretation of the Barkly region without considering the flow on effect which includes people driving

extraordinary long distances to purchase alcohol. People are driving to licensed premises located north of Elliott which includes Katherine and Darwin, east to Mt Isa, south to Alice Springs and to any other place outside of the Barkly where the Liquor Commission has refused to impose any form of liquor restrictions. Alcohol purchased in those areas is being sold on the black market in the Barkly for as much as \$500 per bottle of spirits, with opportunist criminals preying on pent up demand, particularly in vulnerable Aboriginal communities.

64. It now appears that the Liquor Commission is seeking to extend the use of the Banned Drinker Register from the purchase of takeaway liquor to include when selling, supplying or serving liquor to patrons for consumption on licensed premises at the Goldfields Hotel, the Tennant Creek Hotel and the Elliott Hotel.
65. On 22 February 2021, the Northern Territory Government reported that its position is that the Banned Drinker Register, particularly in its current form, was intended for takeaway liquor sales only and not for on-premises consumption.
66. The question that needs to be asked is why is the Liquor Commission singling out premises visited mainly by Aboriginal people in Tennant Creek and Elliott for this kind of treatment and ignoring all other licensed premises in the Northern Territory?
67. Prior to finalising the decision on whether the current restrictions should be removed, relaxed, retained or made more restrictive, the Liquor Commission should give further consideration to how Tennant Creek arrived at the situation it now finds itself in and what has (and what has not) been implemented to reduce harm and ill-health to the people of this region.
68. In regard to the Liquor Commission's proposal that a licensee must not knowingly sell liquor to a member of a household on a day when that person or other members of that household have purchased liquor on three or more

previous occasions that day, there is little evidence or information available to explain the reasoning behind this.

69. As previously mentioned, Part 8, Division 5, sections 188 to 199 of the *Liquor Act* relates to 'Restricted Premises' and provides the authority for the Director to declare a range of premises Restricted Premises upon application, including an application for a declaration of a public housing residence, to become a Restricted Premises by a police officer of or above the rank of Assistant Commissioner.
70. In the absence of any assessment or explanation as to whether or not the Restricted Premises legislation is being utilised to its full extent it is difficult to understand the reasoning behind taking a blanket approach to restricting the number of purchasers per household. The only information made available was a verbal statement given to the Liquor Commission by Police on 2 February 2021 stating that the Restricted Premises legislation had not been utilised during the last two years.
71. Placing the onus on licensees and PALIs to manage a system of checking whether there has been three takeaway purchases per household appears somewhat onerous particularly when there is already Restricted Premises legislation in place, albeit under utilised.
72. A number of residents in Tennant Creek continue to criticise the rigid approach towards the current list of alcohol products available. One example, is that, if a person purchases 24 cans or stubbies of full strength beer they are unable to purchase another product. Some flexibility, such as allowing the purchase of 12 cans or stubbies of full strength beer and one bottle of wine along with a range of other variations should be considered.
73. I am concerned about some of the Liquor Commission's opening remarks including where it has been suggested that as at 31 December 2016 the estimated per capita consumption of the drinking-age (persons over the age of 15 years) residential population in Tennant Creek was 24.5 litres of pure

alcohol per year, more than twice the Northern Territory average and two and a half times the national average. The Liquor Commission then concluded that with a drinking age-residential population of 2,342 persons according to the 2016 Census the town now drinks the equivalent of more than 60,000 cans of Victoria Bitter every week.

74. From review of the introductory statements made by the Liquor Commission, I am of the opinion that other information has not been considered when determining the amount of alcohol being consumed by the residential population of Tennant Creek. For example, on “any one day an extra 500-1000 people may be in town” from surrounding communities. The Liquor Commission ought to know that Tennant Creek is the major service and supply centre for the Barkly region which has an overall population (of persons over the age of 15 years) consisting of 4,918 persons and, for the year ending June 2016, 135,000 overnight visitors to the Barkly region. For the year ending June 2017, there were 161,000 overnight visitors.
75. A conservative estimate shows there may be, on average up to 441 visitors overnighing in Tennant Creek each day and up to 1,000 people from surrounding communities visiting the town. Therefore, it is entirely plausible that on any given day there may in fact be a population (of persons over the age of 15 years) of around 3,780 people in Tennant Creek.
76. Since the Liquor Commission introduced a restriction that takeaway liquor will only be available for sale on Monday through to Saturday between 4:00pm and 7:00pm, this decision has led to large numbers of people lining up for alcohol outside of the Goldfields Hotel, the Headframe Bottle Shop and the Tennant Creek Hotel.
77. Pursuant to section 49(2) of the *Liquor Act*, the Liquor Commission has failed to give sufficient consideration to the ten objectives it is required to consider for the purpose of determining whether the issue of a licence is in the public interest.

78. The Liquor Commission has failed to give proper consideration to safeguarding public order and the safety of people who are attracted to licensed premises and the areas adjacent to the licensed premises between 4:00pm and 7:00pm. Fighting and anti-social behaviour have become a common occurrence between people lining up to purchase takeaway alcohol and with excessive numbers crossing the main street a number of road safety concerns have been raised. Recently, a pedestrian was struck by a vehicle outside a takeaway outlet.
79. Requiring people to line up to purchase takeaway alcohol between 4:00pm and 7:00pm is clearly not in the public interest as it attracts large crowds and makes it extremely difficult to protect the safety, health and welfare of people frequenting the takeaway outlets. In fact, a number of Aboriginal people have spoken to me stating that having to line up for alcohol brings back memories from the old days where Aboriginal people were forced to line up for food etc.
80. It has been suggested by a number of people that restricting takeaway trading hours from 4:00pm until 7:00pm does little to prevent practices that encourage irresponsible drinking. Rather, limited trading hours may be responsible for an increase in binge drinking where heavy drinkers are attempting, through a range of means, to access as much alcohol as possible during a small window of opportunity.
81. Similarly, section 49(3) of the *Liquor Act* sets out ten matters that the Liquor Commission is required to consider for the purpose of determining whether a licence variation under consideration would have a significant adverse impact on the community.
82. Since restricting takeaway trading hours from 4:00pm until 7:00pm there has been a steady increase in the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the Goldfields Hotel, the Tennant Creek Hotel and the Headframe Bottle Shop. In the afternoon, there are many students and young people who are witnessing long line-ups and instances of anti-social behaviour at around 4:00pm on trading

days. Sustained exposure to this is likely to result in children and young people believing that this is acceptable and normal behaviour. It is not.

83. Over the last twelve months there has been an increase in the number of drinkers providing false or misleading information to the police and the PALIs so they are not prevented from purchasing alcohol. Residents from Tennant Creek and around the Barkly that may live in a Town Camp, Restricted Area or in Restricted Premises are now asking and begging other residents to allow another person's address to be used so that they may satisfy the requirements or questions being asked about the location the person intends to consume the alcohol before purchasing.
84. Given the restricted trading hours for takeaway alcohol there are still people who travel and work out bush who are finding it difficult to be back in Tennant Creek before 7:00pm to purchase alcohol.
85. On a similar note, for those people that travel into Tennant Creek from remote locations to purchase takeaway alcohol between 4:00pm and 7:00pm they are often returning to their communities by road at night-time which increases the risk for the safety of themselves and their families.
86. Tourism operators have spoken many times about the impact the reduced takeaway trading hours have on tourism with many tourists confused and frustrated particularly when they arrive in Tennant Creek. Many tourists have indicated to tourism operators that they are frightened when they see large line-ups of people outside bottleshops and are frustrated when they are asked to produce proof of residence when they purchase alcohol. When the purchase of alcohol becomes too difficult in Tennant Creek, tourists begin to drive straight through the town without stopping until they reach another destination, meaning that local businesses miss out.
87. When a tourist or any other person decides that it is too difficult to purchase alcohol in Tennant Creek this may have a negative impact on the sale, supply,

service, promotion and consumption of liquor in a way that reduces the overall economic benefit for the tourism and hospitality industries in the Barkly region.

## **CONCLUSION**

88. The purpose of the *Liquor Act*, which is to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale, supply, service, promotion and consumption of liquor is supported.
89. There is no doubt that liquor restrictions can be an effective part of a broader harm minimisation framework but, in isolation, restrictions do not provide a simple answer to the problems associated with excessive alcohol consumption. For real success to be achieved in reducing alcohol-related harm a bipartisan, long-term, culturally responsive, public health, social determinants approach must be taken towards this issue.
90. Quite clearly, what is needed is a sustained, coordinated and appropriately resourced effort to develop and implement an effective alcohol harm minimisation framework to address the problem. The framework, as recommended by the Riley Review and accepted by the Northern Territory Government, includes a comprehensive approach to reducing alcohol related harm that is focussed on:
  - targeting the availability of alcohol
  - supporting those who are adversely affected by alcohol
  - addressing social determinants
  - educating the population about the detrimental effects of excessive and sustained alcohol consumption
  - being culturally responsive
  - strengthening and supporting licensing and enforcement agencies
91. To date, there is little evidence available to demonstrate that the Northern Territory Government has taken the necessary steps to deliver a sustained, coordinated and appropriately resourced effort to develop and implement an effective alcohol harm minimisation framework to address the problems we

have in Tennant Creek, the wider Barkly region and, in fact, the whole of the Northern Territory.

92. When we consider the absence of a comprehensive, coordinated and collaborative approach to reducing alcohol related harm, the overall reduction in government services and resources in Tennant Creek over a long period of time, the withdrawal of police from Alpururulam (a known route for the secondary supply of alcohol) in February 2018, an overall shortage of police, combined with critical police resources (trained police constables) being positioned outside bottle shops instead of PALIs and carrying out the duties normally conducted by PHSOs, it is understandable that all forms of crime and alcohol related offences, including the number of reported instances involving the secondary supply of alcohol continue to rise.
93. In summary, I agree with the Liquor Commission which stated in its Reasons for Proposed Variation of Licenses dated 6 January 2020 that it “is strongly of the view that the setting of liquor licence conditions will be ineffective to benefit the community unless it is complemented by a suite of other regulatory frameworks, policies, strategies, services and programs that between them target alcohol harm reduction, alcohol demand reduction and alcohol supply reduction.”
94. Perhaps it is now time to allow the Tennant Creek Alcohol Harm Minimisation Plan 2019-2024 to be fully implemented by the Alcohol Reference Group through a Local Decision Making framework with the necessary support and delegated authority of a Project Officer provided through the Department of Health.
95. The Liquor Commission needs to clearly articulate to the Northern Territory Government that no new liquor licence conditions will be imposed in Tennant Creek and the Barkly region and reiterate that what is needed is a sustained, coordinated and appropriately resourced (as promised) effort to develop and implement an effective alcohol harm minimisation framework consistent with the recommendations made by the Riley Review to address the problem.

96. The only proposed variation to liquor licences that appears reasonable involves the requirement to install, maintain and operate a camera surveillance system at the point of sale for takeaway alcohol but rather than singling out Tennant Creek and the Barkly this could easily be applied across the whole of the Northern Territory by establishing a Code of Practice in consultation with the liquor industry.

## **RECOMMENDATIONS**

97. In the absence of any information or evidence being provided by the Liquor Commission and the Northern Territory Government about the actual number of people subject to a Banned Drinker Order in Tennant Creek, it is recommended that the Liquor Commission set aside its proposal to vary the licence conditions of the Tennant Creek Hotel, the Goldfields Hotel and the Elliott Hotel requiring that they must use and maintain the identification system established by the Minister under Part 6, Division 1 (“Patron identification system”) of the *Liquor Act* when selling, supplying or serving liquor to patrons for consumption on the premises.
98. The Liquor Commission amend the principal conditions currently applicable to Tennant Creek licensees by returning takeaway trading hours to some normality, such as, midday to 8:00pm or from 2:00pm to 8:00pm Monday through to Saturday.
99. The Liquor Commission amend the principal conditions currently applicable to Tennant Creek licensees by creating greater flexibility in the number of products available for purchase but within the current limits. For example, one of the flexible options may be to allow a person to purchase 12 cans or stubbies of full strength beer and one bottle of wine or perhaps, 6 cans or bottles of ready to drink mixes and one 750 ml bottle of wine.
100. Pursuant to section 20 of the *Liquor Act*, the Liquor Commission consider establishing a Code of Practice in consultation with the liquor industry that addresses the use, operation and maintenance of CCTV cameras and footage across the Northern Territory. This will ensure that acceptable and practical

requirements regarding CCTV camera requirements are uniform to all retailers.

101. The Liquor Commission express its support to allow the Tennant Creek Alcohol Harm Minimisation Plan 2019-2024 to be fully implemented by the Alcohol Reference Group through a Local Decision Making framework with the necessary support of a Project Officer with delegated authority provided through the Department of Health.
102. Pursuant to Part 6, Division 2, sections 132 to 135 of the *Liquor Act*, the Liquor Commission make a recommendation to the Director of Liquor Licensing to continue working closely with all licensees in Tennant Creek and the Barkly to establish a comprehensive Local Liquor Accord.
103. It is recommended that, prior to the Liquor Commission making any further decisions about variations to liquor licence conditions in Tennant Creek and the Barkly region, it seek a comprehensive report from the Northern Territory Government outlining the progress of implementing each recommendation from the Riley Review and a detailed explanation outlining how the Northern Territory Government is supporting those affected by alcohol misuse, addressing social determinants (in particular housing, employment, education and access), educating the population about the detrimental effects of excessive and sustained alcohol consumption, ensuring measures are culturally responsive, targeting the supply of alcohol, and strengthening and supporting licensing and enforcement agencies and regulations.



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Member for Barkly

3 March 2021