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AMSANT SUBMISSION

Review of the NTG Liquor Act 2019

The Aboriginal Medical Services Alliance NT (AMSANT) is pleased to submit this submission on the three-year review of the NT Government's Liquor Act 2019, particularly in light of the sunseting of the Stronger Futures legislations and issues arising.

AMSANT is the peak body for Aboriginal community-controlled health services (ACCHS) in the Northern Territory. Our members provide comprehensive primary health care services including AOD services right across the NT from Darwin to the most remote regions. Our sector provides care to approximately two thirds of Aboriginal people in the Northern Territory in cities, remote communities and remote homelands or outstations.

AMSANT has a long-standing commitment to evidence-based alcohol control policies over many years.

Introduction

We would like to congratulate the Northern Territory Government on progressive alcohol legislation including the minimum price provisions and the risk-based licensing model.

AMSANT continues to urge a holistic view of alcohol legislation and policies that are fully informed by the social and cultural determinants of health that continue to disproportionately impact the health and life expectancy of Aboriginal families and communities, compared to the rest of the Australian population.

As in previous reviews of the Northern Territory alcohol policies and legislation, we continue to advocate that alcohol policy and legislation reform recognise the complex nature of alcohol misuse, its causes and related harms, and ensure that policies are evidence-based and respond to the particular situation of disadvantage of Aboriginal people in the Northern Territory¹.

We continue to recommend that all alcohol policy and legislation adopts a therapeutic objective and framework that is informed by, and responsive to, the impact of trauma relating to alcohol misuse. It

¹ AMSANT Submission to the Northern Territory Government, 2017, Submission to the Alcohol Policies and Legislation Review in the NT.

is also essential that the principles of Aboriginal community control and self-determination underpin the delivery of all services and programs related to alcohol to Aboriginal people in the Northern Territory. We further recommend that early intervention and prevention become a priority for alcohol policy and legislation in the Northern Territory.

Comment on NTG Liquor Act 2019 Discussion Paper

Liquor Amendment Act 2023

We welcome the passing of the Liquor Amendment Act 2023 in the Northern Territory Parliament, as an amendment to Liquor Act 2019 allowing for the creation of the opt out system across communities. Before the Intervention, many remote Aboriginal communities in the Territory had already opted to be dry communities so this amendment is in line with their voices.

5.2 Transfer of Licence

We strongly support amendments to the transfer of license under Section 72 of the Act that would allow for community input, reviewing licensee suitability, and the provisions of Section 51.

The transfer of license provides a fresh opportunity to assess the suitability of licensees and ensure that any license transfer meets the requirements of Section 51. That it is in the public interest and will not have significant adverse impact on the community.

As part of this, it should be a public process that allows for local community and health voices in the process, particularly Aboriginal community-controlled organisations.

AMSANT also recommends that further restrictions be considered in regard to the density of liquor outlets, including the consideration of license buy-backs in areas with a high density of outlets². The Northern Territory has the highest density of liquor outlets in the country. Restrictions on the physical availability of alcohol, especially through reduced trading hours and license density, are known to reduce alcohol harm³.

5.3. Liquor Accords

We support an amendment that would require all licensees to be members of local liquor accords as a condition of license, particularly given the purpose of liquor accords. At the same time, it is important to address consistency across licensee commitments and obligations for Local Liquor Accords.

² AMSANT Submission to the Alcohol Policies and Legislation Review in the NT, July 2017

³ John Boffa, Edward Tilton, Donna Ah Chee, 2018, Preventing alcohol-related harm in Aboriginal and Torres Strait Islander communities: The experience of an Aboriginal Community Controlled Health Service in Central Australia, Volume 47, Issue 12, Australian Journal of General Practice.

In relation to whether the NT liquor accords are operating in line with Section 133,

- the Accords require adequate funding and resourcing to perform their functions including necessary administration and community and stakeholder engagement work that allow Accords to operate effectively, monitor progress with commitments and objectives, and identify areas for improvement.

Without adequate resourcing, funding and commitment to carry out their functions and promote the Accord, the Local Liquor Accords run the risk of existing in name only.

For example, the Kakadu, Nhulunbuy and Katherine Liquor Accords⁴ have not been updated since 2012 and 2013 respectively. That makes it unclear to the public and community stakeholders, if those liquor accords remain active today. The Local Liquor Accords for Darwin Inner City and Darwin Northern Suburbs were last updated in 2016 and 2019, giving rise to similar questions.

- It is timely to review and update local liquor accord agreements to ensure that they are fit for purpose. The majority of Accord agreements⁵ have not been updated in the last year since the lifting of the Stronger Futures legislation. One area for review is the lack of consistency with licensee commitments in Local Liquor Accords.

For example, the Darwin Outer City Local Accord agreement shows that licensees have explicitly committed to reducing the risk of secondary supply. In the Alice Springs Local Liquor Accord dated 22 August 2022, however, there is no stated commitment to reducing the risk of secondary supply.

- Transparency of information is needed in the public interest so that Local Liquor Accords operate as partnerships that includes community representation and participation. This begins with making meeting information publicly available including dates, agenda and minutes so that there is clear accountability and transparency of information.

This is particularly significant, given the role of liquor licensing in the Northern Territory now sits within the Department of Industry, Tourism and Trade. The perceived lack of independence from industry and trade needs to be balanced with community interests and representation on the Accords.

We note the following areas for improvement in Local Liquor Accords:

1. Community Partnership Is Needed

Include local community and health representation on the Local Liquor Accords, particularly Aboriginal health and community organisations.

The Western Australia's Aboriginal Norseman Community Voluntary Liquor Agreement⁶ is an

⁴ The NT Local Liquor Accords are published at [https://nt.gov.au/industry/hospitality/law-and-management/local-liquor-accords#:~:text=A%20local%20liquor%20accord%20\(LLA,security%20or%20other%20related%20matters.](https://nt.gov.au/industry/hospitality/law-and-management/local-liquor-accords#:~:text=A%20local%20liquor%20accord%20(LLA,security%20or%20other%20related%20matters.)

⁵ Darwin Outer City Local Liquor Accord updated 15 Dec 2022. Alice Springs Local Liquor Accord updated

⁶ Liquor Accords 8.36, Alcohol, Assessing Solutions, Incarceration Rates of Aboriginal and Torres Strait Islander People (DP84), 19 July 2017, Australian Law Reform Commission.

example of how Liquor Accords can be effective in reducing alcohol-related harm when these initiatives are truly supported by government agencies listening to the needs of communities. The Norseman Liquor Accord was driven by community priorities and had community support⁷. The community were the “driving force for introducing restrictions in response to the domestic violence, chronic disease and death that was associated with heavy drinking.”⁸ For communities to be empowered, Aboriginal communities need to be included as voluntary parties and play a key role in the set-up of Liquor Accords with the support of government.

Section 132 (d) allows for relevant community representation on the Local Liquor Accords, alongside police, local council, government regulatory bodies and commercial business interests.

Yet there are no health and community representation, particularly Aboriginal organisations, included in the Local Liquor Accords. It is in the public interests that relevant community, health, particularly Aboriginal organisations are party to the Accords. The Kakadu Local Liquor Accord dated 2012 is the only accord that includes community representation⁹.

2. **Accord Co-ordinators/Chairs Be Independent of Alcohol Industry**

Independence is needed in the coordination of the Northern Territory’s Local Liquor Accords, given the conflicts of interests for the alcohol and hospitality industry.

Local Liquor Accord Co-ordinators or Chairs should not be representing any interest or group that benefits from the sale and supply of liquor. Therefore, we support an amendment to Local Liquor Accords to reflect this.

The present situation is that there remains a persistent conflict of interest for licensees, particularly in relation to breaches of the Banned Drinkers Register, and their role co-ordinating the Accord. Their breaches highlight a disregard for community expectations.

Local Liquor Accords should be a genuine partnership with community (non-retailers), government and industry. Repeat breaches by licensees, who also currently act as Local Liquor Accord Co-ordinators or Chairs, shows a weakness in the current structure of Local Liquor Accords, particularly as it omits community representation.

Two examples of conflicts of interest to note

1) The Alice Springs Local Liquor Accord¹⁰, which was revised and endorsed August 2022, is one example of this conflict. It records Lasseters Hotel Casino Chief Executive Craig Jervis as

⁷ Ibid

⁸ Ibid

⁹ Gundjeihmi Aboriginal Corporation and Gunbang (Alcohol) Action Group are included in the Kakadu Local Liquor Accord, dated 2012.

¹⁰ Alice Springs Liquor Accord, 26 August 2022, [Liquor Accord \(nt.gov.au\)](https://www.nt.gov.au/liquor/accords/alice-springs-liquor-accord)

the Accord Co-ordinator. Lasseters Hotel Casino was purchased by Sydney-based hospital giant Iris Capital in 2021¹¹.

This year the Northern Territory Liquor Commission penalised Iris Capital for breaching Liquor Act with its failure to use the Banned Drinkers Register scanner on 189 occasions on one day. The breaches occurred on September 11 2022 with more than 37 percent of the sales on that day in breach of the law¹².

Lasseters Hotel Casino premises and licensee has a history of previous breaches of the Liquor Act and its license conditions with breaches dating back to 2006, 2009, 2011 involving minors¹³.

2) The Darwin's Inner City Local Liquor Accord was signed in 2016. The Accord Co-ordinator is listed as Halikos Hospitality Group, and the Liquor Stores Association is noted as the Deputy Chair. A news story in 2018 stated that Halikos Hospitality Pty Ltd was the first licence holder to be fined under the latest Banned Drinker Restrictions¹⁴. Breaches of the BDR were repeated in 2021¹⁵.

Given the vested commercial and business interests in the sale and supply of alcohol, it should not be left to the alcohol or hospitality industry to administer and co-ordinate the Local Liquor Accords and monitor their effectiveness.

3. Promote Local Liquor Accords to Communities

Alongside adequate funding and resourcing for the effective operations of Liquor Accords, they also need to be promoted and publicised to raise community awareness, inform people of the purpose of an Accord, and if they have one in their local area. Knowing about Local Liquor Accords can strengthen existing community and family efforts to reduce alcohol-related harm across the Northern Territory. Liquor Accords need to involve Aboriginal community and health sector organisations.

5.4. Secondary Supply of Alcohol

AMSANT recommends a distinction between the types of secondary supply. For example, a small quantity of alcohol for personal use for people on the BDR, versus people grog running and bringing in large quantities to a remote community.

We do not support the criminalisation of small quantities of alcohol for personal use, but we do support the use of the BDR if people knowingly supply alcohol to people on the BDR even for personal use. People who supply to someone on the BDR for personal use should not be criminalised

¹¹ ABC Alice Springs by Lee Robinson, 16 January 2023, Iris Capital's Gap View Hotel bottle shop penalized for failing to use Banned Drinkers Register Scanner, ABC News [Iris Capital's Gap View Hotel bottle shop penalised for failing to use Banned Drinkers Register scanner - ABC News](#)

¹² Ibid

¹³ Northern Territory Licensing Commission Reasons for Decision, 28 April 2011, License Number 80103004, Licensee: Ford Dynasty Pty Ltd. Mr Craig Jervis, Operations Manager for the Licensee. Premises: Lasseters Hotel Casino, Alice Springs.

¹⁴ NT News, 11 July 2018, Lizards Bar and Restaurant Fined \$3080 for breaching Banned

¹⁵ Northern Territory Liquor Commission Decision Note, 16 March 2021, License Number 80100335 Licensee: Halikos Hospitality Pty Ltd. Premises: Lizards Bar and Restaurant Darwin

in any way but should themselves be placed on the BDR for a period of time We also contend that it is grossly unjust to apply tough monetary penalties to remote Aboriginal communities, given the deep poverty that already exists across the remote NT.

Rather than penalise, we believe that this is an opportunity to further support Aboriginal communities, including mothers and families who are determined in their existing efforts to reduce secondary supply and the resulting harm in community. That is a more ethical and humane approach, than subjecting Aboriginal people to further criminalisation.

We do, however, support tougher monetary and other penalties for the illegal market in selling alcohol for a price either for outsiders working in, or entering remote Aboriginal communities, and those within communities, who may routinely facilitate, allow or act as couriers for the secondary sale and supply of alcohol and other drugs.

We also support the toughest measures against licensees who may knowingly allow or enable the secondary supply of alcohol for commercial and personal benefit into remote communities. In this regard, we support amendments to the Act that assist efforts to help remote communities in general restricted areas and dry communities by making it an offence to transport or possess liquor intending to supply to mirror the provisions of the Stronger Futures Act.

5.5 Expansion of search and seizure powers

AMSANT does not support the extension of search and seizure powers beyond existing measures. It has the potential to increase risks and further harm, violence and the escalation of alcohol-related situations.

5.6 Extension of Moratorium of Takeaway Licenses

We support the extension of moratorium of takeaway licenses beyond 31 August 2023. The Territory has the country's highest density of liquor outlets¹⁶ with alcohol too readily available with one license for every 353 people aged 18 years and over¹⁷. That reality together with the lapsing of the Stronger Futures legislation saw a recent spike in alcohol-related harm. Therefore, continuing the moratorium will allow the situation to stabilise and improve.

5.7 Risk Based Licensing Model

AMSANT applauds the Northern Territory Government for its risk-based licensing model. We recommend that it can be strengthened with tougher penalties for breaches, if it is to deter repeat offending. The penalties need to be a serious deterrent to licensees, particularly those regularly breaching laws over the years. We also would like to suggest that consideration be given to penalties that reflect the alcohol-related harm caused to communities and families.

5.8 Banned Drinker Register

We support amendments to the Banned Drinker Register to close gaps that allow people on the BDR to drink alcohol at on-license venues. Licensed pubs and clubs should be required to scan patron's

¹⁶ City of Darwin, Community Programs, Darwin Safer City, Supply Reduction

<https://www.darwin.nt.gov.au/community/programs/darwin-safer-city/supply-reduction-0>

¹⁷ Based on the number of licensed premises as at 8 July 2016 and the Northern Territory population of 180,970 aged 18 and over at 30 June 2015 [Australian Bureau of Statistics (2016) 3101.0 - Australian demographic statistics, Dec 2015. Population by age and sex tables]

identification on entry to confirm that they are not on the BDR. Those on the BDR should be refused entry to premises. It should be an offence to knowingly allow or ignore the BDR in pubs and clubs.

AMSANT is currently conducting a research project in collaboration with Menzies School of Health Research and Deakin University to gather more information and evidence about people's experiences on the BDR. The results and final report are not expected to be ready until towards the end of this year.

5.9 Other Issues

Finally, we raise objections to the criminalisation of public intoxication and the declaration of high-risk areas and banning notices. It adds further financial burden and possible criminal record and imprisonment. Often the most vulnerable people in the deepest poverty are the ones most affected by punitive measures. High risk areas include central business districts in Northern Territory cities and towns, which contain essential health and social services. Exclusion from these areas even for short periods of time can have a detrimental impact on the person affected, e.g. through delayed access to health care, collection of essential medicines and supplies.

These measures ignore the social determinants of health, and the daily conditions of people's lives. In the Territory, it is Aboriginal people who are often unjustly and most disproportionately hurt and traumatised. We advocate a therapeutic and health framework in understanding the drivers and a focus on addressing health problems.

Conclusion

Thank you for this opportunity to submit on these important issues. Once again, we congratulate the Northern Territory Government for progressive legislation.

We are happy to discuss the points of this submission further if you wish to do so. Please feel free to contact David Cooper, Manager Research Advocacy Policy at david.cooper@amsant.org.au and Vienna Richards, Health Policy Adviser at vienna.richards@amsant.org.au

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