
Charles Darwin University

Submission to Review of Alcohol Regulation in the NT

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Submission to Review of Alcohol Regulation in the NT

About the Charles Darwin University research team

This submission is drafted by a multidisciplinary team of researchers from Charles Darwin University:

- Professor Elizabeth Spencer has written and presented on the regulation of large and small businesses, the regulation of alcohol, on environmental approval processes and on mediation processes. She has formal training and qualifications in facilitation, negotiation and mediation and professional experience in community consultation.
- Dr Kim M Caudwell is a social psychological scientist who has published research in the broad area of health psychology and behaviour change, with an interest in patterned alcohol consumption (e.g., pre-drinking) that is influenced by alcohol policy.
- Dr Guzyal Hill is a lawyer with expertise in national uniform legislation and policy. Guzyal serves on ANZSOG/National Regulators Community of Practice as an Academic Adviser.

The *Liquor Act 2019* (NT) (the Act) governs the sale, provision, service, promotion and consumption of liquor, with the purpose of minimising alcohol harm in the NT.¹ Under the Act, the legislative framework after three years requires review to determine whether the policy objectives of the Act remain valid and practical and whether the terms of the Act remain appropriate for securing those objectives.

1. Australia has among the highest rates of alcohol consumption in the world with NT exhibiting the highest levels of alcohol consumption and harm in the country

The social and cultural fabric of Australia has been shaped by alcohol, and the supply of alcohol is obviously a strong interest of the alcohol industry and those within the NT. As a nation, Australia has among the highest rates of alcohol consumption in the world, yet the Northern Territory (NT) exhibits the highest levels of alcohol consumption and harm – some 50% higher than the rest of the country, with a rate of emergency department presentations 5 to 6 times higher. We know too well that alcohol use contributes directly to diseases including that of the heart, liver, and kidney, as well as various forms of cancer. Alcohol misuse correlates with mental health issues, mental disorders such as depression, and suicide. It also correlates positively with rates of road accidents, assaults, domestic violence, FASD, child abuse, drop in school attendance and performance, high rates of juvenile detention and the fraying of in some cases already fragile social infrastructure. The increased rates of crime in Alice Springs must be considered in the context of access to alcohol and the 54 per cent increase in both domestic violence and alcohol-related assaults in Alice Springs in the past year.

While alcohol consumption is often characterised as a First Nations² problem, alcohol consumption levels among non-Aboriginal people in the NT are estimated to be 43% greater than among Australians nationally. Thus, even if some magic solution were found to reduce the harmful levels of consumption among Aboriginal people specifically, a significant alcohol problem would remain. Alcohol regulation in the NT is therefore a whole-of-community issue that requires a concomitant whole-of-community approach – one that addresses drinking cultures, as well as the alcohol consumption and alcohol problems that stem from them (e.g., Savic et al., 2016).

¹ The Act is administered by the Minister for Alcohol Policy and is available on the [Northern Territory Legislation website](#).

² The authors use the terms 'First Nations' and 'Indigenous' interchangeably to identify all Aboriginal and Torres Strait Islander First Nations peoples of Australia, connecting with Article 3 of The United Nations Declaration on the Rights of Indigenous Peoples. We acknowledge the traditional lands of the Larrakia People, where this submission was written.

While Australia has an alcohol strategic management plan, one does not exist for the Territory. The 2018-19 harm minimisation plan included what the Government had already committed to doing, and the currently drafted Alcohol Action Plan largely continues with the same. What is required is a strategic plan for the Territory - supported by the evidence base that exists here and elsewhere, involving methods that have worked here and elsewhere, and - importantly – stemming from consultation on these methods with those who live here.

2. Existing plans

The Stronger Futures Northern Territory legislation (SFNT) that expired in mid-2022 has attracted criticism for being paternalistic, racist, and lacking in appropriate consultation. But many believe that the mix of measures in SFNT that included minimum unit prices for alcohol in Indigenous communities; expansion of the Banned Drinkers Register; alcohol management plans in certain Indigenous communities; and funding for alcohol and drug treatment and rehabilitation services, was beneficial. In reality, it is difficult to accurately gauge the impact of these measures, in part because there are differences across General Restricted Areas (GRAs) under the NT Liquor Act, and under the alcohol-protected areas (APAs) under the SFNT. In addition, the small population sizes in rural and remote communities make it more difficult to collect adequate, robust evidence. Therefore, delivering a series of simple answers to a wicked problem has produced a complex mosaic. Nevertheless, there are many who believe that the benefits have been significant – definitely, some have proven to be so in other jurisdictions with similar restrictions in place.

Even if those measures were of benefit, however, this is not to say that they constitute the most appropriate or most effective mix of measures. Alcohol is regulated in different ways around the world, depending on the specific laws and policies of each country, but generally falling into two main categories: control of production and distribution, and control of consumption and use. The National Drug Strategy advocates (1) supply reduction (e.g., registers, minimum unit pricing, taxation approaches, liquor licensing, permits, efforts to shift behaviour to lower alcohol products); (2) demand reduction (e.g., marketing, messaging, education, culture, storytelling), and; (3) harm reduction (e.g., outreach, treatment, rehabilitation, car ignition locks). In the NT, there has been a strong focus on the control of consumption and use – primarily supply reduction, and mostly adopting a blanket approach.

3. The Liquor Act 2019

The *Liquor Act 2019* (NT) at nearly 200 pages is extensive, if not comprehensive. It provides for the administration of the legislation through the Director of Liquor Licensing, assessors, inspectors, and a Liquor Commission. It provides for registrations, licenses and authorities for the supply of liquor as well as conditions on licensing. The Act addresses harm minimisation through patron identification, minimum pricing, local liquor accords and responsible service of alcohol. The Act then moves into a regulatory compliance space – conditions for entry and inspections of premises, investigations, complaints processes and disciplinary action. Next, it covers controlled areas – interim alcohol protected areas prohibited public places, general restricted areas, special restricted areas, restricted premises, permissions and permits. It addresses antisocial behaviours, high-risk areas, exclusion orders, banning notices, and enforcement of same. It has provisions for special search and seizure powers and other enforcement powers such as point of sale intervention, emergency powers, undercover police operations and related matters. It provides for disposition of assets and provides for public safety offences, information offences, licensing offences and offences related to children, inspectors, and criminal responsibility. Overall, in the Act, there is a reliance on proscription and enforcement (For an overview of what measures are included in the Act please see Table of Contents in Appendix).

Perhaps some of that reliance is due to the fact that the Liquor Act came into effect in 1979 – almost half a century ago. Many measures have been tried since its inception.³ In addition to the Act, other measures have been implemented with mixed success (see For instance, targeting drinking within licensed premises, within a 2km distance of licensed premises, changes to blood alcohol concentration requirements, special measures certificates, local provisions such as restricted trading hours in Katherine, temporary beat locations in Alice Springs, and Thirsty Thursdays in Tennant Creek as well as various types of localised supply plans, banned drinker registries, substance misuse and referral for treatment courts, mandatory treatment, point of sale interventions, police auxiliary liquor inspectors and various emergency restrictions).

The rapid turnover of alcohol-related policies is usually reactive, and legislation can become a political weapon. The reality is a patchwork of measures that have been overlaid one on top of another for nearly 45 years. The result is a complex and lengthy legislation, so maybe to time has come to interrogate effectively, comprehensively, consultatively and collaboratively what works and what doesn't - and why.

4. Politicisation of alcohol policy

The politicisation of alcohol regulation and related issues leads to division, polarisation, failure to consult, failure of accountability and knee-jerk solutions. To avoid this, we will need to work together. The framing of alcohol as an issue largely entailing antisocial behaviour and crime narrows our scope to view law enforcement responses as the only solutions, which are largely ineffective and fail to consider the bigger picture. We focus on individual-level behaviour and harms, when we are really talking about a health and social issue that operates at a broad, national identity level, as well as within the local community. Unfortunately, many Australians see alcohol use (and other drug use behaviour) as an individual choice that occurs independently of a broader sociocultural context – should users break the law as a consequence of that choice, they should be punished. As such, the framing remains ineffective in adequately managing alcohol-related harm.

Ultimately, alcohol-related harm in the NT is the highest in the nation, and there is simply no better time nor context for bipartisan support of evidence-based interventions. This means stepping up and sharing responsibility for looking out for one other.

We have good evidence about what has worked in the NT - community-driven solutions, sometimes including community-implemented dry areas; comprehensive programs including tax and price-based measures, paired with reinvestment in diversion, and; and community programs alongside broader education and public health campaigns. The range of measures at individual and local levels can all be used together in different configurations to suit diverse contexts. There is no 'One Size Fits All', as has been recognised in the Riley and Gilbert Reviews, which have underscored the need for nuanced and tailored regulatory solutions developed through consultative, co-design processes.⁴

Consultation is critical to the success of better alcohol regulation. For instance, the 2018 Roadmap for Policy Reform was developed in consultation with Indigenous communities. The Roadmap called for prevention and early intervention, including the expansion of alcohol and drug treatment and rehabilitation services and alcohol education programs; a tiered licensing system for the sale of alcohol in Indigenous communities, with different restrictions depending on levels of alcohol-related harm in each community; and establishment of an independent Alcohol Policy and Regulation Authority.

³ An excellent chronology of alcohol regulation in the NT can be found in Clifford S, Wright CJ, Smith JA, Griffiths K, Miller P. A historical overview of legislated alcohol policy in the Northern Territory of Australia. BMC Public Health. 2021 Dec;21(1):1-8.

⁴ Benefits of consultation: It's not post hoc; It's not ad hoc; It builds genuine understanding and respect; Allows enough time, is fully funded; can be adjusted; can be innovative and creative; can be tailored to local needs and context; creates buy in so it can be implemented successfully.

The Discussion Paper is quite narrowly framed. It invites tweaking; small adjustments. We submit that with the sunset of SFNT in 2022 and the current crisis in Alice, this moment represents a real opportunity for the Commonwealth and Territory governments to writ large, to model best practices in consultation and implement a model of alcohol regulation that could be an example for Australia - and the world.

5. Review of legislation and wider approach

We urge the government to address the broader social determinants of alcohol misuse in order to decrease harm and result in long-term benefits. We urge the government to address the underlying reasons *why* people drink - overcrowding, unemployment, trauma, association with others who drink, as well as housing and access to health care, which are especially pertinent to regional and remote contexts. We support social and health system approaches rather than punitive ones on the basis of effectiveness and ethics. We support better education to reduce alcohol onset and misuse, and culturally safe therapeutic and treatment options implemented throughout these systems.

Research demonstrates some modest changes in relation to attitudes toward drinking, particularly in young adults. It will take time for these attitude changes to shift more entrenched, broader sociocultural positions on alcohol. However, we know marketing and education can be powerful tools that shape attitudes and behaviour to health, when used in conjunction with other measures. For alcohol, more evidence supported measures include excise taxes, reduced trading hours, reduced outlet density, psychosocial interventions such as brief interventions and restrictions on marketing and promotion. The NT's Living With Alcohol Program (1992-2002) initially used revenue from a levy applied to products with a higher alcohol concentration for a range of harm minimisation initiatives – with good effect. Indeed, nudges that channel behaviour in healthier directions at the individual level can be impactful if bolstered by broader regulatory change. Industry expertise in marketing could be used to augment similar futures in alcohol regulation, but not without adequate consultation and an agreement of shared responsibility to manage alcohol-related harm. Industry would need to cease “dark nudges”, clean up the “sludge”, and get on board. Globally, time is running out for the widespread and promotion and consumption of alcohol. It will not be long before it is viewed through the same lens as smoking - and our New Zealand neighbours are well on their way to phasing that out entirely.

We believe alcohol policy and the legislation that stems from it shouldn't rely on penalising individual users, so much as considering the bigger picture. Many businesses - those within the alcohol industry, the tourism industry and many others - stand to benefit from the supply of alcohol. These economic interests and voices are very much a part of the community, and as such must share responsibility and accountability. This means doing more than paying lip service to notions of Corporate Social Responsibility and Corporate Social License - if a social license to operate needs community agreement, it implies accountability. And, when responsibility is spread more widely, consultation is even more important.

The private sector cannot be expected to shoulder this burden on its own. And we cannot expect the NT government to do it on its own, though there are interesting examples of this approach from other parts of the world.⁵ We do suggest that government partner with the diverse stakeholders, including the powerful influences of the alcohol and tourism and hospitality industries, and we advocate for legal CSR, *i.e.* government requiring companies to genuinely implement the CSR practices and cultures to which they lay claim.⁶

⁵ Norwegian alcohol policy removes private profit from sales of all alcoholic beverages above 4.7 % alcohol through Vinmonopolet. See <https://www.vinmonopolet.no/our-alcohol-policy-role>

⁶ Such practices include, *inter alia*, stakeholder-informed decision-making, purpose-created value (shared and integrated purpose as an essential value), community investment and transparency and accountability. See CN Radavoi, E Crawford Spencer, KMY Lee, Law-guided CSR: Ten Commandments for the 21st Century. *Journal of Regulatory Compliance* 9 (1), 2023 drawing on the 3-domain model

At the end of the day, all Australians are affected by alcohol. Let's show it by starting with consultation. It's not easy, but respectful listening, hearing, and responding appropriately is the only path to genuine, durable, and sustainable solutions that may last beyond the next 45 years. Though it is attractive to jump to options without it, consultation is imperative to this process. Whatever is implemented will need to be responsive to community needs, and how they inter-relate. For the consultation process refer to the UN Declaration on the Rights of Indigenous People and the Australian government Guide to Regulation.⁷

Such conversations and processes could well benefit us all, help us grow in our solidarity, and make the Territory an example for the world to admire, learn from, and follow. We appreciate your consideration and thank the Northern Territory Government for conducting this review and for providing us with an opportunity to make this submission.

described in Schwartz, Mark S., and Archie B. Carroll. Corporate social responsibility: A three-domain approach. *Business ethics quarterly* 13, no. 4 (2003): 503-530.

⁷ United Nations (General Assembly). (2007). Declaration on the Rights of Indigenous People; Australian government Guide to Regulation <https://oia.pmc.gov.au/resources/guidance-impact-analysis/australian-government-guide-policy-impact-analysis>

APPENDIX

NORTHERN TERRITORY OF AUSTRALIA

LIQUOR ACT 2019

As in force at 16 February 2023

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Part 9 Addressing anti-social behaviour

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