



30 November 2010

## NTCOSS Submission to 'Enough is Enough' Alcohol Reforms

Mr Richard O'Sullivan  
Chairperson  
NT Licensing Commission  
Darwin NT 0801.

Dear Mr O'Sullivan,

Thank you for the opportunity to make a submission in relation to the proposed 'Enough is Enough' alcohol reforms announced recently. NTCOSS is a peak body for community sector organisations across the NT, and an advocate for low-income and disadvantaged Territorians. NTCOSS has undertaken consultations with a number of member and other organisations across the Northern Territory - particularly those organisations funded by the Department of Health and Families to provide drug and alcohol related services - in order to inform our response to the proposed alcohol reforms.

### Introduction

There is clear evidence that alcohol misuse does enormous damage in the NT, costing around \$600M every year. The per capita alcohol consumption rate in the NT is approximately 1.5 times the national average. Alcohol related deaths in the Territory are three times the national average, and alcohol related hospital admissions five times the national average. During 2007-08, 58% of police work in the NT was alcohol related. In 48% of road deaths between 2000 and 2005, the driver had a blood alcohol level beyond the legal limit. These statistics demonstrate a compelling case for immediate action.

Early in 2009, Chief Minister Paul Henderson described alcohol as 'the greatest social problem facing the NT', and Health Minister Kon Vatskalis recently noted that we have 'close to the heaviest drinking culture on the planet.' The federal member for Lingiari, Indigenous Health Minister Warren Snowdon observed that "It's no secret that Territorians drink too much and take the consequences too lightly."

There is now a considerable body of expert literature which says that the three most effective ways to reduce alcohol consumption are to i) increase the price of the cheapest alcohol, ii) reduce the hours of trading during which alcohol may be purchased, and iii) reduce the number of outlets selling take-away alcohol.

NTCOSS commends the NT Government for the action it has taken to address alcohol misuse in recent years. In particular, the implementation of alcohol management plans in a number of regional areas, which included significant supply restriction measures have lead to demonstrable reductions in the levels of consumption and associated harm.

NTCOSS' response to the proposed Alcohol Reforms is as follows:

### 1. Banned Drinker and Mandatory Alcohol Treatment Orders

#### Banned Drinkers Measures

There was some support for these measures, which would restrict access to alcohol for people with chronic alcohol misuse issues who are harming themselves and others. A number of organisations felt that a banning notice could provide the opportunity for some people to recognise and deal with their alcohol misuse; and that the establishment of new options for magistrates and family members to address issues around alcohol misuse

was a positive measure. However, there were a number of concerns identified by NGO's in relation to the enforcement and policing of the banned drinker measures, namely:

- **Concerns that the bans could be ineffective as 'banned drinkers' may be able to find a way around the banning notices<sup>1</sup>** – i.e. drink at home, get others to purchase alcohol for them, go across the NT border to drink.
- **Concerns for the safety of the family members of a banned drinker, and the possibility that there may be more domestic violence elder abuse, as pressure is put on others to purchase alcohol for a banned drinker**
- **Concerns that banned drinkers may coerce family members/other people to buy alcohol for them.** While secondary supply of alcohol to a known banned drinker will result in a banning order for the supplier, this measure does not address the issue of someone being forced to purchase alcohol by a family member or friend. Legitimate concerns have been raised in relation to the safety of women who may face physical violence if they do not supply alcohol to a partner who is subject to a banning order.
- **Implications for a banned drinker, if other members of their household do not know they are a banned drinker - when others have alcohol in the home.** There could be the potential for police attending an unrelated matter to discover alcohol present in a house of a known banned drinker, which could lead to a breach of a banning order, and a further ban being imposed. It has been suggested that a whole family needs to be made aware that some-one in their household is on a banned drinkers register, so they are aware of the implications for anyone else having alcohol in their possession in the house.
- **Concerns were raised about situations where someone charged with a domestic or family violence offence, involving alcohol, where charges have not yet been proven.** There are concerns that someone could be placed on a banning order, but subsequently found 'not guilty'.
- **Concerns that the banning notices will see people shift consumption to other substances**
- **Concerns about the capacity of the NT Licensing Commission to monitor bans across the whole of the NT.**
- **Further, there do not appear to be additional resources identified for police to manage the increased workload which will come with banning notices.**
- **Concerns were expressed about what will happen to people who are dependent on alcohol or another drug, if it takes a couple of weeks for a withdrawal bed to be available.** Questions were raised as to what processes will be in place to manage a person's withdrawal symptoms. There were also calls for medical assessments to be done to ascertain any medical risks for people who face withdrawal, once a banned drinker.
- **Some concerns were expressed about the role of police in issuing banning notices** – i.e. whether the response of inexperienced police might see a situation escalate, leading to somebody becoming aggressive and subsequently committing a criminal offence (when the intention of the proposed measures is to keep people out of the criminal justice system)
- **Concern that police will be handing out notice, with no immediate supports in place for people.** A question was raised as to what is the onus on the police personnel issuing a banning notice to ensure appropriate supports are in place

### **Young people**

There is no specific mention of young people in the new measures, but in theory a 17 year old could be given a Banning Alcohol and Treatment (BAT) notice. This issue needs to be articulated clearly in any information about the new measures.

### **Alcohol and Other Drug Tribunal**

#### **Make up of the Tribunal**

The establishment of an Alcohol and other Drug (AOD) Tribunal is seen as a useful measure by a number of organisations. There was considerable support for empowering organisations or family members to refer people they have concerns about. Organisations called for reporting procedures to be clarified (i.e. will there

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<sup>1</sup> NTCOSS notes that the Department of Justice has acknowledged that the banning notices will not be able to completely stop access to alcohol – but that it will significantly reduce banned drinkers access to takeaway alcohol, which is the source of the majority of alcohol consumed in the NT, and that most closely associated with harm.

be a Hotline number to call?) and well publicized, so that people are aware they can refer and are clear that a notifier's details will remain confidential.

In addition, the make up of the tribunal was seen as critical. Community leaders or respected elders need to be part of each tribunal hearing, to ensure cultural considerations are taken into account - i.e. where an Aboriginal person is before the tribunal these persons should be respected Aboriginal elders. Similarly, where non-Indigenous people come before the tribunal, there needs to be respected non Indigenous leaders on the Tribunal. In addition, it was seen as critical that people appointed to the tribunal have an approach to alcohol misuse which is holistic and demonstrates an understanding of the issues behind alcohol misuse – and don't come from a punitive perspective.

### **Processes for Banned Drinkers**

There were also concerns that banned drinkers may not understand the process they will go through with the AOD Tribunal. There is a need to ensure the process is clear from the time when people are first informed that they have been referred to the tribunal. While there is provision for interpreters at the Tribunal hearing stage, it is equally important for interpreters to be available at the initial informing stage. A recommendation was made for a flow chart to be developed for use with remote communities, to assist people to understand the various pathways under the proposed reforms.

## **2. Banned Drinker Register**

See concerns identified above in respect to Banned Drinker and Mandatory Alcohol Treatment Orders

## **3. Alcohol Court Reforms**

### **SMART Court & SMART Orders**

General concerns were raised about the capacity of the court systems across the NT to manage the expected large increase in workload which will accompany the creation of the new SMART court. Organisations anticipate that there will be a much more intensive and regime of court attendance required than is the case under the Alcohol Court. There are concerns about the workload for existing magistrates, and whether provisions will be made for additional magistrates.

Concerns were also raised about the restricted nature of the SMART court, where someone must plead guilty, or be found guilty of an offence. This means that people who are found 'not guilty', but who still need help, will not be able to access assistance through the SMART court.

### **Remote Community residents access to the SMART Court**

It is not clear whether people on remote communities issued with a SMART order will be able to meet the same level of court attendance requirements of people in urban centres, given the infrequent scheduling of bush courts (some bush communities have court sitting days monthly, but others less frequently). This could have implications for the effectiveness of the SMART Court regime for remote people. The SMART court may not be practical for people out bush both in terms of access to court, and access to the court clinicians they will be required to visit to meet the requirements of their SMART order.

### **Role of the Credit (NT) Program**

Some confusion was expressed by organisations over whether the SMART Court is replacing the Credit (NT) Program. Some organisations identified the need to retain the CREDIT (NT) Program even after the establishment of the SMART Court, because Credit (NT) acts as a bail program. The SMART Court will not do this, as defendants will only be able to access treatment through the SMART Court when their charges are settled by a finding of guilt. Many people who come before the court may have serious alcohol or other drug problems, but they may also have viable defences to the charge(s) they face, and should not be denied access to the beneficial effects of court-supervised treatment. Additionally, unlike the SMART Court, the CREDIT (NT) Program enables many defendants to be granted bail and commence a court-supervised treatment program, rather than be remanded in custody from shortly after their apprehension until their charges have been settled – which may take several weeks.

Some modifications would be required to the CREDIT (NT) Program to allow people with alcohol dependence issues to come under the jurisdiction of the CREDIT (NT) program.

## **4. Increased Rehabilitation Services**

### **Capacity of services**

While organisations agreed that ‘enough is enough’ in terms of alcohol misuse in the NT, agencies across the board identified issues in relation to the capacity of current services to absorb the expected increase in demand. For example there were concerns about who will do clinical assessments in smaller centres such as Tennant Creek, where there are currently only limited service options. There are also concerns about what the ability of remote community residents to access brief interventions, and other treatment to comply with banning orders.

Agencies expressed concerns that in the past, there has been a tendency for governments to announce reforms but not provide the necessary resources to fully implement the reforms, leaving NGOs to work within existing resources. As well as additional resources, consideration must be given to the need for capital works and new housing to accommodate workers in new positions. There was a very clear recommendation from organisations that the NT Government needs to make a commitment to allocate dollars ‘up front’ for additional treatment and rehabilitation services across the NT.

Agencies indicated that they could only support the proposed new measures if the NTG allocated sufficient funding and resources to expand service provision to all areas of the NT, especially remote and smaller regional areas, to cope with the increased demand for services.

### **Considerations for development of further rehabilitation and treatment facilities**

The provision of treatment facilities which cater for family groups was seen as vital in order to assist parents to give up alcohol. For example, it is very hard for women with small children to leave their children with other family members. In addition there is a need to ensure that there are different models to look at perpetrators of serious offences, and to provide a safe place for restoration after family violence, when this is appropriate. There were also calls for treatment beds to be more culturally appropriate, so that self referrals – rather than just court referrals – will be encouraged.

### **Links with Prison Farm –Tennant Creek**

There was also a recommendation from the Tennant Creek consultation to link the proposed alcohol reforms with the establishment of a prison farm there. Specifically a model for rehabilitation could be developed, in conjunction with NGOs, as part of an overall plan for service providers to work with clients in the prison farm to deliver culturally appropriate rehabilitation, rather than just literacy and numeracy courses.

## **5. Awareness Campaigns**

### **Publicity Strategy for Enough is Enough**

Recommendations were made by organisations about the need for education and publicity to be provided at the point of sale. This should include advice about why some people are placed on banned drinkers list; and the consequences for secondary supply to a known banned drinker.

There is a need for a comprehensive education plan to inform remote communities, and to explain the various changes which will occur – e.g. how to refer to the Alcohol & other Drug Tribunal. This should include posters, pamphlets and radio advertisements, and also gender-based Aboriginal teams who could speak with people face-to-face. This could occur through some of the existing mechanisms in place through Aboriginal organisations. It was also highlighted that it would be useful for the prison population to be educated about the new measures, so that exiting prisoners will be aware of the reforms.

It was recommended that the NT Government should drive the implementation of ‘enough is enough’ at a community level through the Local Implementation Plans (LIPs) which are being developed by the growth town communities. These would provide a mechanism for local people to be involved in implementing the reforms. Obviously, alternative strategies will need to be put in place for non-growth towns. It was highlighted at the Alice Springs consultation that the 2009 Menzies report into the alcohol restrictions in Alice Springs noted that, “while the restrictions had been effective, they weren’t marketed effectively and the community didn’t come on board with them.”

## **Addressing underlying issues contributing to alcohol misuse**

Agencies have highlighted the importance of early intervention and prevention, and the need to address reasons people drink: overcrowding and constant association with others who drink; boredom; and unemployment. Tackling one area in isolation will not be effective in the long term. Further resources need to be put into additional housing, increased access to sustainable employment for local Indigenous people, improved educational outcomes, and better access to health care for remote and smaller regional areas. Broadly there was a call to make life generally more attractive – in remote and regional areas.

## **Broader Supply Reduction Measures Required**

NTCOSS and member organisations believe that it is crucial that these reforms are part of broader measures. Agencies expressed reservations about providing treatment and support to individual people on banning orders or SMART court orders, if they are only to be returned to a home environment where other people are still drinking. Without broader supply reduction measures the new policies will be less effective. Organisations also emphasised the need for broad cultural change in terms of drinking behaviour across the whole of the NT.

It is clear from available evidence that supply reduction initiatives reduce alcohol-related harm, even though they are not targeted specifically to problem drinkers. World Health Organisation (WHO) research shows that the most effective measures are to raise prices based on alcohol content, and to reduce the availability of alcohol through strict licensing schemes limiting opening times and the number of outlets.

The recent release of updated alcohol supply figures for Alice Springs makes it clear that alcohol consumption has started to go up again, due to increased sales of cheap bottled wine, and people waiting until 6 pm to purchase cask wine. Serious violence is also creeping up. This reinforces the argument that when consumption goes down, harms go down - and vice versa. There is a real risk that within a couple of years consumption in Alice Springs levels could climb towards the pre-2006 restriction levels

### **Ban on the sale four and five litre wine casks in the NT**

NTCOSS offers conditional supports for the Licensing Commission's decision to ban the sale of four and five litre wine-casks in the Greater Darwin area (announced at the same time as the proposed alcohol reforms). However we are very concerned that this decision does not go far enough, as it still leaves unrestricted access to two-litre wine casks and fortified wines such as port and sherry at all times of the takeaway trading day. NTCOSS believes that it is critical that the NTG consider placing similar restrictions on these products as occurs in the regional centres of the NT. **This should include a complete ban on 2 litre port (as per the current situation in Alice Springs).** It was evidenced from the 2002 trial of liquor restrictions in Alice Springs, where there was a ban on 4 and 5 litre cask wine but no ban on 2 litre port (which sold at the same price, around 30 cents per standard drink), where there was a 1000% shift to 2 litre port and no net change in consumption of pure alcohol. Alcohol caused hospital admissions increased especially for acute pancreatitis, seen as a direct result of the increased consumption of port.

The Ian Crundall & Chris Moon report (2003) on the trial restrictions stated:

“There were more presentations with pancreatitis and various gut disturbances than previously, resulting more in-patient admissions. These observations are consistent with the report data showing decreases in assault related presentations to ED and increases in acute separations. The Director attributed these changes to the restriction on container size and the increase in fortified wine consumption, speculating that consumption of a beverage with higher alcohol (possibly over shorter periods of time) allows less opportunity for assault but leads to the medical complications seen.”  
(Crundall and Moon: 2003:24)

### **Uniform Restrictions on Cask Wine**

NTCOSS believes that similar restrictions, such as the ‘one cask per person per day’ measure, which applies in Alice Springs and a number of other regional centres in the NT, should be applied in the Top End as well. These restrictions have resulted in significant reductions in cask wine consumption and associated harms.

Uniform minimum restrictions across the NT would reduce the confusion of different regimes operating in different centres, and would assist residents and visitors to readily adapt to the requirements. This would constitute only a small inconvenience for responsible drinkers, while at the same time achieving a much

greater social good by restricting access to alcohol for those who have a serious problem. As it is, many Territorians keep a supply of alcohol at home and it takes only minimal planning on the part of 'responsible drinkers' to ensure ready availability of alcohol. In addition, there are many hotels and licensed clubs in Darwin and surrounding areas where alcohol may be consumed 'on premises' from 10am.

### **Floor Price of \$1.00 per standard drink**

NTCOSS believes there is great merit in further examining the use of pricing as a mechanism for reducing alcohol-related harm. The *Taskforce Report* (p 23) mentioned above, noted more than 50 studies from around the world which showed that increasing the price of alcohol reduces consumption. We would respectfully invite the Commission to consider imposing a 'floor price' on the cheapest alcohol, set at one dollar per standard drink. The cheap, simple, evidence-based effectiveness of implementing a 'floor price' should be contrasted with the complexity and cost of some of the proposed measures.

### **Implementation of an Takeaway Alcohol Free Day**

The recent report by the Menzies School of Health and Research into the Tennant Creek 'Thirsty Thursday' and Alcohol Management plan recommended (rec 1) that...

"that the principle underlying those restrictions – of a day per week in which both takeaway and on-premise sales of alcohol are heavily restricted (or even banned) – should be reconsidered as a policy option. In making this recommendation, we would add two 'sub-clauses'. Firstly, the adverse consequences attributed to the Thirsty Thursday restrictions - especially the means adopted to circumvent them and the reported 'bunching' of public order incidents at particular times – need to be addressed and ways of pre-empting them identified. Secondly, the *processes* through which any new measures are introduced are no less important than the measures themselves, and should be designed to allow for extensive community input."

There have been calls in various quarters for the implementation of a takeaway free day, complemented by having all Centrelink payments shifted to that same day. Even without changes to Centrelink payment arrangements, there are still some significant benefits to having an alcohol free takeaway day.

- Consideration could be given to allowing the AOD Tribunal the option of making an order for a banned drinker to have their Centrelink payments paid on the alcohol free takeaway day.
- People who identify that they have an alcohol misuse problem could choose to have their Centrelink payment made on the takeaway alcohol free day.
- Non-drinkers may also choose to be paid that day, to avoid demands made on their money for takeaway alcohol

The *Australian Government Preventative Health Taskforce Report 2009* (p17) notes that "more (net) harm may be prevented through universal interventions – focusing on the majority who are less seriously involved in harmful alcohol/drug use, rather than through interventions that only target the smaller proportion of high-risk users." The same report observes that the two most effective methods of preventing harmful levels of abuse are (i) regulating physical availability, and (ii) using taxation and pricing. The paper concludes that "in summary, changing the physical and economic availability of alcohol is probably the most effective and reliable way of reducing the harmful consumption of alcohol." (p42)

In November 2009, NTCOSS provided a submission to the NT Licensing Commission's investigation into the value of imposing restrictions on the sale of four and five litre wine-casks in the Darwin/Palmerston/Litchfield area. We made the following recommendations in order to reduce the harm to people, families and communities caused by alcohol, with particular emphasis on recommendations 1, 2 and 3.

1. Introduce a complete ban on the sale of four and five litre wine casks and further restrict the hours during which two litre wine casks and fortified wines such as port and sherry may be purchased.
2. Introduce a 'floor price' set at one dollar per standard drink on alcohol products.
3. Make representation to the Australian Government to impose 'volumetric tax' on the sale of alcohol to tax alcoholic products according to their alcohol content which would also operate to limit the amount of alcohol consumed by problem drinkers.
4. Redirect tax revenue (estimated as \$6 billion per year nationally) from alcohol sales to increasing places in detoxification, rehabilitation facilities, and sobering-up shelters, to directly address harms caused by alcohol misuse.

5. Improve data collection procedures to provide more timely information on alcohol consumption its impact on public health.

NTCOSS also draws attention to recommendation 53 from the NT Alcohol Framework final report of 2004: “The Northern Territory Government should, in conjunction with other state and territory governments, request the Commonwealth Government alter the taxation arrangements that apply to alcohol in Australia to:

- increase the cost of low-cost, high-alcohol products including cask wine and fortified wine products,
- reduce the cost of low-alcohol beer (and if necessary increase the cost of full strength beer), and
- create incentives for the production and marketing of low-alcohol mixed drinks.”

While we note that some action has been taken, NTCOSS would support the full implementation of these recommendations to complement the proposed new measures.

Please contact our office if you would like any further information.

Yours sincerely

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