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Submission to NT Department of Justice on the proposed "*Enough is Enough*" alcohol reforms intended to deal with alcohol-related crime and anti-social behaviour, including the *Prevention of Alcohol-related Crime and Substance Misuse* Bill 2010 and the *SMART Court* Bill 2010

November 2010

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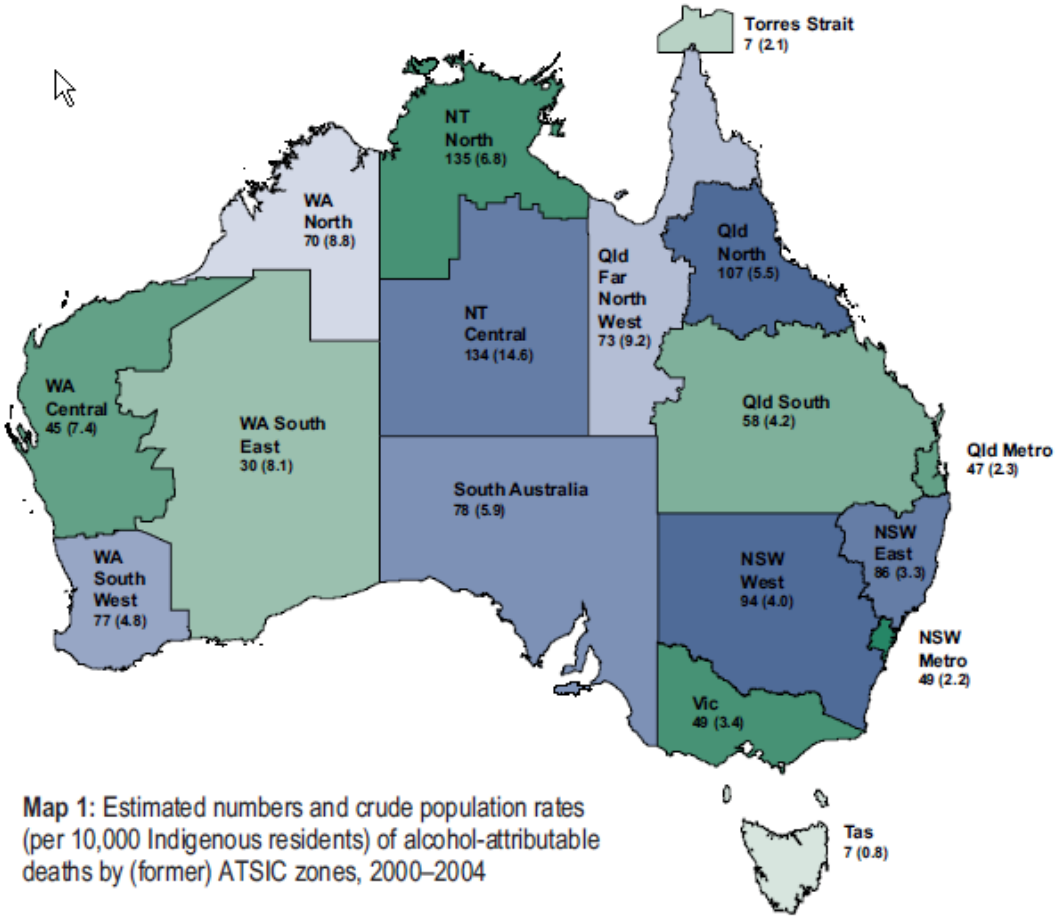
1. Introduction

Congress is a large Aboriginal community controlled primary health care service in Alice Springs which employs more than 170 FTE staff including drivers, GPs, nurses, AHWs, psychologists, social workers, Aboriginal family support workers, pharmacists, a dentist, public health and other staff. There are 5 service delivery braches including the general services branch, Alukura (women's heath and birthing), Ingkintja (male health), Social and Emotional Well Being and *headspace* (adolescent health). We have attached a diagram outlining a summary of the program logic of Congress for further information.

Central Australian Aboriginal Congress (Congress) submits this analysis and comments on the NT Government's (NTG's) proposed alcohol reforms in the "Enough is Enough" 5 point plan and the two Bills: the Prevention of Alcohol-related Crime and Substance Misuse Bill 2010 and the SMART Court Bill 2010.

Congress generally welcomes the proposed reforms and is pleased that the NTG has resolved to address the extremely harmful effects of heavy drinking in the NT. In particular, our communities are being devastated by alcohol caused harms and, here in Alice Springs, there were around 15 000 combined protective custody and sobering up shelter admissions in 2009 (Department of Justice, 2010). This is in spite of successful alcohol restrictions that have reduced pure alcohol consumption by around 18% (Senior et al 2009). Congress agrees that it high time for government and the community together to state "Enough is Enough"! As the following map of Aboriginal Australian regions shows Central Australia has the highest alcohol attributable death rate in Australia and government have failed in the past to do what they can (Chikritzhs et al 2007):



Map 1: Estimated numbers and crude population rates (per 10,000 Indigenous residents) of alcohol-attributable deaths by (former) ATSIC zones, 2000–2004

Congress does not intend in this submission to set out in great detail the extremely high levels of alcohol consumption and the associated effects, including interpersonal violence, illness, disability and premature death in the NT, as these have been canvassed by the Minister in her announcement of the *Enough is Enough* reforms from 1st September and well documented in recent research

publications. The latter include the 2009 report released in 2010: *Harms from and Costs of Alcohol Consumption in the Northern Territory*, commissioned by the Menzies School of Health Research and prepared by the SA Centre for Economic Studies ; and the Medical Journal of Australia article by Skov et al (2010). We think we all agree on the extent of the problem but there is disagreement on what needs to be done, especially in relation to the most effective supply reduction measures where too many Territorians still believe that the problem is with a small minority and most Territorians are simply "bloody good drinkers" but they do not have an alcohol problem.

At the heart of this delusion is that the Territory's high alcohol consumption is something that is supported by, and benefits, the so-called "majority" of Territorians and that everyone has a "right" to drink as much alcohol as they choose. However, in a recent decision of the High Court it has been made clear that there is no such right and access to alcohol should more correctly be seen as a *privilege* that can and should be regulated for the good of the community. This view has come about especially as it has become clearer that alcohol is causing great harm to "others" and not just the heavy drinkers themselves (Laslett et al 2010). The extent of the harm to others has been even more recently confirmed and expanded on by a UK study showing that alcohol is the most harmful of all drugs and that the majority of harm is to others:

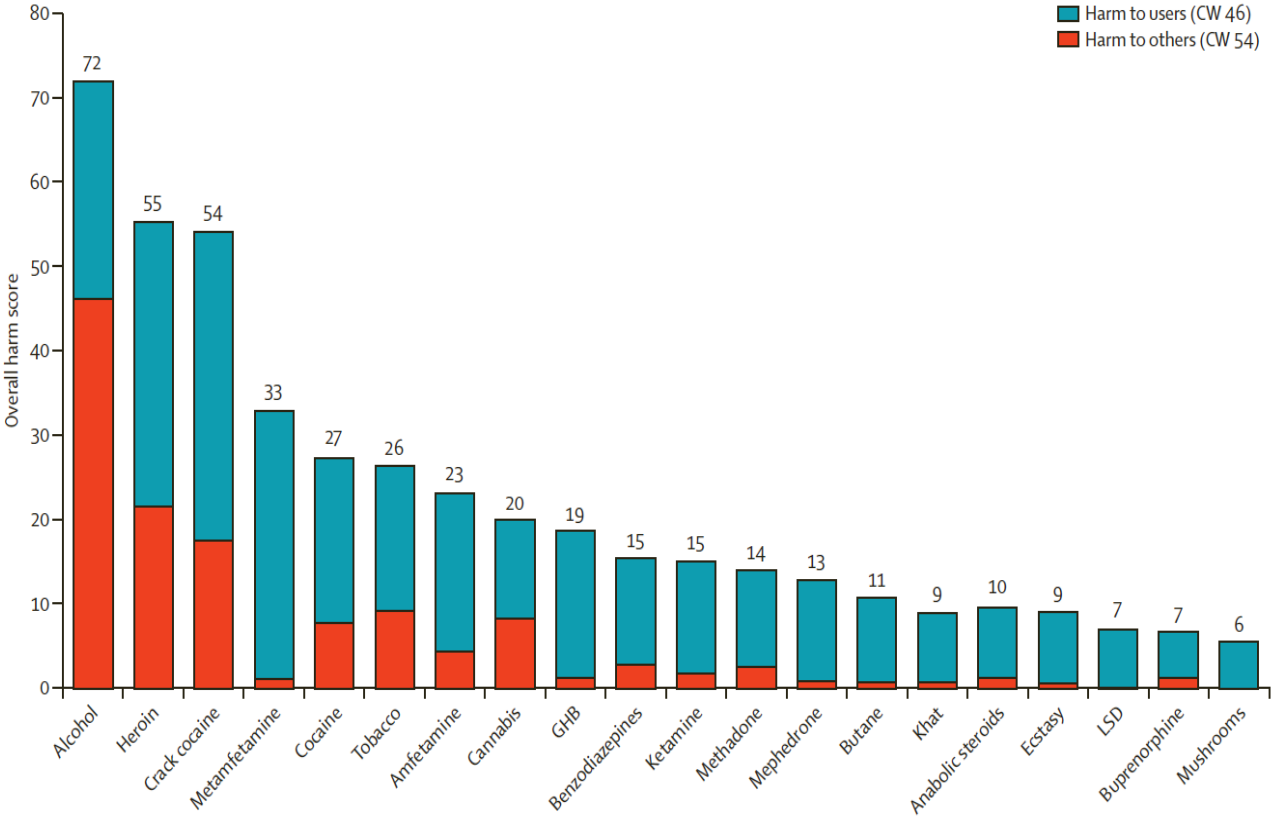


Figure 2: **Drugs ordered by their overall harm scores, showing the separate contributions to the overall scores of harms to users and harm to others**
The weights after normalisation (0–100) are shown in the key (cumulative in the sense of the sum of all the normalised weights for all the criteria to users, 46; and for all the criteria to others, 54). CW=cumulative weight. GHB=γ hydroxybutyric acid. LSD=lysergic acid diethylamide.

(Diagram from Nutt et al, 2010)
However, these types of analyses are yet to be done in Aboriginal Australians although our experience tells us that alcohol would stand out even further from all other drugs as the principal cause of harm in our communities. Unfortunately to date, the methodologies that have been used to estimate the impact of alcohol on premature death for our people have been limited to the effects that alcohol has on the individual who drinks only. For example, in a very well cited study by Vos et al (2007) it is suggested that alcohol is only responsible for 4.5% of the Life Expectancy Gap for

Aboriginal people. These types of reductionist methodologies serve a useful purpose as long as the limitations are well understood. The real figure is much higher.

However, even the latest methodologies from Laslett (2010) and Nutt (2010) have not yet captured or been able to fully quantify the effects that alcohol abuse amongst parents has on the cognitive and emotional development of young children and their subsequent educational attainment. This is possibly the most pervasive harm to others and directly reduces the Life Expectancy of many children born into families where one or both parents drink heavily.

If we consider the harm that alcohol is doing to others, especially women and children, then it becomes very clear that the majority of Territorians will benefit from a proper, evidence-based regulation of alcohol. It is also clear that government has a duty to act to protect citizens who are only "passive drinkers" from the unwanted harms that heavy drinkers are doing to them. Let alone the imperative to act to assist the heavy drinkers themselves.

But things are changing—and not just in commitment from the Northern Territory Government. There has been a welcome shift in media commentary over the last decade. Some of the most trenchant and well-informed commentary on the Territory's problems with grog has been seen in recent times from the pages of the Northern Territory News and Centralian Advocate. In this, it is our view that these media outlets are indeed representing the views and interest of the "majority" of Territorians—as opposed to the putative "majority" often cited as being vociferously opposed to regulation of alcohol.

Alcohol regulation is a key tool of pubic health policy: no more, no less. What is proposed by the Northern Territory Government is a radical approach to public health in the face of what must be seen as a major health crisis in the Northern Territory—a crisis which is killing our people—and not just Aboriginal people. If that means taking on the culture of "bloody good drinkers"—so be it. It is an approach that does not seek to criminalise alcohol abuse, but which does impose consequences on people who abuse alcohol. It is proposed—above all—as a pathway to improving the health outcomes of all Territorians. In this approach to public health, it has the support of Congress.

Our submission is aimed at enhancing the Government's proposals, and we trust they will take our comments—and constructive criticism—on board, and amend its approach to this vital social issue. We will work with the Government and other stakeholders to get it right.

But it is not just the Northern Territory Government that has a role here. The Commonwealth Government has a considerable history in resourcing alcohol rehabilitation programs in the Territory over many years and with the Northern Territory Emergency Response [NTER]—the Intervention—has projected a major role in alcohol regulation in the Territory, in legislative and resource terms. Unfortunately, this has largely manifested as a "big stick" approach to prohibition and punitive measures—with a minimal evidence base—rather than support to community driven alcohol management regimes.

Critically, the Commonwealth has avoided tackling the major reform available exclusively to it through Federal control of excise on alcohol, and the enactment of volumetric taxation of alcohol.

The Commonwealth's studied indifference to evidence-based approaches to alcohol pricing does not let the Territory Government off the hook. We assert that the Northern Territory Government has the power with amended legislation to implement an alcohol floor price or minimum price through the Licensing Commission. Any doubts about this power have been allayed by recent seminal decisions by the ACCC. In fact, the ACCC was only too happy to give the green light to this anti-competitive activity, because it readily accepted that it was in the public interest to do so. As stated in its news release of 12 May 2010:

> "the ACCC may authorise this type of arrangement when satisfied that the public benefit from the conduct outweighs any public detriment. Authorisation provides immunity from court action that might otherwise raise concerns under the competition provisions of the *Trade Practices Act 1974.* The ACCC has granted conditional authorisation for three years."

Congress has a long history of advocacy around the abuse of alcohol. In 1990 we developed the joint Congress / Tangentyere Alcohol Action plan – the first of its kind for Alice Springs. In 1991 we purchased the take-away license at 23 Gap Rd and tipped the grog in the gutter and let the license lapse at considerable expense to Congress. We were founding members and remain active participants in the Peoples Alcohol Action Coalition and our Deputy Director, Donna Ah Chee co-chaired the development of the Northern Territory Alcohol Framework (Renouf et al 2004). Donna Ah Chee is also on NIDAC and the ANCD. Congress is committed to seeking solutions that work and are aware, in ways difficult to imagine to outsiders, of the devastating impact of grog on our people: individuals, their families, and their communities. Our view is that efforts to overcome the scourge of alcohol abuse should be strongly based within the primary health care sector.

Congress however believes that without additional measures, in particular in the area of supply reduction, and including a floor price per standard drink, the proposed measures will not be as effective as they might otherwise. In fact, there is clear evidence from Alice Springs in the 2003 trial that simply banning 4 and 5 litre cask wine will shift people to 2 litre port and cause a large upsurge in hospital admissions for pancreatitis. Therefore, we do not think that this measure should be implemented without substantial modification.

2. Analysis, Comments and recommendations for improvements

2.1 An NT wide license to drink Alcohol: the IDEye system

Congress supports the NT wide introduction of the IDEye system. Introducing this system effectively means that all citizens of the NT, when they turn 18, are given the *privilege* to purchase take-away alcohol. If anyone abuses this privilege then it can be taken away under clearly prescribed circumstances by issuing either alcohol bans or prohibition orders and Congress supports this. The IDEye system then enables these bans to be implemented anywhere in the NT and this is also an important new reform.

Recommendation 1
Congress supports the use of the IDEye system to gain entry at the door to public bars such as the Todd Tavern and the Gap View Hotel in Alice Springs as this will mean that if someone has an alcohol banning order or prohibition order then they will not be able to drink on license either.

Congress also supports the proposal that it will be made a non criminal offence to provide alcohol to anyone who is on an alcohol banning order as long as the person is aware of the banning order.

Recommendation 2
Congress believes that the punishment for knowingly supplying alcohol to someone on a banning order should be an automatic alcohol banning order to the person or persons who have supplied the alcohol. This should be the *only* consequence and there should be no fine or any other punishment that could lead into the criminal court system.

Congress believes that it is possible that for some people the alcohol banning orders will provide the support that alcohol dependent people needed to remain sober. In this sense they can be considered a form of therapy that assists alcohol dependent people learn to control their impulse to drink because they are unable to act on the impulse and over time the impulse then gets weaker and easier to resist.

2.2 Increased non criminal consequences for people who drink to excess

2.2.1 Alcohol banning orders and banned drinkers register

Congress supports the power being given to the Police to be able to issue alcohol banning orders *without any discretionary powers*. Such alcohol banning orders should only be issued by the police when people have been charged with any alcohol related offences (e.g. family violence), have been involved in family or domestic violence if the violence was thought to have been alcohol related. It is important that there is no discretion given to police beyond this. Congress also supports alcohol banning orders being given to people who have been taken into protective custody, including the sobering up shelter, three times in three months.

Congress has been concerned for some time however that the police are confiscating alcohol from people who simply have alcohol in their possession in public places but where the alcohol is unopened. Congress is concerned that when this alcohol is confiscated it is not tipped out in a transparent manner creating the perception that the alcohol is being arbitrarily taken off Aboriginal people and then used by police for personal consumption. This is leading to considerable ill feeling in the community. The concern that there is arbitrary policing going on in relation to these laws almost led to Congress not being able to support the additional police powers outlined in these measures. It is important that this issues is addressed in a manner that is transparent and accountable to the community so that there can be no suggestion of discretionary or arbitrary policing of the alcohol laws.

Recommendation 3

Alcohol should only be confiscated where it is being drunk in a banned area and then the alcohol should be immediately emptied in full view of the public so there can be no suggestion that it is being used later by police.

2.2.2 Alcohol and other drug tribunal

Congress supports the establishment of the Alcohol and Other Drug Tribunal to review orders issued by the police if a person has been banned on more than one occasion by the police as well as consider referrals from other sources for people who may have a serious alcohol problem. It is essential that the tribunal be a statutory body as outlined and not a criminal court.

Congress supports the suggestion that the tribunal will meet in different locations depending on the cases being heard. Congress supports the role of the tribunals in issuing alcohol banning orders to people with a serious alcohol problem *who have not committed a criminal offence* and these orders will be binding but will not bring the person into the criminal justice system if they have not committed an offence. In addition to alcohol banning orders, the tribunal will be able to refer people to Centrelink for consideration of income quarantining up to 90% as well as an alcohol ban and this is also supported by Congress

However, Congress believes that the Tribunal should be based on what now appears to be the successful Cape York Family Responsibilities Commission (FRC) model. ABC news (Binnie & Ryan Updated Fri Nov 26, 2010 10:37am AEDT) reported that a recently released KPMG audit has revealed that the trial is working. They reported that Commissioner Glasgow has been in Aurukun and says he has witnessed the changes himself:

> "The community is a much more united community, much more determined and have got great direction. You can actually see it in the community. I'm comfortable walking in this community at night time. I certainly wouldn't have been comfortable doing it two years ago."

In addition to this, the KPMG audit reported that the Aurukun Mayor, Neville Pootchenumuka, says he is seeing a positive change in his community on Cape York's west coast. He says people who moved away from the community because of escalating violence are now coming back:

> "Things are actually improving; particularly the school attendances are improving each time - we do still have ups and downs. There are a lot of improvements through welfare reforms - people are coming back for employment. People are coming back to get their kids to be educated." (Pootchenumuka in Binnie & Ryan Updated Fri Nov 26, 2010 10:37am AEDT)

Congress in conjunction with the Central Land Council convened a workshop late last year where Commissioner Glasgow presented the FRC model. Both he and Congress believe that the level of community ownership of the Commission is a critical part of its success. Each hearing is presided over by a head Commissioner, David Glasgow, along with two local Aboriginal Commissioners. There are no doctors, lawyers or other professionals on the Commission itself – their views are sought as needed and reports are written to the Commission. This empowers respected local Aboriginal leaders to be part of re-establishing social norms and regain the respect that they need if they are going to be able to get young people to change their ways. This is a much better model than the professionally controlled model being proposed for the Alcohol and other drug tribunal. It is also more cost effective and leaves doctors and lawyers working within their own sectors and assessing people on referral from the Tribunal. The Tribunal itself should not be seen as a treatment service but as an institution that will assist in getting people to engage in treatment.

Recommendation 4

Congress believes that there needs to be an appropriately qualified commissioner appointed to head up the Tribunal and two community leaders or respected elders as commissioners on each tribunal hearing. We support the way the FRC Act (2008) defines the eligibility for appointment of the head commissioner (section 17) as:

> "(a) the person is lawyer if at least 5 years standing; and (b) the minister considers the person has an appropriate understanding of the history and culture of Aboriginal and Torres Strait Islanders; and (c) the minister considers the person has (i) appropriate experience in mediation or alternative dispute resolution; or (ii) other knowledge or experience making the person appropriate to be the commissioner or deputy commissioner."

There should be an equal partnership between all commissioners as there is in the FRC. Where an Aboriginal person is before the tribunal the commissioners should be respected Aboriginal elders and where there is a non Aboriginal person they should be respected non Aboriginal elders. This is an essential part in ensuring that the Tribunal is part of empowering our community and giving greater control to our people to themselves be part of re-establishing acceptable social norms.

Recommendation 5

Congress believes that it is important that community members are able to make anonymous referrals to the tribunal. If this is not allowed then people who are alcohol dependent and violent and in need of intervention will not necessarily be referred due to concern about the consequences of such a referral. Congress believes the aim should be to try to intervene early with people who have a serious alcohol problem and not wait until serious is obvious. This occurs best if family

members feel free to refer any family member who they believe has a serious alcohol problem and is not willing or capable of choosing to engage in treatment.

2.3 The SMART Court

Congress supports the development of the SMART (Substance Misuse Assessment and Referral for Treatment) Court for people who have committed offences related to alcohol and other drugs. The SMART court is an amalgam of the former CREDIT and Alcohol courts.

Section3: the object is to establish a court to deal with people with serious substance misuse problems *who have been found guilty of committing an offence.*

The NT CREDIT system, however, has no pre-requisite for a guilty plea, and allows those charged in relation to the use of illicit drugs to undertake treatment over a period of up to twelve weeks, with a view to a reduction in sentence when the matter is finalised. We suggest that the CREDIT system be kept, given that the changes will most likely lead to a considerable increase in demand on the resources of the courts administration. Retaining NT CREDIT will allow alleged offenders to move without delay into treatment and counselling where they are willing, without the need to go through the referral, assessment and reporting required under the SMART order process. There will be less strain on the court administration, greater efficiency and the alleged offender's matters will be dealt with more expeditiously.

Recommendation 6
Congress believes that the CREDIT court should be retained.

Under the process of assessment, reviews, variation and deferral of sentencing set out in the *SMART Court* Bill, Congress believes that the SMART Court will need far more time to deal with those appearing before it than does the Alcohol Court. A major implication of this longer term process in dealing with offenders is one of resources, given that the court system in the NT is already extremely busy and under some pressure. This reinforces the argument above for the continuation of the CREDIT Court.

Congress submits that the NTG should give serious consideration as to how the establishment of the SMART Court will affect the availability of magistrates, court staff and legal practitioners. It should ensure that there are sufficient human and other resources available in order to avoid delays which could undermine the benefits which might otherwise be conferred by this new approach to rehabilitating and otherwise dealing with those who offend and have a history of substance misuse.

Section 20: a SMART order may include a number of conditions: s20 (1)(a) - (h) and prohibitions and directions: (2) and (3.) There is no provision to order the offender to be assessed for income management as may occur under the *Prevention of Alcohol-related Crime and Substance Misuse* Bill [ss 3 and 45.] We suggest amending s20 of the *SMART Court* Bill to allow the Court to consider this option.

2. 4 Increased treatment services

Congress is pleased that the NTG intends to provide more treatment services. Congress supports an Alcohol and other Drugs/ mental health AMSANT service model on which the Safe and Sober service currently run by Congress is based. This is an ambulatory treatment model based in existing primary health care services. The minimum requirement in every primary health care service for such as service is two additional positions: a therapist (psychologist or accredited social worker) and an AOD worker to work alongside the existing GP service, remote area nurses and

AHWs. This allows the essential 3 streams of care approach as outlined in the AMSANT service model: psychological therapy, social support and pharmacotherapies.

There needs to be new substantial funding for these increased alcohol treatment and rehabilitation services in regional centres and in remote communities. We believe the cost would be in the vicinity of an additional $18 million per annum, on the basis of applying the Congress model operating in Alice Springs across the NT. The Congress program aims to intensively treat at least 320 people with a further 180 people engaged in less intensive treatment. The projections for this figure were based on the following assumptions:

- There are 5000 Aboriginal people age 15 yrs & over in Alice Springs and there are an additional 400 12-15yr olds
- 25% adults drink at unsafe levels based on health screening done through the Congress clinic on over 3000 Aboriginal people over the age of 15 in 2008 and 2009. This means 1250 of the original 5000 need alcohol treatment. We further assumed that 15% of 12-15yo or 60 people would need treatment
- Based on the rate of voluntary engagement with the "grog mob" treatment program over 18 months we then assumed that only 20% of these 1250 people over the age of 15 would intensively engage in treatment, 250 people and higher for 12-15yr olds.
- We then assumed 20% of these will stop drinking and 60% will reduce their drinking
- We then added an estimate additional number of referrals from mandated treatment through the alcohol court as well as gaoled referrals
- Finally we included a % of the 2000 Aboriginal visitors to Alice Springs
- The outcome was that at least 500 clients will engage in treatment each year.

Based on similar projections, including the additional treatment requirement from both the new Smart Court and the Alcohol and Other Drug Tribunal a broader program would need to aim to treat and additional 4500 people a year across the NT for a total of 5000 people in treatment each year. This will require an additional $18 million for ambulatory treatment alone funded through all of the existing primary health care services

Treatment services need to be located within and co-ordinated as part of the primary health care system in order to avoid confusion, waste and duplication, and to achieve relative ease of access, case management and follow up. Alcohol dependent people need to engage with treatment for at least 1year and in many cases 2 years. In the case of Aboriginal drinkers the preferred model is to place treatment services within Aboriginal primary health care providers. The Department of Justice has been provided with details of the Safe and Sober model.

Recommendation 7
That the introduction of the SMART court and the Alcohol and Other Drugs Tribunal only goes ahead if adequate funding is secured for alcohol and other drug treatment services based on the Safe and Sober Support Service model located within all primary health care services and not only the 20 growth towns.

2. 5 Supply Reduction

2.5.1 Price

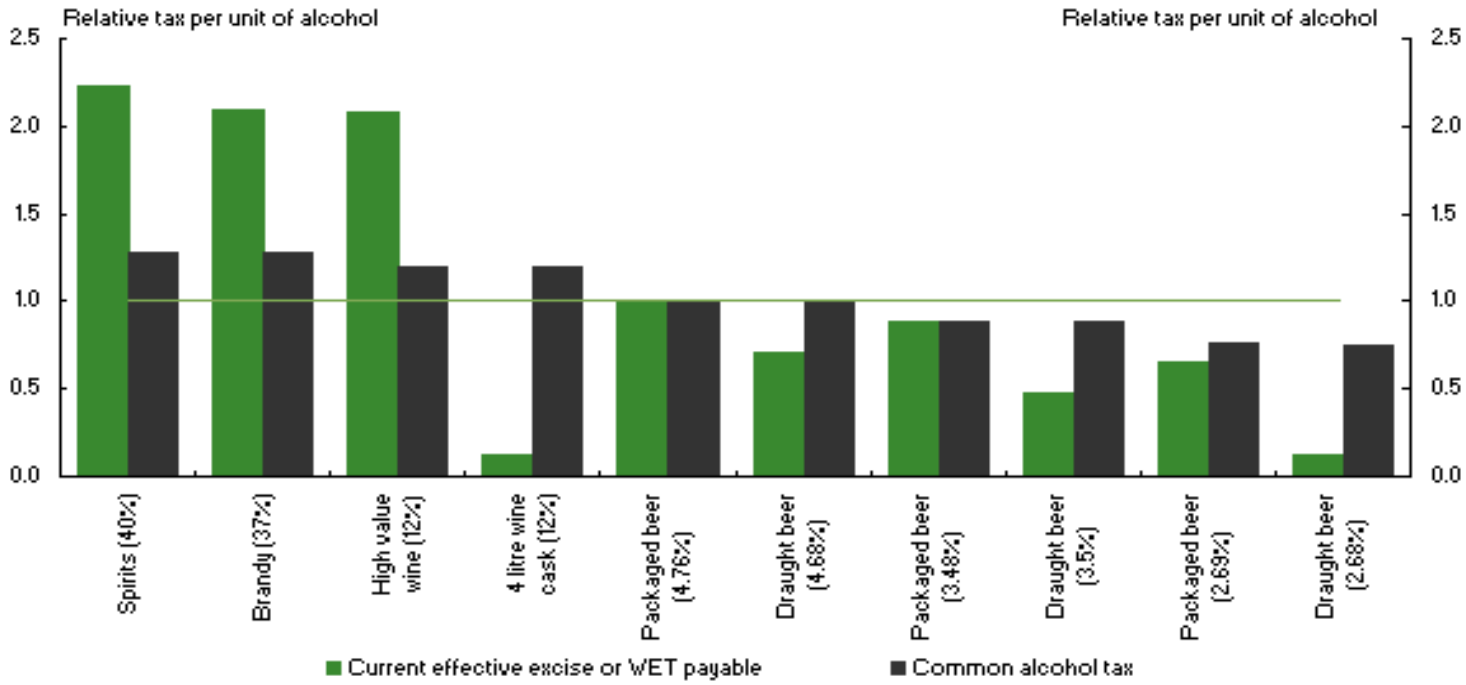
The evidence that price is the most important and effective determinant of population alcohol consumption is now beyond dispute (Barbor et al 2003, Coghlan 2008; WHO 2009; Lancet 2009; Purshouse et al 2010). This evidence has been confirmed in the NT with the 2002 Alice Springs alcohol restrictions (Hogan et al 2006). The recent report of the *National Preventative Health Taskforce* also has this to say:

> "The price of alcohol clearly impacts on consumption patterns. Australian and international studies confirm that when alcohol increases in price, consumption is reduced… in other words, policies that raise the price of alcoholic beverages are an effective means of reducing alcohol consumption. In addition, studies have shown that price increases reduce problems due to alcohol, including binge drinking and a variety of alcohol-related harms (for example, motor vehicle accidents, cirrhosis mortality and violence)." (Australian government 2010: 253)

It is also clear that increasing the price of alcohol specifically targets the two groups that most need greater protection – binge drinkers and young people:

> "Heavy drinkers and young binge drinkers are least able to afford the increased costs, Anderson says, so making drink expensive has the strongest effect on the people whose drinking is most damaging." (Coghlan 2008)

Unfortunately, it has been assumed by many for many years that the only or best public policy to implement this evidence is a volumetric tax on alcohol. This has been proposed at the Commonwealth level since the 1987 draft national policy on alcohol yet it has still not been implemented and can only be implemented by the Federal government. It has been recommended on many, many occasions through many national reports most recently in the Henry Taxation review (Australian Government 2009) and has been supported by the report of the Preventative Health Task force this year. The main problem that needs to be addressed is that the current tax system makes cheap, lower quality alcohol such as cask wine and port relatively inexpensive as this table from the Henry review reveals for 4 litre cask wine:



electorates. This has meant that successive federal governments of both political persuasions have not implemented the tax over more than 20 years. However, it is also the case that a volumetric tax will increase the price of bottled wine at a level that effects many responsible drinkers – the $10 to $12 mark. This is thought to be very electorally unpopular and this has also contributed to federal inaction on the issue. While Congress supports the introduction of a volumetric tax on alcohol at the Federal level and deplores the lack of action on this we do not think it is acceptable for the Northern Territory government to delay taking immediate action on price given there is an alternative that is at least as effective and is more targeted at the heaviest drinkers. This alternative is known as a minimum price benchmark or floor price (Hogan et al 2006; Lancet editorial 2009; Pursehouse et al 2010;Australian Government 2009).

We do not however need to look internationally to see how effective the floor price mechanism is – it was seen working to ill effect in the 2002 Alice Springs alcohol restrictions. On March 1 2002 a trial of liquor restrictions was introduced in Alice Springs which among other measures included a ban on 4 and 5 litre cask wine but importantly not on 2 litre port which sells at around the same price, 30 cents per standard drink. Even though the Alcohol Industry claimed that people drink according to taste and not price and therefore they would not shift to port the result was a 1000% shift to 2 litre port and no net change in consumption of pure alcohol. *The lowest price completely determined consumption.* In addition, alcohol caused hospital admissions increased especially for acute pancreatitis which was a direct result of the increased consumption of "monkey blood". This cannot be allowed to occur on an NT wide basis, it would be irresponsible in the extreme and may well lead to successful court action against the NTG by a person who acquires pancreatitis from drinking 2 litre port.

Below is a table from the evaluation report on the 2002 Alice Springs alcohol restrictions done by Dr Ian Crundall and Chris Moon in 2003. It clearly shows the drop that occurred in the sale of cask wine and the corresponding increase that occurred in the sale of 2 litre port:

> *"….. that the most notable shifts in beverage preference were between cask wines that were restricted as part of the trial and fortified wines. While the market share of the former dropped over 20% [ie. From 24.6 to 4.0 per cent], the latter increased its share by 19.2% [ie.from 2.3 to 21.5 per cent]" (2003:3).*

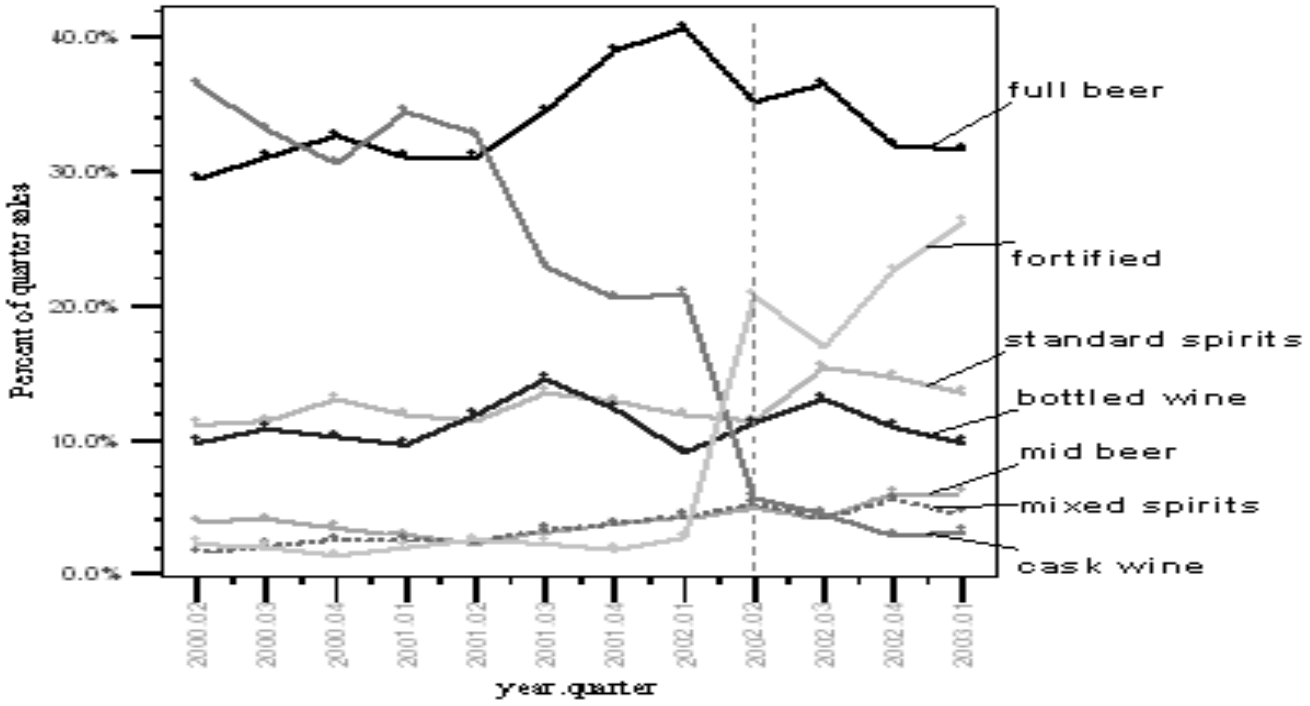


Figure 1: Market Share of Selected Beverage Types by Quarter

Table 2: Wholesale Sales and Market Share by Beverage Type
(litres of absolute alcohol)

Beverage	Pre-Trial		Trial	
	Litres	% of market	litres	% of market
Cask Wine	109,815	24.6	18,725	4.0
Bottled Wine	53,905	12.1	53,098	11.3
Fortified	10,351	2.3	101,209	21.5
Cider	5,853	1.3	5,169	1.1
Spirits (standard)	55,381	12.4	64,661	13.7
Spirits (mixed)	15,087	3.4	22,955	4.9
Full Strength Beer	160,373	36.0	159,285	33.9
Mid Strength Beer	14,679	3.3	24,832	5.3
Light Beer	20,645	4.6	20,491	4.4
Total	446,089	100.0	470,782	100.0

Table 2 shows the amount of absolute alcohol sold as various beverages for the trial and the twelve months before. The overall change in sales comprised increase and decreases across different beverages. Sales of cask wine decreased by 82.9%. Sales of fortified wine, on the other hand, multiplied by a factor of nearly ten. Mid-strength beer sales increased by 69.2% while mixed spirits

As a result the massive increase in the sale of 2 litre port the graph below shows that there was no net change in the sale and consumption of pure alcohol and harms were therefore not significantly reduced.

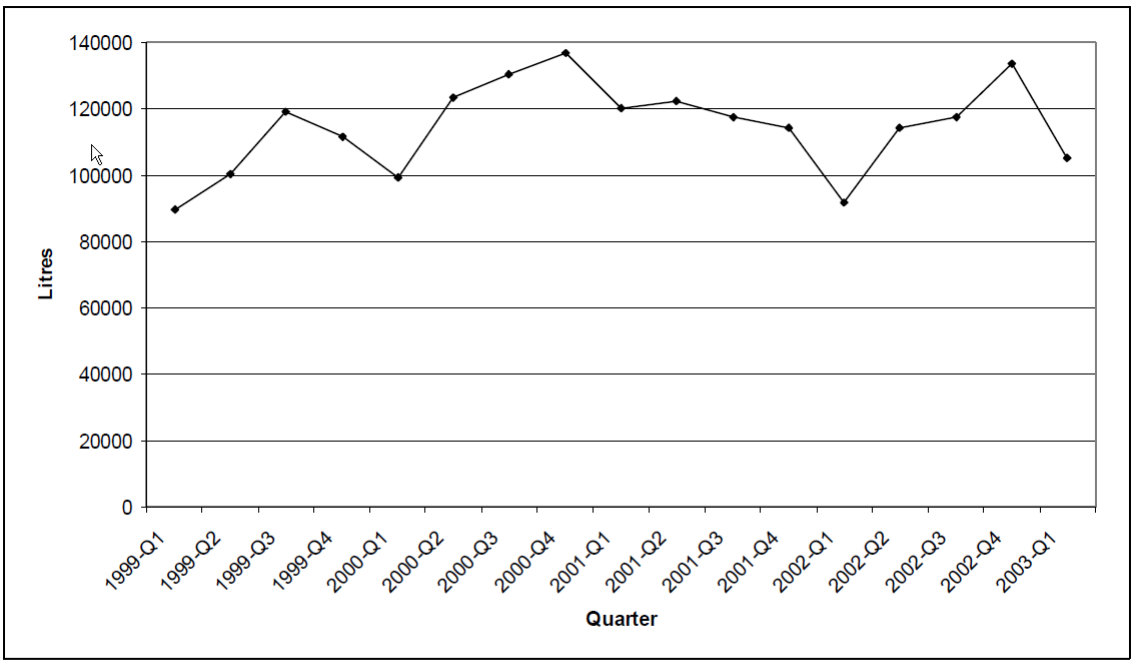


Figure 11: Quarterly wholesale sales of pure alcohol, Alice Springs, January 1999 – March 2003

There was actually an increase in alcohol caused hospital admission as shown in the table below:

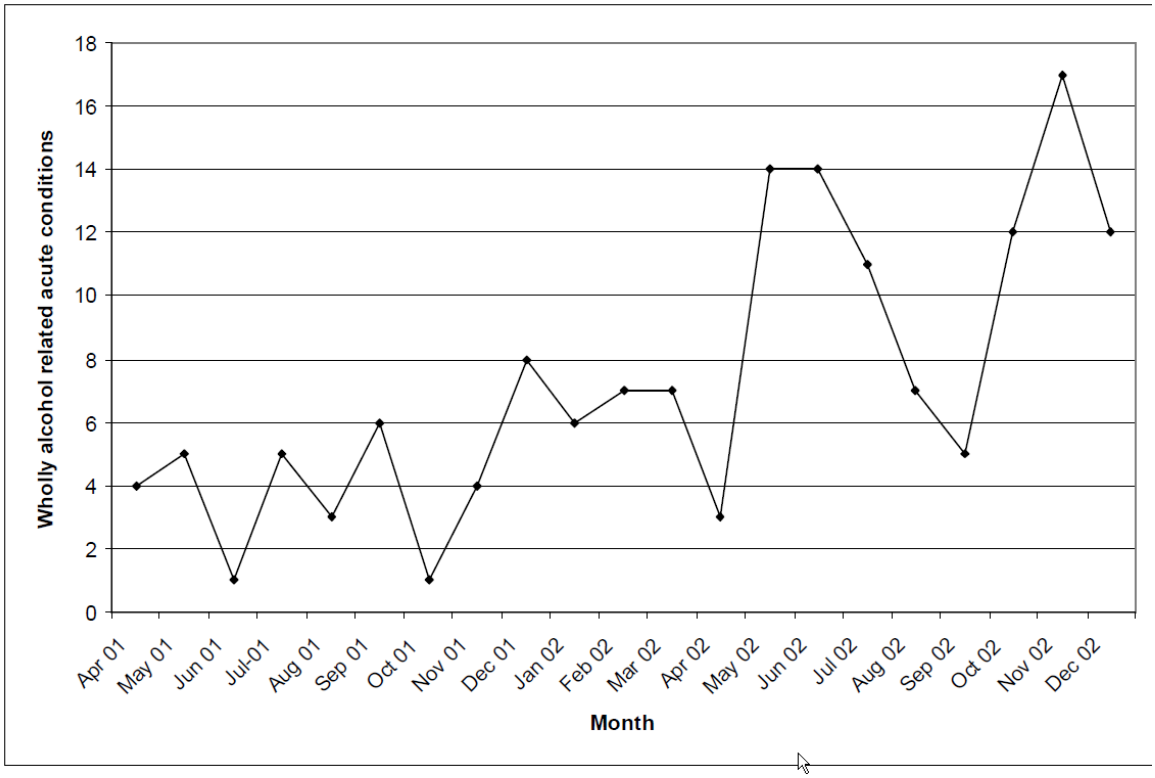


Figure 10: Wholly alcohol-related acute admissions to Alice Springs Hospital, April 2001 to December 2002

The Crundall report (2003) explained the increase:

> "There were more presentations with pancreatitis and various gut disturbances than previously, resulting in 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)

In a paper published in the Drug and Alcohol review Hogan et al (2006) concluded:

> "The trials adds substantial new evidence to the strength of the relationship between alcohol price, consumption and harm as the restrictions led to a 1000% increase in the sale of the cheapest form of alcohol—2-litre port. Recent proposals for supply reduction strategies such as a tiered volumetric tax on alcohol and a trial of alcohol restrictions based on a minimum price benchmark demand further consideration by policy makers, especially in regions marked by a excessive alcohol consumption and a high burden of alcohol-related harms such as Alice Springs".

The 2006 Alice Springs restrictions were, as a result, carefully designed around the concept of a minimum price for alcohol of around $1 per standard drink between 2pm and 6 pm and 50cents per standard drink after 6pm due to the continued availability of 2 litre wine. The large shift to beer occurred because beer is the cheapest form of alcohol up to 6pm. As the minimum price increased 3 fold there was a large reduction in the consumption of pure alcohol. These restrictions have led to an 18% decline in the sale and consumption of pure alcohol as in the following:

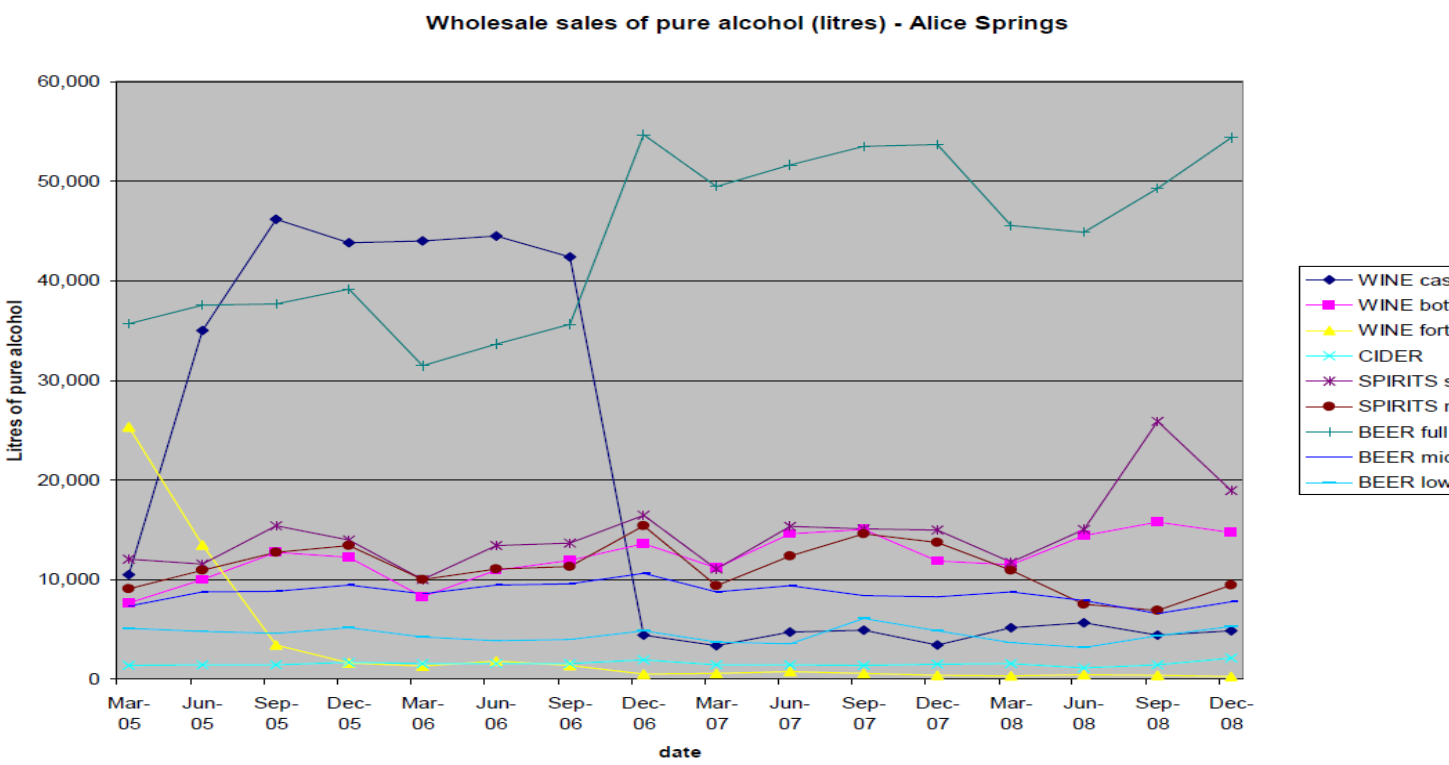


Figure 8.1: Wholesale sales of pure alcohol – Alice Springs

This provides further evidence of the paramount importance of price in determining consumption.

Unfortunately, some heavy drinkers are now waiting until 6 pm to buy 2 litre wine and this needs to be addressed by restricting the sale of 2 litre wine to one cask per person per week. This allows pensioners and others, who do not have an alcohol problem, to access these casks and consume on average 3 standard drinks per night while at the same time stopping the heavy drinkers from accessing these casks daily which some are currently doing in Alice Springs. This would also need to apply to other cheap alcohol sold after 6pm such as cheap bottled port and Stones Green Ginger wine. Such complex restrictions are only necessary because of the lack of a floor price and they could be removed if a floor price was implemented.

Unfortunately, as there is not a legislated floor price, the alcohol industry continues to replace one form of cheap alcohol with another. There has been a sustained focus on cheap wine sol din casks in the NT and so now cheap alcohol is being produced in bottles. For example, bottled red wine is being sold at times as cheaply as $1.99 a bottle – cheaper than a can of coke. At this price the pure alcohol is as cheap as the alcohol in 4 and 5 litre casks and there has been a significant shift to cheap bottled wine in the last 12 months in Alice Springs. This is seriously undermining the minimum price mechanism of the original restrictions and as a result alcohol consumption is on the rise again in Alice Springs (Department of Justice 2010).

It is being proposed that this problem be dealt with through the development of "voluntary accords" with the Liquor Industry. While this approach in the first instance has merit, Congress believes that it is necessary to ensure that the necessary clause is included in the proposed new legislation to enable the government and the Licensing Commission to impose a floor price in case the industry does not agree to do this voluntarily. We cannot allow cheap alcohol to be sold anymore it is doing too much harm.

Recommendation 8.

The Prevention of Alcohol-related Crime and Substance Misuse Bill be amended at s31(2) of the Liquor Act (NT) to empower the Licensing Commission to determine liquor licence conditions with respect to the charging of a particular price for liquor including a floor price.

Recommendation 9

That the proposed NT wide ban on 4 and 5 litre casks be modified to include a ban on 2 litre port and beer in long neck bottles. In addition to this, the sale of 2 litre wine casks, Stones green ginger wine and cheap bottled port should be restricted until after 6 pm allowing only 1 unit container of any one of these per person per week through the IDEye system. This must be implemented as a package as banning 4 and 5 litre casks on their own will be more harmful than the current situation. These complex restrictions should remain in place until a floor price has been implemented as then there will be no need for any such restrictions.

Recommendation 10

That bottled wine be sold at a minimum price of $8 per bottle through the introduction of an NT wide alcohol accord and failing this through legislative means under the power obtained through implementing a floor price.

Recommendation 11

That all products that are greater than 5% alcohol by volume be included in the legislation so that they can be regulated under the Liquor Act. This will include some mouthwashes and vanilla essence.

2.5.2 Take away free day linked to centre-link payments

This initiative was implemented in Tennant Creek in 1995 and removed on July 1 2006. In the 1998 evaluation done by the NDRI it was found that the population consumption of pure alcohol had reduced by 20% although it was not possible to quantify the exact contribution of the ban on take-aways on Thursdays as other significant measures were also put in place. At the time of its removal in 2006, it was widely accepted that it was less effective than it had been initially for a range of reasons. One of the main reasons was that many people had moved their centre-link payments away from Thursday to other days of the week. However, in spite of this, when it was removed in 2006 it led to a 7% increase in the sales and consumption of pure alcohol:

> "In 2006-07, following revocation of the Thirsty Thursday restrictions, total supplies of alcohol to outlets in Tennant Creek increased by 7.5% over the preceding year. The increase was accounted for entirely by supplies to the hotels and liquor merchant, which together increased their combined market share from 75.5% to 80.3%." (D'Abbs et al 2010:8)

It could therefore reasonably assumed that this one measure, if fully linked to centre link payments and on a day of very high take away alcohol sales such as Thursday, could be reasonably expected to reduce population alcohol consumption by about 10%. This would make a very large contribution to harm reduction in the NT for only a small amount of pain for most people.

Recommendation 12

There should be one take-away free day per week linked to centrelink payments and this day should be on a high volume alcohol consumption day such as Thursday.

2.5.3 Buy Back of Take-away liquor licenses from corner stores and petrol stations

Congress believes it is unacceptable to allow alcohol to be sold through corner stores and petrol stations primarily because of the wrong message this gives to the community. Alcohol is a potentially harmful drug of addiction is no ordinary commodity and should not be sold with ordinary commodities such as bread, milk and petrol. It should only be sold in dedicated, specific outlets either stand alone or in a completely separate room adjacent to a supermarket. Anyone purchasing alcohol should have to make a conscious choice that this is what they want to do and not be lured into it by the coexistence of alcohol, bread and milk. Selling alcohol from petrol stations completely contradicts the message about not mixing alcohol with driving. For these reasons Congress believes the proposed buy back of the 3 licenses in Alice Sprigs should go ahead.

Recommendation 13

That the NTG proceeds with the buy back of the take-away licenses from the corner stores, Hoppy's and Heavitree Gap and the Gap BP service station. If there are any other such licenses anywhere in the NT they should also be removed.

2.5.4 Light beer only in bars without food prior to 2pm weekdays and Sundays

The story on the ABC Lateline program highlighted the problem of heavy drinking in public bars in Alice Springs prior to the opening of the take-aways on all days except Saturdays where opening hours are different. For many years our people have had to hang their heads in shame as they drive past the Todd Tavern "Animal Bar" and similar bars at the Gap View and other premises. A large number of our people who are very heavy drinkers go to these bars as soon as they open and drink there until the take-aways open at 2pm. Few people in the community who do not have an alcohol problem frequent public bars prior to 2 pm for the purpose of drinking alcohol without a meal. The shame that is felt in the Aboriginal community as people have to witness what goes on in these bars and the family members outside on the street in full public view is no longer acceptable. These bars do not have reasonable levels of amenity and the entire focus is on the consumption of alcohol and not sharing a meal with family and friends. If we are going to change the drinking culture in Alice Springs then the problems created by these bars needs to be addressed.

Recommendation 14

That prior to 2pm Monday to Friday only mid strength or light beer should be able to be purchased in public bars without the purchase of a full meal. If a full meal is purchased then all forms of alcohol can be purchased with the meal**.** In addition all public bars must provide a reasonable level of amenity to patrons and the IDEye system should be used to gain entry at the door.

3. Specific comments on Prevention of Alcohol-related Crime and Substance Misuse Bill 2010

Recommendation 15
In Section 13 of the Bill the wording should include 'BADT' as well as 'GAP' orders.

In Section 22: a person the subject of an application is entitled to be represented and the Tribunal may appoint a legal practitioner and require the Territory to pay the cost. No objection to this, however under this process there are likely to be delays whilst someone is located and appointed.

Applicants are very likely to lack funds and some will probably decide not to wait for such an appointment, and thus be disadvantaged.

Recommendation 16

A duty solicitor/s be appointed to enable the Tribunal to efficiently to carry out its work.

Section 29: it is unclear as to who can appeal. Simply states 'a person' and needs to be clarified.

Recommendation 17

The appeal process of the Tribunal needs to be clarified further

4. Evaluation

The reforms that the NTG proposes to introduce to deal with those who drink to excess and cause problems for themselves and others will need to be rigorously evaluated in order to determine their success or otherwise. Outputs and outcomes to be considered by the evaluation in addition to those measures outlines in the NT Alcohol Framework minimum data set include:

- number of people in receipt of BAT, BADT and GAP orders including repeat orders;
- number of people who receive a banning order for supplying to a person subject of a ban;
- number of people to whom banning orders are issued due to their having supplied to a banned person;
- number of people who are referred for treatment, both optional and mandatory;
- number of people who undertake rehabilitation and or treatment, whether mandatory or optional and the success or otherwise of either at 12 months after treatment;
- number of people refused purchase due to being identified under the ID system as being subject to a ban;
- any change in numbers taken into protective custody and to sobering up shelters;
- any effect of the SMART Court system on court and related resources;
- any effect on police of the ability to issue banning orders; and
- a breakdown and analysis of monetary costs associated with the reforms including additional treatment services.

Recommendation 18

There be ongoing evaluation of the measures through an NT wide Evaluation Reference Group that receives 3 monthly reports containing the data from the minimum data set outlined in the NT Alcohol Framework. This includes apparent per capita consumption data at the regional level as well as key indicators of alcohol related harms.

Recommendation 19

There be an independent evaluation of the package of measures after 2 years.

5. Summary Recommendations

Recommendation 1

Congress supports the use of the IDEye system to gain entry at the door the larger bars such as the Todd Tavern and the Gap View Hotel in Alice Springs as this will mean that if someone has an alcohol banning order or prohibition order then they will not be able to drink on license either.

Recommendation 2

Congress believes that the punishment for knowingly supplying alcohol to someone on a banning order should be an automatic alcohol banning order to the person or persons who have supplied the

alcohol. This should be the *only* consequence and there should be no fine or any other punishment that could lead into the criminal court system.

Recommendation 3
Alcohol should only be confiscated where it is being drunk in a banned area and then the alcohol should be immediately emptied in full view of the public so there can be no suggestion that it is being used later by police.

Recommendation 4
Congress believes that there needs to be an equal number of community leaders or respected elders as professional people on each tribunal hearing and there should be an equal partnership between all tribunal members. It is the view of Congress that all Tribunal hearings must include *at least* two elders or respected persons (male and female) and that where an Aboriginal person is before the tribunal these persons should be respected Aboriginal elders. This is an essential part in ensuring that the Tribunal is part of empowering our community and giving greater control to our people to themselves be part of re-establishing acceptable social norms. Congress believes that this is much more likely to be successful than a process that is only driven by professionals.

Recommendation 5
Congress believes that it is important that community members are able to make anonymous referrals to the tribunal. If this is not allowed then people who are alcohol dependent and violent and in need of intervention will not necessarily be referred due to concern about the consequences of such a referral. Congress believes the aim should be to try to intervene early with people who have a serious alcohol problem and not wait until a serious criminal offence has been committed. This occurs best if family members feel free to refer any family member who they believe has a serious alcohol problem.

Recommendation 6
Congress believes that the CREDIT court should be retained

Recommendation 7
That the introduction of the SMART court and the Alcohol and Other Drugs Tribunal only goes ahead if adequate funding is secured for alcohol and other drug treatment services based on the Safe and Sober Support Service model located within all primary health care services and not only the 20 growth towns.

Recommendation 8.

The Prevention of Alcohol-related Crime and Substance Misuse Bill be amended at s31(2) of the Liquor Act (NT) to empower the Licensing Commission to determine liquor licence conditions with respect to the charging of a particular price for liquor including a floor price.

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