

8 September 2026

Secretary, Legislative Scrutiny Committee
Legislative Assembly of the Northern Territory
By email: LSC@nt.gov.au

Dear Committee,

[Submission: Traffic Legislation Amendment \(Drink and Drug Driving and Hooning\) Bill 2026](#)

The Alcohol and Drug Foundation (ADF) is Australia's leading alcohol and other drug harm prevention organisation. In the Northern Territory, ADF works in collaboration with government, health services, researchers and the community to promote policies and regulatory settings that prioritise public health, harm minimisation, and community safety.

ADF writes in relation to the Inquiry into the [Traffic Legislation Amendment \(Drink and Drug Driving and Hooning\) Bill 2026](#). ADF supports the objective of the bill, which is to keep Territorians safe by reducing alcohol and drug (AOD) impaired driving on our roads, particularly if implemented alongside an increase in the availability of:

- evidence-based AOD prevention and treatment services to prevent impaired driving from occurring in the first place
- regular public reporting on AOD-related road injuries and fatalities in the Territory.

In relation to the bill, ADF is concerned that two aspects of clause 7 have insufficient regard to the rights and liberties of individuals. The reasons are set out below and relate to the potential for the proposed new offence to operate in an inconsistent and arbitrary manner.

1. Applicability of a defence (taking certain medications as prescribed) to the proposed new dual offence

The new 'dual' offence in clause 7 combines a 'presence' approach to drink and drug driving, which captures a situation where a person has a drug in their system and also returns a high range breath or blood alcohol content. The new offence, which does not require impairment to be shown, is proposed to be in addition to two existing separate presence offences under the *Traffic Act 1987* (NT):

- section 28 of the Act ('driving with certain drugs in the body'), where only presence of a drug is required to make out the offence;
- section 21 ('high range breath or blood alcohol content').

There is a separate offence for impaired drink or drug driving under section 29AAA, which carries a higher penalty, reflecting the increased culpability in driving while impaired.

Persons charged with the section 28 drug presence offence may avail themselves of a defence under section 29. This defence only applies to persons who have taken certain drugs as prescribed by a medical practitioner as part of their treatment, and are not impaired. The relevant drugs are morphine, methadone and amphetamine¹ which are commonly present in drugs prescribed as part of common conditions – for example, amphetamine-

¹ Schedule 1 A, [Traffic Regulations 1999](#) (NT).

based Attention Deficit Hyperactivity Disorder (ADHD) medicines such as dexamfetamine. This defence reflects a policy that balances a precautionary approach to road safety on one hand, and on the other hand the need to ensure that people who are not impaired are able to access necessary healthcare without restricting their ability to move freely about the Territory.

It is not clear whether a person charged with the proposed new dual offence may use the section 29 defence as they would be able to if they were charged with the section 28 presence offence. The ADF recommends that clause 7 be amended so that clause 7's proposed new section 20A allows a section 29 defence in respect of drug driving. This would both (a) create consistency with the existing section 28 offence, and (b) reflect a proportionate response to the culpability of a driver who is not impaired, and is taking a medication as prescribed by their medical practitioner.

ADF does not suggest that a prescription should provide a defence to high-range drink driving or drug-impaired driving. If the section 29 defence is established, the person should remain liable for the applicable high-range alcohol offence. The separate impaired drug driving offence should also continue to apply where a prescribed drug has impaired the person's ability to drive.

2. Inconsistent penalties for the new s 20A offence and existing presence offence

ADF is concerned that the penalty under proposed section 20A, which takes a 'presence' approach to drug driving, creates a significant additional financial penalty that is not consistent with and is disproportionate to the penalties for existing presence drug and high range drink-driving offences. This introduces a level of arbitrariness to the penalty that lacks a clear justification.

- For a first offence, the current section 28 drug presence offence carries a maximum penalty of 5 penalty units (\$970) or three months' imprisonment,² and section 21 high-range drink driving offence carries a maximum of 10 penalty units (\$1,940) or 12 months' imprisonment. The aggregate maximum monetary penalty for these two existing offences is therefore 15 penalty units, currently \$2,910.
- Proposed section 20A imposes a maximum penalty to 30 penalty units (\$5,820) or 18 months' imprisonment where both high-range alcohol and any prohibited drug are present, but the driver is not impaired.

The maximum monetary penalty under proposed section 20A is therefore twice the combined maximum monetary penalties for the existing section 21 and section 28 offences. It is not clear why combining the elements of the two existing offences should result in a penalty that exceeds their aggregate maximum by this amount.

To ensure consistency in the operation of the Traffic Act to all Territorians, ADF recommends that the maximum penalty applicable to section 20A should not exceed the current aggregate monetary penalty for the offences under sections 21 and 28.

Thank you for considering this submission.

Sincerely,

Amy Herbert

Manager, Policy and Engagement

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² Section 28, [Traffic Act 1987](#) (NT). A separate offence under section 29AAA applies for impaired driving; it has a higher penalty.