



**SELECT COMMITTEE ON SUBSTANCE ABUSE
IN THE COMMUNITY**

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**SUBMISSION TO THE LEGISLATIVE ASSEMBLY SELECT COMMITTEE ON
SUBSTANCE ABUSE IN THE COMMUNITY**

NORTHERN TERRITORY LICENSING COMMISSION

and the

RACING, GAMING AND LICENSING DIVISION – NT TREASURY

LIQUOR AND KAVA

INTRODUCTION

This submission contains information on the legislative and operational framework used by the Northern Territory Licensing Commission and the Racing, Gaming and Licensing Division of NT Treasury. Following an overview of the Licensing Commission and the Racing, Gaming and Licensing Division, information is provided concerning liquor and kava licensing.

OVERVIEW

The approach used by the Licensing Commission and the Racing, Gaming and Licensing Division to liquor and kava licensing is based on the interrelated effects of

- legislation and regulation
- licensing, information and enforcement
- community needs and wishes.

Through the interplay of these three areas, support is obtained to assist government agencies and the wider Northern Territory community achieve public safety and harm minimisation objectives.

NORTHERN TERRITORY LICENSING COMMISSION

The Northern Territory Licensing Commission was established in February 2000. The Commission was created by merging the Liquor Commission, Gaming Machine Commission, Gaming Control Commission and the Private Security Licensing Authority.

The Commission is an independent, statutory body established under Section 4 of the *Northern Territory Licensing Commission Act*.

The Commission consists of a Chairman and eight members. The functions of the Commission are to perform functions imposed on it under the *Northern Territory Licensing Commission Act*, *Racing and Betting Act* (as the *Racing*

Commission), Totaliser Licensing and Regulation Act, Gaming Control Act, Gaming Machine Act, Liquor Act, Private Security Act, Prostitution Regulation Act and Kava Management Act.

In addition to its functions under legislation, the Commission also operates as a commission-at-large. This involves frequent meetings with town and community councils; with Chambers of Commerce and Industry, regional Tourism Associations, the Australian Hotels' Association and the Liquor Stores Association, Aboriginal organisations, health service providers and executives of major liquor, gaming and security organisations.

Further information concerning the Commission and its activities relating to liquor and kava is detailed in the Commission's 2000/01 Annual Report, which is available at:

www.nt.gov.au/dbird/dib/reports/departmental/annualreport (go to appendix 4).

RACING, GAMING AND LICENSING DIVISION

The Division's liquor and kava objectives are to minimise harm and promote acceptable and responsible practices within the liquor and kava industries.

Licensing activities

Liquor inspections are conducted to improve compliance in accordance with the liquor licence conditions imposed by the Licensing Commission. In addition, inspections increase awareness among the community of the responsibilities of the liquor industry with the aim to decrease the number of liquor related offences on and off licensed premises. Information is provided to licensees and the community on responsible licensing and consumption practices.

Under Section 95 of the *Liquor Act* vehicles used to breach restricted area provisions by introducing or importing liquor into restricted areas are seized and impounded on behalf of the Commission. Similarly those who use vehicles in contravention of the Section 46 of the *Kava Management Act* also have vehicles impounded.

LIQUOR

Legislation

The objectives of the *Liquor Act* are

- to limit the availability of liquor in the community
- control the manner in which liquor may be obtained
- minimise harm arising from the consumption of liquor
- conduct liquor licensing according to the needs and wishes of the community.

The Act was the outcome of a Legislative Assembly report and embodied social elements by vesting it with powers to control access to liquor and by requiring the Commission to be responsive to community needs and wishes. The major means of doing this are through the restricted areas provisions and through specific licence conditions that are attached to all liquor licences.

The conditions attached to licences are used to apply different requirements to different premises, such as hotels, taverns, clubs, restaurants, stores, vessels, etc. Minor variations in conditions are applied to reflect the different characteristics of premises within groups, for example, to distinguish between public and private hotels, or between stores (supermarkets) and specialized liquor merchants.

For example, the need for basic services in the more remote parts of the Northern Territory was addressed by the inclusion of conditions requiring the licensees of roadside inns to provide fuel, meals, accommodation and communication services on demand, 24 hours per day.

Licensing

The *Liquor Act* establishes a system whereby the Licensing Commission develops policy aimed at upholding the public interest and meeting the objectives that have been inferred into the Act. The licensing system allows for the

- control and limitation of undesirable effects of excessive liquor consumption,
- provides an enforcement mechanism that enables the policing of the sale and public consumption of alcohol (such as the requirement that liquor is not sold to persons under 18 years of age) and
- enables the Government to address certain community expectations with respect to the services that should be associated with the provision of liquor, such as appropriate security arrangements and people that should be allowed to sell liquor.

Types of Licences

Licences may be applied for under Part III of the Act. Licences are subject to the conditions imposed by the Commission and remain in force until surrendered, suspended or cancelled.

The categories of licence are:

- Off licence
- On licence
- Club licence
- Roadside Inn
- Special Licences.

Restricted areas

Under Section 74 of the *Liquor Act*, the Commission may declare that a specified area of land shall be a restricted area. Restricted areas are intended to reduce harm associated with liquor in Northern Territory communities. There are 104 restricted areas in the Territory, all of which relate to Aboriginal communities.

A list of restricted areas is contained in appendix 6 of the Annual Report, see details above.

Public Safety and Harm minimisation

The *Liquor Act* contains provisions to safeguard the public and minimise harm including

- Inspectors empowered to visit premises to ensure that the Act and specific licence conditions are being met (s.19, 95)
- conduct of criminal history check to ensure inappropriate persons do not become licensees (s.28)
- issue of licences, containing specified conditions (s.31, 48)
- complaint provisions (s.48)
- conduct of public hearings (s.50)
- issue of special licences in response to community needs (s.57)
- suspend or cancel a licence to protect the public (s.66, 72)
- declaration of restricted areas (s.74) after ascertaining resident opinions (s.79)
- issue of permits to persons within restricted areas after ascertaining the opinions of those within the restricted area (s.91)
- confiscation of vehicles used to illegally transport liquor (s.95)
- sales banned to intoxicated persons (s.102), and of adulterated liquor (s.103)
- riotous behaviour banned on licensed premises (s.105)
- controlling of minors on licensed premises (s.106, 116A, 117, 118)
- building safety (s.119, 120)
- removal of intoxicated persons (s.121) or prohibit a person (s.122)
- set the days and hours of trade (s.128, r 4)

Other harm minimisation initiatives include

- Industry Code of Practice to Assist in Responsible Alcohol Promotion
- Licensees required to undertake a course on the Responsible Service of Alcohol (the Patron Care course)
- Special Licences to Sell Liquor information
- Guides to Identifying Intoxication information
- The low alcohol liquor subsidy
- Guidelines on Applications for Major Events information
- Enhanced training standards for Crowd Controllers and Security Officers
- Revision of licensed premises Incident Registers to include Patron Care activities
- Liaison with the Department of Health and Community Services re *Living With Alcohol* and *18+ Cards*

KAVA

Legislation

The objectives of the Kava Management Act are to

- prohibit and regulate the cultivation, manufacture, production, possession and supply of kava, and
- encourage responsible practices and procedures in relation to the possession, supply and consumption of kava.

The Act was the outcome of the *Draft Report on Inquiry into the Issue of Kava Regulation*, which was prepared for the Sessional Committee on the Use and Abuse of Alcohol by the Community by Dr Peter d'Abbs and Dr Chris Burns. While noting that there was no clear cut view from the community regarding kava use, the report did recommend that legislation should be enacted to enable the controlled availability of kava.

The Act borrowed from the restricted areas provisions of the *Liquor Act* in that it prohibited kava supply, possession and consumption, except where a licensed area had been declared. The Act has been amended to incorporate provision for Kava Management Plans, where any community or area that wishes to become a kava licence area must prepare for approval by the Licensing Commission, a Plan that details how the proposed kava licence area will operate.

Further information about the contents of Kava Management Plans and the Plans approved by the Licensing Commission may be found at www.nt.gov.au/ntt/licensing (go to kava).

Licensing

The *Kava Management Act* established a system whereby communities that wish to become a kava licence area may apply to the Licensing Commission. The Commission, through consideration of the Kava Management Plan presented to it, also considers the needs and wishes of the community and surrounding areas in its deliberations. The Act requires the Commission to consider the Plan and if approved, to recommend to the Minister for Racing, Gaming and Licensing, that the kava licence area be established.

Types of Licence

There are two types of licence

- wholesale, and
- retail.

Kava Licence Areas

Currently four kava licence areas have been declared: Laynhapuy Homelands, Ramingining, Warruwi and Yirrkala. It is legal to possess up to 2kg (or 25 litres) of kava within these areas. Only one licensed retailer is permitted to operate within each licence area. Retailers must comply with the Kava Management Plan approved by the Licensing Commission for their area with compliance achieved through incorporating the contents of the Management Plan into the licensee's licence conditions. All Management Plans approved to date contain a maximum sales level of 800gms of kava per person per week. Monitoring provisions are also contained within each Plan.

Harm minimisation

The Kava Management Act contains provisions to safeguard and minimise harm including

- responsible practices and procedures relating to supply, possession and consumption are encouraged (long title)
- control on the amount of kava to be possessed (s.9, 10)
- kava suppliers to hold a licence (s12)
- sales to a intoxicated persons is prohibited (s.12A)
- cultivation (s.13) and manufacture (s.14) of kava is prohibited
- extensive obligations on licensees (s.15, 16, 17, 18, 19)
- authorises inspection visits by Police and Licensing Inspectors (s.28, 29, 30, 31, 32)
- confiscated kava may be granted for use for research purposes (s.45)
- extensive consultation required for licence area application (s.55, 57)
- Kava Management Plans must set out harm minimisation measures (s 58)
- only one retail licence per kava licence area (s.59)
- licence applicants must pass a 'fit and proper' assessment (s.63)
- kava licence conditions may be varied, this includes requests from Aboriginal communities (s.67)
- complaints may be made against the licensee or about the way kava is being used within a licence area (s.73)
- licence applicants are asked to state what percentage of their profits they will return to the communities where profit has been made (r.6)
- licence conditions, eg the provision of information concerning responsible consumption levels is a requirement of licensees (r.9)
- licensees are required to keep records of sales (r.10)

Other harm minimisation initiatives in Kava Management Plans

- Days and times of kava sales are regulated and may be varied as required by the Licensing Commission
- Places where kava may and may not be consumed have been determined through community consultation
- Maximum daily and weekly purchase limits have been set
- Community expectations have been ascertained and documented with community endorsement

- Community agencies, ie shop, health, school to provide information to assist in monitoring the impact of kava sales.

For further information see Frequently Asked Questions:

www.nt.gov.au/nt/licensing (go to kava)