

# Damming the Rivers of Grog

## Taking the hard decisions to stop the violence

Russell Goldflam<sup>1</sup>

### 1. Introduction: “Hard Decisions Must be Taken”

Here is Alice Springs’ most famous drinking hole, the Todd Tavern. It’s not a bad looking place, especially like here, early in the morning when the sun lights it up, and the drunks haven’t started queuing yet for opening time.

The front bar next to the takeaway has always been called – for as long as I can remember anyway – the Animal Bar. As an aside, I note that on 2 July 2010, the Licensing Commission suspended trading in this bar for five days for a breach of licence conditions committed by allowing an estimated 236 patrons to be present in the Animal Bar at 11.48 am on 16 September 2009. The maximum number permitted to be present was 100. As another aside, I note that the Animal Bar operates from 10 am to 2 pm, when it shuts. 2 pm is the opening time of the takeaway bottle shop next door.

Across the road is the Todd River bed, where most of Alice’s many murders and many of our many rapes are committed. Almost every one of the people who commit those shocking crimes, and almost every one of their victims, was very drunk at the time, and an awful lot of them got their grog across the road here at the Todd Tavern.

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<sup>1</sup> The author is the Principal Legal Officer of the Alice Springs office of the Northern Territory Legal Aid Commission. I have been a member of the Alice Springs Peoples Action Campaign Coalition (PAAC) since its inception in 1995. The views expressed in this paper, and any errors in it, are my own. I acknowledge the contribution of PAAC members, Stephen Jackson and Chris McIntyre in the preparation of this paper. I give permission to copy or publish it on condition that my authorship is acknowledged. This paper is an extended and updated version of a presentation delivered at the inaugural National Indigenous Drug and Alcohol Conference in June 2010 in Adelaide, South Australia. This paper may be accessed at: <http://members.ozemail.com.au/~pipmcmanus/Damming%20the%20Rivers%20of%20Grog.pdf>



As a legal aid lawyer, I act in many of the court cases that arise from horrible events like these. I love my job, but it can be tough and distressing. We lawyers aren't the only ones who find the going tough. So do our judges.

It seems plain that something must be done to curb the level of alcohol consumption in Tennant Creek. The courts regularly hear evidence of alcohol being consumed in Tennant Creek in quantities beyond comprehension. It seems that the excessive consumption of alcohol continues for so long as alcohol is available. People drink until they can drink no more and then get up the next day and start all over again. The frequency with which drunken violence occurs is unacceptable and the level of violence is likewise completely unacceptable.

For the good of the town, for the good of the victims, for the good of the offenders and for the good of the innocent children of Tennant Creek, it seems to me obvious that **a system must be devised to limit the amount of alcohol made available to the people whose lives are being devastated** in this way and to educate and rehabilitate those already abusing alcohol. **The people of the Northern Territory cannot sit on their hands and allow what is occurring in Tennant Creek to continue.** I accept that it is a complex issue but it is an issue that must be addressed and must be addressed sooner rather than later. **Hard decisions must be taken.** [emphasis added]

*R v Green* SCNT 20823606 (Sentence) Riley J, 20 February 2009

These remarkable remarks were made by Northern Territory Supreme Court Justice Trevor Riley in February 2009, delivered in the course of sentencing a string of Tennant Creek folk who had pleaded guilty to various serious violent alcohol-related offences. They are equally applicable to Alice Springs.

Having made these remarks from the bench, Riley J took the unusual step of submitting to a media interview about the issue. And then very recently, on

the occasion of the announcement of his appointment as Chief Justice, he immediately took the opportunity to raise this issue again out of court.

His extraordinary judicial foray into the arena of public debate attracted national media headlines. Justice Riley is right. Hard decisions must be taken. The violence, so much of which is against women, has to stop. Justice Riley told the media he isn't an expert, and challenged us to identify strategies for stopping the grog-fuelled violence: this paper is a response to that challenge.

This paper surveys the nature and extent of alcohol-related harm in Central Australia, and critically examines the flurry of activity by governments at all levels to respond to this problem in recent years. And it finishes on a good news note. Not only does it demonstrate that Alice Springs is, at last, starting to come to grips with our grog problem, but, I will argue, we have learnt a thing or two which we can teach the rest of the country.

## 2. Getting a Handle on the Harm

### Australia: Alcohol consumption and harm

**Table 1:** Per capita consumption of alcohol selected countries\*

RANK	COUNTRY	PER CAPITA CONSUMPTION†
1	Luxembourg	15.56
2	Ireland	13.69
7	Germany	11.99
8	UK	11.75
10	Spain	11.68
14	France	11.43
20	Russian Federation	10.32
23	Netherlands	9.68
24	New Zealand	9.68
30	Australia	9.02

\* Values are for various years before and including 2003  
† Per capita alcohol consumption (litres of pure alcohol) among adults  
Source: WHO 2008(14)

**Approximate annual adult (>15 years) consumption in litres of pure alcohol:**

**World: 5**  
**Australia 10**  
**NT 15**  
**Alice Springs 20**

The total social cost of the harmful consumption of alcohol is estimated to be more than \$15 billion each year.(4) The majority of these costs are for tangible social costs such as crime (\$1.6 billion), health (\$1.9 billion), productivity in the workplace (\$3.5 billion), productivity in the home (\$1.5 billion) and road accidents (\$2.2 billion) (see Table 4).

**Table 4:** Estimated social costs of alcohol abuse, Australia, 2004–2005

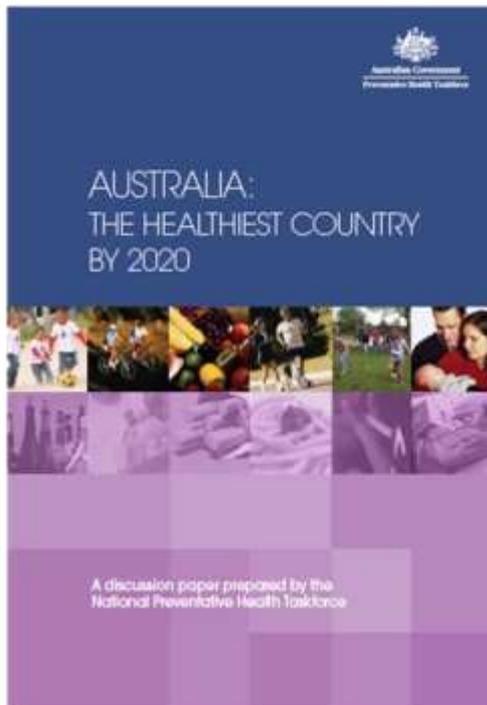
TYPE OF COST	\$M
Reduction in workforce and absenteeism	3,579
Labour in the household	1,571
Medical	541
Hospital	662
Nursing homes	401
Pharmaceuticals	298
Ambulances	75
Road accidents	2,202
Police	747
Criminal courts	86
Prisons	142
Property	67
Insurance administration	14
Productivity of prisoners	368
Resources used in abusive consumption	1,689
Loss of life	4,135
Pain and suffering (road accidents)	354

Source: Collins & Lapsley 2008(4)

The above material is taken from a key publication, the Commonwealth Government's National Preventative Health Taskforce Technical Report entitled 'Preventing Alcohol-related Harm in Australia: a window of opportunity' (2008). The taskforce sets out a sort of global league ladder of alcohol consumption. Australia does pretty well, drinking – and punching –

above our weight, and coming in at number 30. Our average adult annual consumption of alcohol is now nearly 10 litres, double the global average. The Northern Territory, however, is 50% higher than the national average, at 15 litres per person per year of pure alcohol. And Alice Springs, at least until recently, has been another third higher, averaging about 20 litres per person, twice the national average, and four times the planet's average.

The task force also analysed the total social cost of harmful consumption of alcohol, which they estimate amounts to over \$15 billion dollars per annum in Australia.



All Australians, whether drinkers or non-drinkers, are touched in some way by the negative consequences of harmful alcohol consumption. These consequences include public intoxication, alcohol-fuelled violence, property damage, workplace absenteeism, road injury and alcohol-attributable diseases. (p. 236)

A recent survey of Australians revealed that 84% of people are concerned about the impact of alcohol on the community. (p. 237)

When we think about the harm caused by grog, we tend to focus on the drunks themselves, and how their lives have been ruined. And we also think increasingly about the “passive drinkers”, the victims of drunken violence and drink driving and foetal alcohol syndrome. Then a while back it started to dawn on me that while passive smoking harms only those who breathe in exhaled tobacco smoke, everyone in Alice Springs is harmed by alcohol abuse: the vast amounts of public money, time and human resources sucked into mopping up the various messes caused by grog; the interference with our everyday activities caused by drunken antisocial behaviour; and the corrosive wearing away of our community spirit, the collective helplessness that weighs us all down in the face of these apparently overwhelming problems.

There's another, brighter side to this depressing coin though. Once we accept that our whole community is harmed by grog abuse, it follows that if we can fix grog abuse, we know that we'll all be better off.

'Passive drinking' seems to be becoming the new 'passive smoking'. Here is part of a chapter from the 2008 Annual Report of the UK government's chief medical officer, Liam Donaldson, published in March 2009. The figures here are British, but the picture in Australia is similar.

And just as we as a community have been successful (despite the determined resistance of big tobacco) in substantially reducing smoking and the harm it causes, we can use similar measures to achieve this with alcohol, and the harm it causes to both active and passive drinkers, and to the rest of us.

And, as with tobacco, we can expect determined resistance from big liquor: the brewers, the distillers, the hotel and supermarket chains. Because the liquor industry, like the tobacco industry, is worth big big bucks.



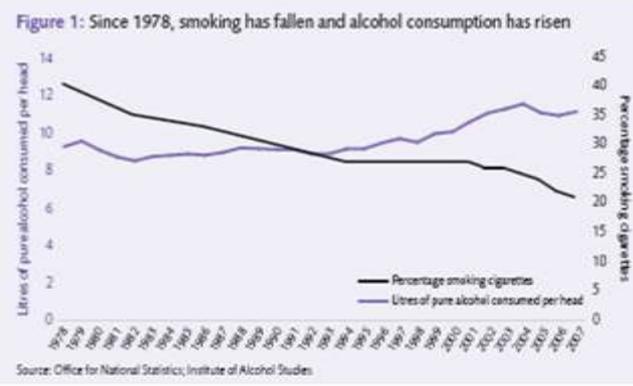
**PASSIVE DRINKING:  
THE COLLATERAL DAMAGE  
FROM ALCOHOL**

The many people who drink regularly to occasion cause damage for big and their own bodies. Directly and indirectly they affect the well-being and way of life of millions of others.

**KEY POINTS**

- Drinking alone has long been associated with health problems. It has been shown to be a major cause of liver disease, heart disease, and stroke. It is also a leading cause of cancer, particularly of the mouth, throat, and breast.
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**Figure 1: Since 1978, smoking has fallen and alcohol consumption has risen**



Source: Office for National Statistics, Institute of Alcohol Studies

**Passive drinking: a concept whose time has come**

In contrast to smoking, alcohol is too often viewed as a problem for individuals rather than for society. This is not the case. The second-hand effects of alcohol consumption – which I collectively term 'passive drinking' – are more complex in their causation than those of passive smoking, and more wide-ranging in their impact.

## Stabbing rate in the Alice (ABC Radio) PM - 4 April 2008

ANNE BARKER: Not even a year ago, Alice Springs was the stabbing capital of the world. Over a seven year period, surgeons at the local hospital treated 1,550 stabbing victims. That's more than 200 a year, or one stabbing every two days.

The head of surgery Jacob Ollapallil, says 100 per cent of victims are Aboriginal and more than half are women, many of them stabbed with a kitchen knife to the upper thigh.

JACOB OLLAPALLIL: The number of women patients involved, or victims involved, are very high. Most of the studies reported elsewhere, it is usually the victim is a young adult male, but in our case, more than half are female. It's also point to the high incidence of domestic violence in Alice Springs.

ANNE BARKER: The huge rate of stabbings coincides directly with the appalling level of alcohol consumption in Central Australia.

Drunkenness is the number one factor behind the whole spectrum of violence in Alice Springs - from stabbings to homicides to suicide.

Alice Springs gained notoriety as 'the stabbing capital of the world'. In the first seven years of this decade, in a town of only 27,000, surgeons at the Alice Springs Hospital treated a stabbing on average every two days. Almost all of this horrific violence is alcohol-related: according to police records, between 70 and 90 percent of assaults in Alice Springs are alcohol related.

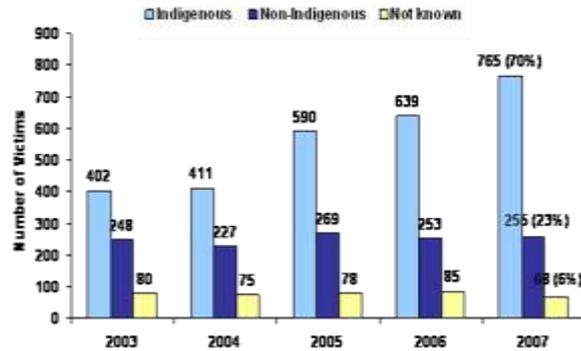
Most of the victims are women, almost all of whom are Aboriginal. In Alice Springs the risk of a woman being assaulted is 24 times higher if she is indigenous than if she is non-indigenous.<sup>2</sup>

Perhaps the most shocking of the sad facts I've just mentioned is that Aboriginal women in Alice Springs are so victimised. The following tables show this awful state of affairs in a bit more detail. The top one shows that a very high proportion of assault victims in Alice Springs are indigenous. The other table shows that a very high proportion of assault victims in Alice Springs are women.

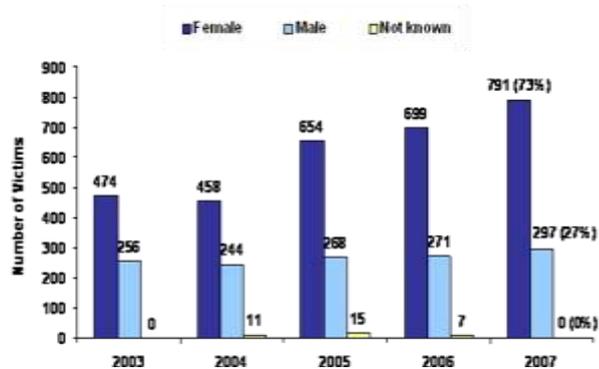
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<sup>2</sup> This statistic, and many of the others in this paper, have been compiled and provided by Stephen Jackson, the Northern Territory Department of Justice statistician.

### Alice Springs Assault Victims by Indigenous Status



### Alice Springs Assault Victims by Sex



Our imprisonment rates, as the Australian Bureau of Statistics graph<sup>3</sup> below shows, are not only almost four times the national average, but are growing faster than any other jurisdiction. That bit in the middle which looks like the World Trade Centre before September 11, represents the NT rate of imprisonment. It simply dwarfs all the other States.



<sup>3</sup> ABS 'December Quarter 2008, Corrective Services Australia' (Report 4512.0)

The impact of alcohol on indigenous people in the Centre is particularly cruel, as reported by the Menzies School of Health Research in its evaluation of the Alice Springs Alcohol Management Plan.<sup>4</sup>

The number of deaths directly related to alcohol among Indigenous people in Central Australia during the three years 2004 to 2006 was around 31 times higher than the national average during this period for all Australians.

The National Drug Research Institute reports that Aboriginal alcohol-related mortality in Central Australia is three times higher than Aboriginal alcohol-related mortality nationally. The Institute also identifies suicide as accounting for almost 20 percent of these deaths.<sup>5</sup>

**National Drug Research Institute**  
PREVENTING HARMFUL DRUG USE IN AUSTRALIA

Suicide (19%) and alcoholic liver cirrhosis (18%) account for almost 40% of all alcohol-attributable deaths among Indigenous men.

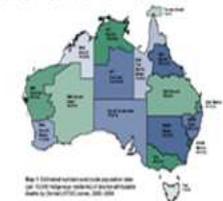
Alcoholic liver cirrhosis (27%), haemorrhagic stroke (16%), and fatal injury caused by assault (10%) are the most common causes of alcohol-attributable death among Indigenous women.

**NATIONAL ALCOHOL INDICATORS** BULLETIN NO. 11

Trends in alcohol-attributable deaths among Indigenous Australians, 1980-2004

**Summary Points**

- 1. Over the 25 year period from 1980 to 2004, an estimated 1.1 million Indigenous, non-Indigenous, and non-Indigenous men and women died from alcohol-related deaths.
- 2. Suicide and alcohol-related deaths among Indigenous men were 19% and 18% of all alcohol-attributable deaths, respectively.
- 3. In 2004, Indigenous alcohol-attributable death rates in the Northern Territory were 31 times higher than the national average for all Australians.
- 4. Suicide (19%) and alcohol-related deaths (18%) account for almost 40% of all alcohol-attributable deaths among Indigenous men.
- 5. Alcoholic liver cirrhosis (27%), haemorrhagic stroke (16%), and fatal injury caused by assault (10%) are the most common causes of alcohol-attributable death among Indigenous women.



Map 1 Estimated alcohol-attributable death rates by state and territory, 2004

Prepared by the National Drug Research Institute, funded by the Australian Government Department of Health and Ageing. NDR

Recently, two more highly significant pieces of research, which complemented each other, were simultaneously, if rather belatedly, released on 31<sup>st</sup> July 2010. As well as the SACES Report summarised here, which was the work of a team of research economists, an epidemiological study titled “How much is too much? Alcohol consumption and related harm in the Northern Territory”, was published in the Medical Journal of Australia.

Both reports paint much the same grim picture.

Nationally, grog costs each adult on average less than \$1,000 a year. In the Territory, it costs each of us well over \$4,000.

<sup>4</sup> Menzies School of Health Research, ‘Moving Beyond the Restrictions: The Evaluation of the Alice Springs Alcohol Management Plan’ (2009)

<sup>5</sup> National Drug Research Institute, Preventing Harmful Drug Use In Australia (Bulletin No. 11)

Of particular interest to lawyers like myself are the justice system costs of alcohol. The study finds that the annual cost of alcohol attributable to crime in the Territory is over \$91 million.



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# Harms from and Costs of Alcohol Consumption in the Northern Territory

## Executive Overview

In 2004/05 in the Northern Territory:

- The total social cost of alcohol is estimated at \$642 million, with tangible costs of \$406 million, and intangible costs of \$236 million.
- This is a cost per adult of \$4,197, substantially higher than the national level of \$943 per adult estimated by Collins and Lapsley.
- Partially offsetting this is an estimated \$71 million in additional taxation revenue raised on NT alcohol sales (only \$0.14 million of which flows directly to the NT government).
- There were an estimated 95 net deaths caused by alcohol (120 deaths caused and 25 deaths averted)
- Alcohol attributable hospitalisations accounted for 4.6 per cent of the NT total.
- Crime caused by alcohol accounted for 41 per cent of the cost of policing.
- Just over fifty per cent of the tangible costs of alcohol falls on households, with the Northern Territory government and businesses each bearing one quarter of the costs. Households bear all of the intangible costs of alcohol.
- Ninety three per cent of the costs are estimated to arise from drinking by those consuming at risky or high risk levels.
- It is estimated that \$76 million of the tangible, and \$32 million of the intangible, costs of alcohol could be avoided through a feasible harm reduction policy.

There's another crime you might notice in these figures. Alcohol sales in the NT generate \$71 million in tax revenue annually. Of that, \$140,000 goes directly back to the NT government through GST. The rest goes to the Commonwealth and other States.

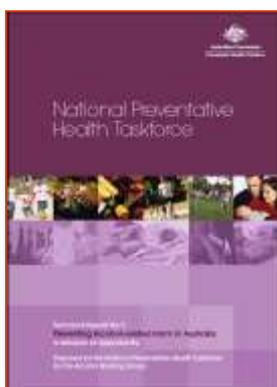
There's also hope here. The study finds that we could save \$108 million a year, not to mention many lives, if we did nothing more than reintroduce harm-reduction measures which we've previously used with great success in the Territory. I'll come back to that.

Curiously, both of these compelling and critically important reports were submitted for publication almost a year ago. The final SACES report is dated September 2009. I would love to know why publication was delayed. I don't think I need to go on any further about how appalling the scale and scope of this problem is. You've got the picture.

## The Alice Springs Grog Wars: a Brief History

What follows is a brief chronological record of various governmental responses to alcohol-related harm in Alice Springs over the last few years.

The National Preventative Health Taskforce report referred to above recalls that some twenty years ago there was an important shift towards low-alcohol beer, thanks to the practice which arose in most Australian jurisdictions of making low-alcohol beer cheaper by reducing the applicable State and Territory fees.



In the late 1980s, states and territories adopted various forms of licensing for all alcohol sales. As part of this system, most jurisdictions offered low-alcohol beer (less than 3.5% alcohol by volume) for a significant concession in fees. The license fee concession translated into cheaper low-alcohol beer and, in combination with intense market competition in the beer market and the introduction of harm-reduction measures such as random breath testing, created an ideal environment for low-alcohol beer. Producers recognised the benefit of investing considerable developmental and marketing investment into low-alcohol beer. As a consequence, low-alcohol beer increased its sales very significantly and captured approximately 20% of the total Australian beer market.

The Northern Territory's Living With Alcohol program, which ran from 1992 until 2000, and was funded by the revenue raised from the Territory excise on heavy beer and wine, was nationally recognised as being highly successful. It was doubly effective. Firstly, the increased cost of heavy beer led to a shift to light beer, a substantial reduction in the total amount of alcohol consumed, and a concomitant reduction in the amount of harm caused. Secondly, the revenue raised was dedicated to pay for prevention and treatment programs. According to public health experts.

### **Alcohol Taxation Good For Your Health<sup>6</sup>**

The report of the first four years of the Northern Territory's *Living With Alcohol* program found that a tax increase of only 5 cents on a standard drink containing more than 3% alcohol contributed to an average reduction in consumption of around 22% per person. In the first four years, a total of \$18 million of the levy raised paid for a broad range of new prevention and treatment programs in the Territory. As a result, 129 lives were saved and 2,100 alcohol-related hospital admissions were prevented, with an associated cost saving in the region of \$124 million.

<sup>6</sup> National Drug Research Institute, 'Preventing Harmful Drug Use in Australia' (2000)

## So, why did the program stop?

189 CLR 465]	OF AUSTRALIA	465	466	HIGH COURT	[1997
				H C (F) A 1997 Ha v NEW SOUTH WALES	
HA AND ANOTHER.....	PLAINTIFFS:				
AND					
STATE OF NEW SOUTH WALES AND OTHERS.....	DEFENDANTS.				
WALTER HAMMOND & ASSOCIATES PTY LIMITED.....	PLAINTIFF:				
AND					
STATE OF NEW SOUTH WALES AND OTHERS.....	DEFENDANTS.				
<i>Constitutional Law (Cth) — Duties of excise — Exclusive power of Commonwealth Parliament — State law imposing tobacco wholesalers' and retailers' licence fee — Fee calculated upon value of tobacco sold in period preceding the licence period — Validity — The Constitution 163 &amp; 64 Viet c 12, s 90 — Business Franchise Licences (Tobacco) Act 1987 (NSW).</i>		H C (F) A 1997 Murphy J 13, 18-19			
<i>Constitutional Law (Cth) — Judicial power — Prospective overruling.</i>		Aug 5 1997			
The <i>Business Franchise Licences (Tobacco) Act 1987</i> (NSW) imposed a licence fee of \$10 on the retail and wholesale sale of tobacco and an additional fee calculated by reference to a prescribed percentage of the value of tobacco sold in a period preceding the licence period. The prescribed percentage was increased from time to time by legislative amendment from 30 per cent at the commencement of operation of the Act to 100 per cent as from 28 June 1995.		Brennan CJ, Dawson, Toohy, Gaudron, McHugh, Gummow and Kirby JJ			
<i>Held</i> , by Brennan CJ, McHugh, Gummow and Kirby JJ, Dawson, Toohy and Gaudron JJ dissenting, that the licence fees were duties of excise within s 90 of the Constitution and hence were invalid.					
(a) A duty of excise is an inland tax on a step in the production, manufacture, sale or distribution of goods, whether of foreign or domestic origin.					
<i>Parton v Milk Board (Vic)</i> (1949) 80 CLR 229, affirmed.					
Observations in <i>Matthews v Chicory Marketing Board (Vic)</i> (1938) 60 CLR 263 at 291-304; <i>Bolton v Madsen</i> (1963) 110 CLR 264 at 271-273; <i>Philip Morris Ltd v Commissioner of Business Franchises (Vic)</i> (1989) 167 CLR 399 at 415; and <i>Capital Duplicators Pty Ltd v Australian Capital Territory [No 2]</i> (1993) 178 CLR 561 at 590-591, approved.					
					<i>Dennis Hotels Pty Ltd v Victoria</i> (1960) 104 CLR 529 at 540, considered.
					(b) An amount equal to 75 or 100 per cent of the value of tobacco sold during a relevant period could not be regarded as a mere fee for a licence required as an element in a scheme for regulatory control of businesses selling tobacco. Where a State tax imposed on the seller of goods and calculated on the value or quantity of goods sold is so substantial that it cannot be characterised as a mere licence fee, the application of s 90 must result in its invalidity.
					<i>Dennis Hotels Pty Ltd v Victoria</i> (1960) 104 CLR 529 and <i>Dickenson's Arcade Pty Ltd v Tasmania</i> (1974) 130 CLR 177, considered.
					<i>Philip Morris Ltd v Commissioner of Business Franchises (Vic)</i> (1989) 167 CLR 399 and <i>Coastace Pty Ltd v New South Wales</i> (1989) 167 CLR 503, overruled.
					<i>H C Sleight Ltd v South Australia</i> (1977) 136 CLR 475, doubted.
					(c) The view that alcohol and tobacco are commodities that are in a special category for the purposes of s 90 should be rejected.
					<i>Per Dawson, Toohy and Gaudron JJ</i> (dissenting). A State tax which does not fall selectively upon imported goods or locally produced or manufactured goods and does not discriminate against interstate goods offends against none of the prohibitions imposed by the Constitution.
					<i>Held</i> , further, by the whole Court, that the Court had no power to overrule cases prospectively.
					<i>Rola Co (Australia) Pty Ltd v The Commonwealth</i> (1944) 69 CLR 185 at 203 and <i>Precision Data Holdings Ltd v Wills</i> (1991) 173 CLR 167 at 188, applied.
					CASES STATED pursuant to the <i>Judiciary Act 1903</i> (Cth), s 18.
					Ngo Ngo Ha and Sakhing Lim sued the State of New South Wales, Bruce Buchanan, the Chief Commissioner of Business Franchise Licences (Tobacco) for that State, and a delegate of the Chief Commissioner, in the High Court claiming a declaration that various provisions of the <i>Business Franchise Licences (Tobacco) Act 1987</i> (NSW) were invalid on the ground that the licence fee levied by them was a duty of excise which, by virtue of s 90 of the Constitution, was beyond the power of the Parliament of the State of New South Wales to impose. The plaintiffs also sought a declaration that notices of assessment dated 4 September 1995 issued to them pursuant to the Act were void. Brennan CJ stated a case for the consideration of the Full Court. The case was in substance as follows: 5. At all material times the plaintiffs sold goods, including tobacco and tobacco products, from their respective stores at Cabramatta and Hurstville. 6. In the course of carrying on their businesses the plaintiffs sold by retail tobacco products to members of the public, not being overseas travellers, seeking to purchase such items. 8. The plaintiffs were not the holders of retailers', or any other, licences under the Act at the relevant times. 9. The defendants claim that by reason of s 30(1) of the Act each

It stopped because the High Court ruled, in a case named *Ha v the State of New South Wales and Others*<sup>7</sup>, that all of this State and Territory revenue-raising was unconstitutional and therefore unlawful. Here's the first page of the official law report of the case of Ha. And despite the name, it's not funny, because *Ha* killed off the Living With Alcohol program. A volumetric hypothecated alcohol taxation scheme could be re-introduced, but only the Commonwealth government has got the constitutional power to do it. I'll come back to this later.

On 1 April 2002, the Northern Territory Licensing Commission restricted the sales of take away alcohol in Alice Springs, including the banning of the sale of 4 litre casks of wine. That trial only lasted about 14 months. Before the trial, cask wine represented nearly a quarter of the market of alcohol in the town. With the ban on 4 litre casks, the Coolibah crowd simply switched to port and other fortified wines, the consumption of which shot up to effectively fill the hole left by the prohibition of cask wine, as illustrated in the following Table, based on figures published by the NT Licensing Commission.

The lesson in this for the Licensing Commission was to closely monitor patterns of consumption following the imposition of supply restrictions, and to promptly make the appropriate adjustments as required.

<sup>7</sup> (1997) 189 CLR 465

Beverage	Pre-Trial		Trial	
	Litres	% of market	Litres	% of market
<b>Cask Wine</b>	<b>109,815</b>	<b>24.6</b>	<b>18,725</b>	<b>4.0</b>
Bottled Wine	53,905	12.1	53,098	11.3
<b>Fortified</b>	<b>10,351</b>	<b>2.3</b>	<b>101,209</b>	<b>21.5</b>
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

2006 was a very big year for liquor reform in the Alice.

Firstly, on 5 July 2006, the *Alcohol Court Act* commenced. Borrowing from the successful model of therapeutic justice for drug offenders, the Alcohol Court empowers magistrates to make orders restricting offenders from access to grog. In a way it does little new, as there were already a host of powers available to courts to prevent or restrict people from drinking. However, the emphasis on case management and rehabilitation is innovative, and has the potential to really help some offenders get and stay on the wagon. The NT government is currently reviewing the Alcohol Court, and considering extending its powers to enable orders to be made against non-offenders with a serious drinking problem. That would be controversial.

### **ALCOHOL COURT ACT 2006**

**An Act to establish the Alcohol Court with power to make particular orders in respect of certain offenders with alcohol dependency and to make sentencing orders and ancillary orders in respect of those offenders, and for related matters**

PART 2 – ALCOHOL COURT

PART 3 – ALCOHOL INTERVENTION ORDERS

PART 4 – PROHIBITION ORDERS

PART 5 – ALCOHOL COURT CLINICIANS AND ASSESSMENT REPORTS

On 19 September 2006, amendments to the *Liquor Act* NT commenced which enabled local government authorities to apply to the Licensing Commission to have places declared Public Restricted Areas. On receipt of such an application, the Licensing Commission is required to conduct an inquiry, and may then declare a public area to be restricted. The possession or consumption of liquor in a Public Restricted Area is an offence. These provisions effectively beefed up the long-standing 'two kilometer law', which empowered police to tip out open containers of alcohol found in urban public places. Now, police powers have been extended to the confiscation of unopened containers, and to the issuing of fines to the unlawful public drinkers. Public drinking has, in effect, been re-criminalised.

This was a retrograde, regressive and regrettable reform, completely contrary to the Royal Commission into Aboriginal Deaths in Custody recommendations. And yet it does not appear to have significantly changed people's behaviour one way or the other: it's been unlawful to drink in public places in Alice Springs for decades, but people have done it anyway. Now it's a bit more unlawful, and people still do it.

### **Mr STIRLING (Racing, Gaming and Licensing)<sup>8</sup>**

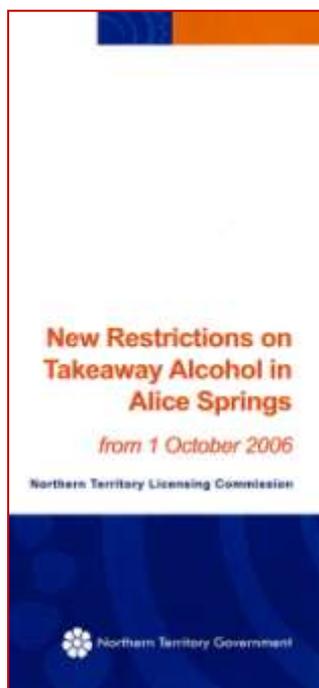
Mr Deputy Speaker, I move that the bill be now read a second time. The issue of alcohol abuse is one of the most critical matters facing the Territory government... We are successfully walking the fine line between addressing social harmony and ensuring that people can still have a good night out... These amendments will allow the Licensing Commission to make declaration with respect to public places... Where a person contravenes a declaration made for a public restricted area, police will have the power to seize any opened or unopened containers of liquor. Penalties for failure to comply with the public restricted area provisions are forfeiture of the liquor seized and a fine of up to \$500. The offence may also be enforced by a contravention notice or infringement notice...

I commend the bill to honourable members.

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<sup>8</sup> Northern Territory Hansard, *Liquor Amendment Bill*, Second Reading Speech (23 August 2006)

A fortnight later, on 1 October 2006, the Alice Springs Alcohol Management Plan was introduced. Although it comprises three broad strategies, supply reduction, demand reduction and harm reduction, most of the public focus has been on the supply restrictions, which are mainly aimed at takeaway alcohol, for the simple reason that takeaway alcohol comprises 70 percent of all of the grog sold in Alice Springs. In a nutshell, these restrictions prohibit the sale of wine in containers of more than 2 litres, and restrict the sale of 2 litre containers of wine, or bottles of fortified wine, to one per person per day.



- Targets takeaway alcohol – approximately 70% of alcohol sold is takeaway alcohol
- Restricts low priced high alcohol volume products such as cask wine and fortified wine
- Restricts availability of those products to after 6pm – one person per day
- Hours of trade – no takeaway sales Monday to Friday until after 2pm
- Only light beer over the bar before 11:30AM

The lesson for the Licensing Commission from the failed 2002 trial was to closely monitor patterns of consumption following the imposition of these supply restrictions, and to promptly make appropriate adjustments as required. After the October 2006 restrictions, it was soon noticed that there had been a shift to longneck beer, which was both substantially cheaper than carton beer, and itself a problem in that broken longneck bottles are particularly dangerous both as weapons and as litter. In response, in June 2007, the Licensing Commission amended the Alcohol Management Plan by prohibiting the sale of longneck beer, thus resolving that particular problem. Although there are ongoing concerns about the use of substitutes such as cheap cleanskin bottled wine (due to Australia's 'wine lake'), the Commission has been astute to the problem of product substitution this time round, and maintained the integrity and effectiveness of the supply restrictions.

The very next day, 2 October 2006, the Alice Springs Town Council lodged its application for a 'dry town' under the *Liquor Act* amendments which had commenced the previous fortnight. The Licensing Commission duly conducted a hearing, and on 9 May 2007 made a declaration supported by detailed reasons which granted, subject to some modifications, the Council's application. On the next page is a photograph of the *Liquor Act* warning notices posted around Alice Springs, and in the bottom right-hand corner of

the picture, a few metres away from the sign, a happy group of defiant (or perhaps merely oblivious) drinkers boiling their breakfast billy.



Frequently, such groups are out-of-towners. During the Commission's inquiry, there was a great deal of discussion about the need to provide suitable, safe accommodation for such visitors, and in its decision, the Commission noted that there had been a commitment to establish two 'transit camps' for that purpose. Despite, or perhaps because of a great deal of local fuss which ensued, those camps were never built. Nobody seemed to want them in their backyard.

The following issues were highlighted in the Licensing Commission decision.

- Acknowledged deep concerns and frustration of many Alice Springs residents about liquor abuse issues and public safety
- Anecdotal evidence that the annual migration of visitors from Pitjantjatjara Lands surrounding areas to Port Augusta had declined – with more migration to Alice Springs and Adelaide
- Increased potential for pressure on Town Camps to avoid police intervention
- Two transit camps to be established
- Improvements to Town Camps to be made
- Unless other issues are addressed, supply and harm reduction strategies such as liquor restrictions and dry areas can only partially address the problems.

On 1 August 2007, the Public Restricted Area Declaration came into force. The Commission recognised that its decision to make the town of Alice Springs a dry area would put additional pressure on town camps, and

endeavoured to address this problem by referring to a range of complementary measures which should be implemented in conjunction with the introduction of the dry town.

These measures were modest and marginal. Some of them have been implemented. Others haven't. Now no-one - not the police, not the Licensing Commission, not even the Town Council, whose application it was - claims that the 'dry town' law, as it's commonly known, has achieved anything much. On 12<sup>th</sup> August 2009 the Commission decided to continue to keep Alice Springs a 'dry town'. In doing so, it essentially gave only one reason, namely that there had been no major call to undo this measure, and that therefore to do so would be unjustified.



Hot on the heels of the introduction of the dry town provisions, the *Northern Territory National Emergency Response Act* ('NTER') and other associated legislation commenced, ushering in the Commonwealth Intervention. Since 15 September 2007, drinking, possession, supply and transport of liquor on prescribed areas has been banned. Aboriginal people living on prescribed areas have had their income 'managed', to use the official euphemism. As the intervention got going, there were anecdotal reports of drinkers from affected communities coming to stay in the Alice Springs town camps. In early 2008, the intervention was rolled out into the Alice Springs town camps themselves, with the immediate effect that their inhabitants, who were already not allowed to drink in public places, could now no longer lawfully drink in their own homes either. It also meant that police were newly empowered to enter those homes without warrants, where they suspected there was grog inside.

This provoked demoralization, dismay and, in some quarters, disobedience. People often don't like being discriminated against.

## Alcohol restrictions<sup>9</sup>

The *Little Children Are Sacred* report said that alcohol abuse was ‘destroying communities’ and was the ‘gravest and fastest growing threat to the safety of children’. Alcohol restrictions were therefore seen as a necessary part of the NTER in order to protect children, make communities safe and create a better future for Aboriginal people in the Northern Territory.

### Description of the current arrangements

Under the NTER, new laws were introduced:

- to ban drinking, possessing, supplying or transporting liquor in a prescribed area, and
- to monitor take-away sales across the whole of the Northern Territory.

Licensees currently have to record details of purchases of \$100 or more of take-away liquor (including GST) or more than 5 litres of wine. This includes recording the customer’s name and address and where the liquor will be consumed.

The Northern Territory Government has also introduced legislation to reduce access to alcohol, including extension of ‘dry’ areas, in some regional centres.

The combined effect of the Licensing Commission declaration that Alice Springs become a dry town, and the Commonwealth declaration that the town camps become prescribed areas, is that an awful lot of grog goes down the drain, some 3,000 litres a month. That sounds like a lot, and it is, but it should be remembered that this is much less than one percent of the total amount of alcohol purchased and drunk in Alice Springs each month.



**February 12, 2009**

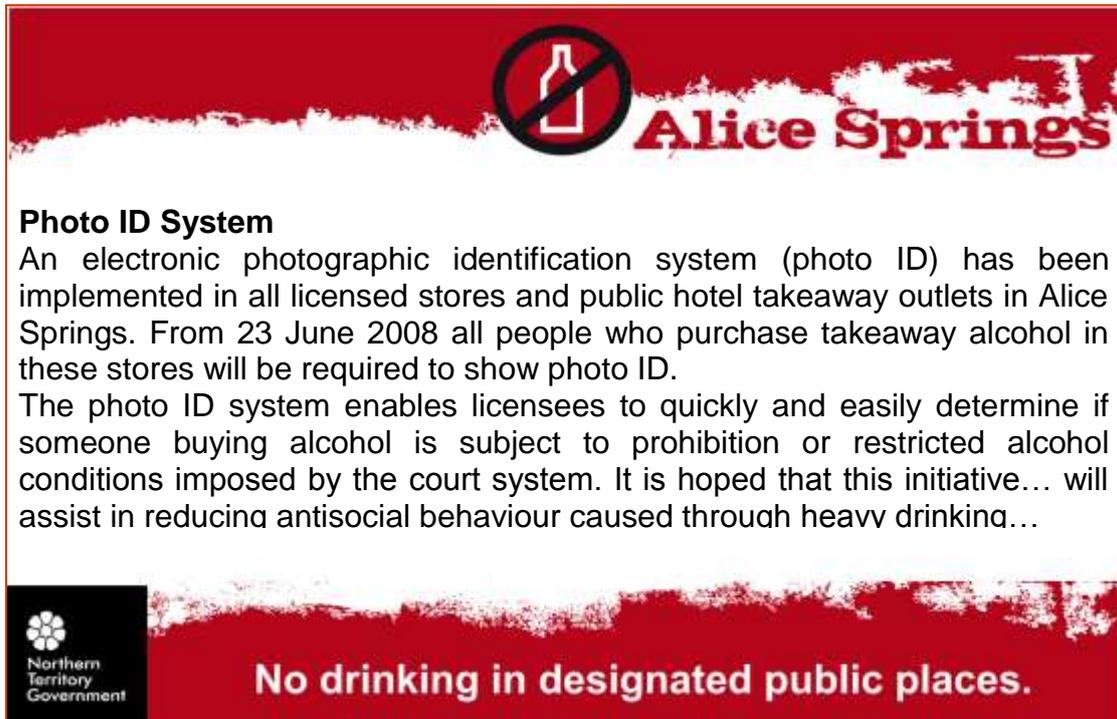
### Raided booze goes down the drain

Almost 700 litres of grog, seized by police in a two-day operation, was poured down the drain at the Alice Springs Police Station on Monday, watched by local media. It was mostly taken from town camps, says Superintendent Sean Parnell. Not all town camps were involved, only those where residents were most concerned about drinking. Sixteen liquor infringement notices were issued; 58 people were taken into protective custody; 10 arrests were made for a range of liquor-related offences, including drink driving.

Police seize and tip out some 3000 litres of alcohol a month. Alcohol plays a role in 80% of offences dealt with by police, says Supt Parnell. But it is a “small minority, a core group” who cause most of that work, including violent offences. He puts the number at around 150.

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<sup>9</sup> Australian Government, ‘Future Directions for the Northern Territory Emergency Response’ (2009), p 13.



The advertisement features a red background with a white, splattered texture. At the top center is a black circle with a diagonal slash over a white bottle icon. To the right of this icon, the words "Alice Springs" are written in a bold, red, serif font. Below the icon and text, the heading "Photo ID System" is followed by two paragraphs of text. At the bottom left is the Northern Territory Government logo, and at the bottom right is the slogan "No drinking in designated public places." in white text on a red background.

**Photo ID System**

An electronic photographic identification system (photo ID) has been implemented in all licensed stores and public hotel takeaway outlets in Alice Springs. From 23 June 2008 all people who purchase takeaway alcohol in these stores will be required to show photo ID.

The photo ID system enables licensees to quickly and easily determine if someone buying alcohol is subject to prohibition or restricted alcohol conditions imposed by the court system. It is hoped that this initiative... will assist in reducing antisocial behaviour caused through heavy drinking...

Northern Territory Government

**No drinking in designated public places.**

Enforcement of the Alcohol Court prohibition and intervention orders, and some aspects of the supply restrictions, were facilitated by the introduction on 23 June 2008 of a scheme which requires all purchasers of alcohol in Alice Springs to produce photographic identification. This is scanned and transmitted to a centralised database which then informs the retailer if the purchase is legitimate. Thanks to the ID Eye system, as it's often called, in the first six months of 2009, persons subject to court orders were refused service 378 times, and on 3,685 other occasions, customers were foiled in their attempt that day to buy a second bottle of fortified wine, or a second cask.

## Cyclone Tracy done for DUI

EMILY WATKINS      May 6th, 2009

**A MAN named after Cyclone Tracy yesterday became one of the first Territorians to receive an alcohol ignition lock sentence.**

Cy Tracy Bush - whose mother named him after the devastating 1974 cyclone when he was born three days after it flattened Darwin - had his full licence disqualified for two years.

After 12 months, he can apply for an alcohol ignition lock licence for the remaining 12 months or remain disqualified from driving.

Outside court, Bush, 34, said he was not sure if he would apply for the alco-lock. Police prosecutor Justene Dwyer earlier said the alco-lock would cost \$170 to install, \$100 to remove and \$165 a month for rental at the defendant's expense.

"I don't think I'll get it installed - but I'll have to see when the time comes," he said.

Then, on 9 April 2009, an alcohol ignition lock scheme introduced across the Northern Territory.

Although touted as a cutting-edge, state of the art, technologically innovative boon to road safety, in practice it amounts to nothing much more than the doubling of the minimum mandatory disqualification periods for repeat drink drivers. The reality is that few offenders can afford the substantial cost of installing and maintaining an Alco-lock, and almost no-one has done so.



## **Alcohol accord issues pub bans**

March 26, 2010

A man who allegedly king hit a patron outside an Alice Springs bar has been slapped with a five-year pub ban under the town's alcohol accord.

Twenty-nine licensed venues in Alice Springs have signed onto the accord which was established in October last year.

At this month's meeting, a 23-year-old man who allegedly king hit someone on the street outside a venue has been banned from entering participating premises for the next five years.

The accord has also issued a ban to a 16 year old who tried to alter his ID card to get into a venue. However, the accord says he had altered the ID to show he was 17 - still under the legal drinking age.

He will not be allowed to enter any of the participating venues until he is 20 years old. Two 17-year-old girls have also been issued bans.

In October 2009, most of the licensed venues in Alice Springs banded together to form the Alice Springs Alcohol Accord, and have used their market power to curb anti-social behaviour by collectively banning trouble-makers. Those who have been 'sentenced' by this private court now have to do all their drinking at home, or leave town, in some cases for very lengthy periods.

While any initiative by licensees to deter bad behaviour on licensed premises is welcome, I am concerned that this particular measure could push some drinkers to do their harmful drinking away from licensed premises, and away from the scrutiny of bar and security staff, which might be even more risky.

Alcohol Accords have not only assumed quasi-judicial powers. They have also started to flex some quasi-legislative market muscle. A group of Casuarina licensees decided to legislate amongst themselves to restrict the sales of more harmful forms of liquor.

## Competition watchdog backs liquor restrictions

By Alex Johnson

Updated Thu May 13, 2010 11:40am AEST



The competition watchdog has approved a liquor accord for the Casuarina shopping district. More licensees in Darwin are expected to join a liquor accord in the Casuarina shopping precinct after the competition watchdog approved a suite of alcohol restrictions.

Participating bottle shops will stop selling large pre-mixed drinks in response to concerns about anti-social behaviour in the area.

Wine and fortified wine casks of more than two litres will be capped at one per customer per day and four litre casks will not be sold before midday.

The Australian Competition and Consumer Commission's Territory director, Derek Farrell, says the businesses approached the commission to approve the restrictions.

"Until we've reached a decision it's very difficult to make a decision as to whether they join the accord or not, because there is a risk," he said.

"I mean there is a risk that someone, not just the ACCC, could take action and say that this is an anti-competitive arrangement." The chief executive of the Territory's Chamber of Commerce, Chris Young, says it will be interesting to see how the public responds to the new rules but all traders will benefit.

In other industries, such as cardboard carton-making, this sort of cartel conduct can lead to great unpleasantness, not to mention stiff penalties. But 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.

Meanwhile, the Legislative Assembly had given its imprimatur to Liquor Accords by enacting, the previous month, Part XA of the *Liquor Act*, which came into force on 1 July 2010.

Part XA not only saves any future Liquor Accordionists from having to take the trouble to seek ACCC authorisation. It also opens the door to voluntary minimum pricing.

Section 120A of the Act defines **local liquor accord** to mean:

“any written code of practice, memorandum of understanding or other arrangement that:

- (a) affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of, or conduct of business on, licensed premises; and
- (b) is made under this Part for the purpose of preventing or reducing alcohol-related violence.”

Section 120C(1)(b)(v) provides that a local liquor accord may require that a licensee who is a party to it charge a particular price for liquor.

## *Liquor Legislation Amendment Bill 2010 (NT)*

### **Part XA Local liquor accords**

#### **120C Terms of local liquor accord**

...

- (3) Any conduct on the part of any person for the purpose of preparing a draft local liquor accord, for approval of a local liquor accord or for promoting or giving effect to the terms of a local liquor accord, is specifically authorised for the purposes of section 51 of the *Trade Practices Act 1974 (Cth)*.

As you can see, parties to such an agreement are immunised against proceedings under the *Trade Practices Act*. Section 51(d)(c)(i) of the *TPA*, in case you are wondering, protects a person from prosecution for anti-competitive conduct for anything done in the Northern Territory which has been specifically authorised by a Northern Territory enactment. Section 120C(3) of the *Liquor Act* is one such enactment. As will be seen later, this inter-governmental statutory machinery is potentially of particular significance.

And finally, in my list of harm-reduction measures, there is this recent joint Commonwealth-Territory initiative to reduce the number of takeaway liquor outlets in Alice Springs by buying back three of them.

No-one expects this to significantly reduce the amount of grog sold and drunk in the town. After all, each one of these venues is within easy walking distance of others which will continue to trade. And BP Gap, Hoppy's Cash

Store and the Heavitree Gap store are all small beer compared to the big four takeaway outlets in town: the two drive-ins (the Todd Tavern and the Gapview Motel), and the two big supermarkets, Coles and Woolworths. The turnover of those four outlets is not publicly known, but there's no doubt it is nothing less than huge.

But the buy-back sends a message: grog should not be pumped like petrol. And it is not just another grocery item, like bread or milk. This measure is about changing attitudes, and changing the culture. It is, to use a term I'll return to, a piece of social marketing.

## **Media Release**

**JENNY MACKLIN MP Minister for Families, Housing, Community Services and Indigenous Affairs**

**DELIA LAWRIE MLA NT Minister for Alcohol Policy**

**WARREN SNOWDON MP Member for Lingiari**

Date: 14 July 2010

### **Buy-back of liquor licences in Alice Springs**

The Australian and Northern Territory Governments today announced the commencement of the buy-back of three take-away liquor licences in Alice Springs.

The licences held by BP Gap, Hoppy's Cash Store and the Heavitree Gap Store would not have been granted under current liquor licensing practices.

The Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, said there has been considerable concern in the community about the damaging impact of excessive alcohol consumption and the high number of liquor licences in Alice Springs.

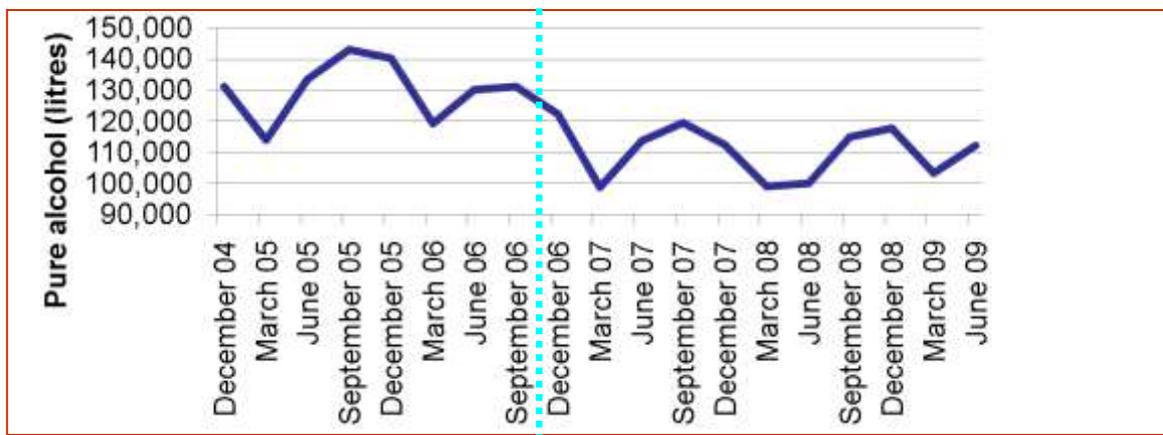
...

The buy-back of these three licences will reduce the number of licences in Alice Springs from 32 to 29.

### 3. What's Worked, and What Hasn't

I'm convinced that the most important and effective amongst all these measures has been the supply restrictions. This graph shows that there has been a sustained decrease in actual alcohol consumed since the restrictions started. It also shows the seasonal nature of the consumption cycle. The aqua dotted line shows when the supply restrictions started, on 1 October 2006. The Menzies School of Health Research Evaluation reported in June 2009 that consumption had decreased 18 percent since the restrictions commenced.

Alice Springs consumption by sale of litres of pure alcohol



What about the effect of the reduced consumption of alcohol? Firstly, there was a dramatic reduction in the number of homicides after the trial commenced. In the three years before the restrictions, 23 lives were violently lost in Alice Springs at the hand of another. In the following three years 14 lives - a 60% reduction - were lost in this way. As a criminal lawyer, I am keenly aware of the devastating grief and trauma which accompanies each homicide, not to mention the massive costs incurred in responding to it.

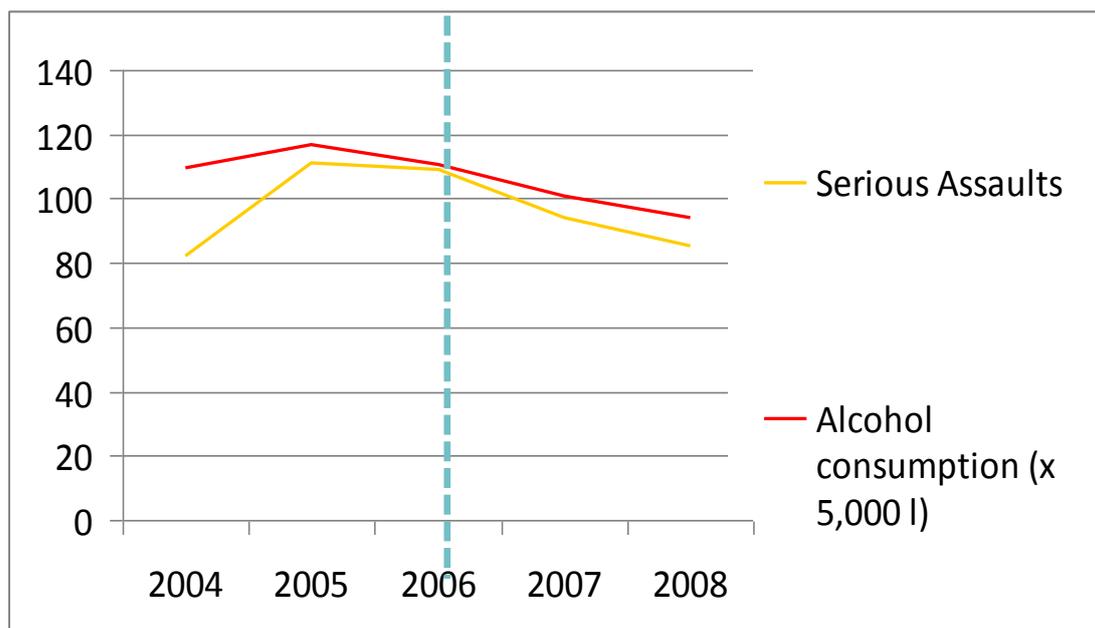
Period	Alice Springs homicides (police figures)	Approx. Alice Springs Alcohol Consumption ('000 litres)
Oct 03 - Sep 04	6	500
Oct 04 - Sep 05	9	520
Oct 05 - Sep 06	8	520
Oct 06 - Sep 07	7	450
Oct 07 - Sep 08	3	430
Oct 08 - Sep 09	4	450 (est.)

As noted above, 20 percent of alcohol-related deaths of indigenous people in Australia are the result of suicide. In the three years prior to the trial there were 9 such tragic deaths. In the next three years, there have been 6. There has also been a substantial fall in the number of non-indigenous suicides.

Period	Suicides	Indigenous Suicides	Non Indigenous Suicides	App. Alice Springs Alcohol Consumption ('000 litres)
Oct 03 - Sep 04	7	3	4	500
Oct 04 - Sep 05	5	4	1	520
Oct 05 - Sep 06	4	2	2	520
Oct 06 - Sep 07	2	1	1	450
Oct 07 - Sep 08	5	1	4	430
Oct 08 - Sep 09	4	4	0	450 (est.)

These homicide and suicide figures aren't just figures of course, they represent actual people, people whose lives were needlessly lost. But as figures, although the apparent trend is very encouraging, the numbers are just too low to be statistically significant.

So, to see whether there is a correlation between the decline in alcohol consumption, and the incidence of serious violent crime (which I already knew is almost all alcohol-related) I asked the NT Department of Justice statistician to compile data for violent incidents which are serious enough to enable us to safely assume that they were consistently reported and recorded throughout the sample period, and numerous enough to be able to reliably assess any trends.



The red line shows alcohol consumption declining, as we have already seen.

The yellow line represents serious assaults (and in particular, non-fatal assaults resulting in bodily or serious harm). There is clearly a very close correlation between them. This is compelling evidence that the decline in alcohol consumption was a substantial cause of a decline in serious violence.

One might have expected records of minor assaults to show a similar trend over this period, but they don't. However, this appears to be attributable to a number of confounding events which occurred during the sample period.

In 2005 the police introduced their violent harm reduction strategy, which led to a significant increase in the reporting of violent offending, particularly at the lower end of the scale, as police adopted a policy of zero tolerance of domestic disturbance callouts. Then, in 2007 the police upgraded PROMIS, their data management system, which resulted in a greater proportion of matters involving violence being formally recorded as assaults. In addition, police numbers and resources and staffing levels have increased significantly since 2006, leading to a greater capacity to detect, record, investigate and prosecute assaults, and particularly those at the lower end of the scale of seriousness, which are less likely to be followed up when police resources are diverted to more serious cases.

Because so many different measures have been implemented over the last four years, the task of identifying which measure has caused exactly what effect is very challenging. The decline in alcohol consumption is clearly attributable at least in large part to the supply restrictions. However, it is probably also partly due to the income management regime which applies to Aboriginal people. The measures banning drinking in prescribed and public restricted areas are much less likely to be substantial causes of the decline in consumption. Those measures do not directly affect the availability of alcohol. They do, however, restrict the places in which people can drink. The Menzies Evaluation reports a widely held view that one (presumably unintended) effect of these two combined measures was to force many Aboriginal drinkers to drink on the outskirts of town in improvised, hidden, unsupervised, unserved and, most importantly, unsafe locations.

On 11 June 2009, the Menzies Evaluation was published. Generally speaking, it endorsed the Alice Springs Alcohol Management Plan, and recommended that the trial to supply restrictions continue. However, it found that the restrictions were generally unpopular, and recommended a 'social marketing' campaign to try and bring the Alice Springs community on board for the further implementation of the Alcohol Management Plan. Controversially, and in my view, stupidly, the evaluation did not propose increasing the restrictions in the supply of alcohol.

ABC News  
11 June 2009

## The Menzies Evaluation

### ALCOHOL RESTRICTIONS REDUCING ASSAULTS

A review of alcohol restrictions in Alice Springs has recommended that existing measures be maintained.

The Northern Territory Government commissioned the Menzies School of Health Research to report on the restrictions, which have been in place since 2006.

It has acknowledged the measures, including identification requirements and takeaway product limits, are unpopular but have led to an 18 per cent drop in consumption.

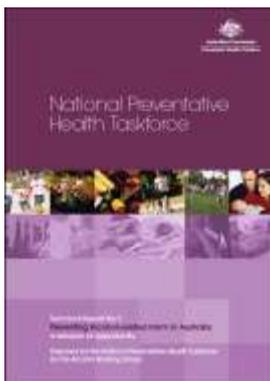
The Alcohol Policy Minister, Kon Vatskalis, says the Government will try to improve community support for the measures through education and consultation.

"Yes, they have been unpopular but the reality is the restrictions have worked."



The Commonwealth Government has commissioned the National Drug Research Institute at Curtin University to undertake a further evaluation of the Alice Springs measures.

### The Prevention Paradox: What works isn't popular and what's popular doesn't work



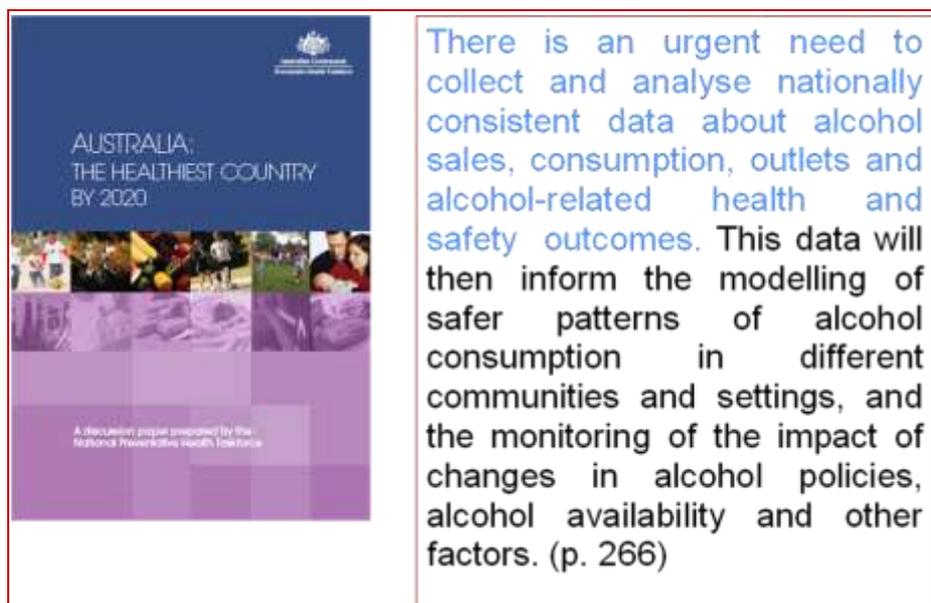
The concept of the prevention paradox assists in understanding prevention approaches in the areas of public health and public safety. This approach suggests that more (net) harm may be prevented through universal interventions – focusing on the majority who are less seriously involved in harmful alcohol/drug use, rather than through interventions that only target the smaller proportion of high-risk users.(p.17)

The National Preventative Health Taskforce Report marshalls a mass of evidence which clearly shows that the most useful interventions are those which are applied across the community, despite the fact that most members of that community do not abuse alcohol. Public health experts have dubbed this phenomenon 'the prevention paradox'. The prevention paradox explains why it is that the most effective strategies are those which tend to be the least

popular, and why the least effective strategies (such as, for example, alcohol education in schools) are the most popular.

We can't have evidence-based policy without a good evidence base, and to date the collection, compilation, recording and analysis of the evidence has been patchy, inconsistent and irregular.

Encouragingly, the Northern Territory agencies involved have recently agreed to put their heads together to establish uniform benchmarked indicators such as alcohol-related hospital admissions, so that we can more readily identify trends in alcohol consumption and related harm both across regions of the Territory, and over time.



#### **4. Restricting Supply: the Evidence**

Before examining what we might consider doing next in our own patch, let's have a look at the global picture.

In 2008 the World Health Assembly resolved to direct the World Health Organisation to develop a strategy to reduce the harmful use of alcohol, and following extensive consultations with government and non-government bodies around the world, the draft strategy has now been finalised. This extract highlights the importance of measures which increase price, in order to reduce alcohol-related harm. The draft strategy was presented to the 63<sup>rd</sup> World Health Assembly, which at its eighth plenary meeting on 21<sup>st</sup> May 2010 resolved to endorse it, to affirm it, and to urge Member States to adopt and implement it.

The Resolution also urged Member States “to ensure that implementation of the global strategy to reduce the harmful use of alcohol strengthens the national efforts to protect at-risk populations, young people and those affected by harmful drinking of others.”



**World Health  
Organization**

SIXTY-THIRD WORLD HEALTH ASSEMBLY A63/13  
Provisional agenda item 11.10 25 March 2010

### **Strategies to reduce the harmful use of alcohol: draft global strategy**

#### **Pricing policies**

Consumers, including heavy drinkers and young people, are sensitive to changes in the price of drinks. Pricing policies can be used to reduce underage drinking, to halt progression towards drinking large volumes of alcohol and/or episodes of heavy drinking, and to influence consumers’ preferences. Increasing the price of alcoholic beverages is one of the most effective interventions to reduce harmful use of alcohol. A key factor for the success of price-related policies in reducing harmful use of alcohol is an effective and efficient system for taxation matched by adequate tax collection and enforcement.

Similarly, in the UK, The Lancet recently published an editorial which powerfully argues the case for policies which regulate the price and availability of alcohol, rather than education and information programs. ‘But’, ruefully muses the editor, ‘the call for a price increase on alcohol has fallen on deaf ears. UK Prime Minister Gordon Brown has flatly rejected the minimum price per unit proposal as unfair to the ‘responsible, sensible, majority of moderate drinkers’.” Gordon Brown’s populist view, I might add, graphically illustrates the difficulties for policy makers which stem from the prevention paradox.

## UK alcohol policy: a costly decision for public health



PhotoLibrary

Debate is brewing in the UK about the price of alcohol. According to a survey by the Royal College of Physicians and the Royal College of Nursing published on April 8, doctors and nurses who treat alcohol-related harm in the UK believe that public health campaigns are not working and that increased alcohol prices would be better at reducing consumption. The survey asked 205 experts (gastroenterologists, hepatologists, acute physicians, and nurses) their opinions about the UK Government’s alcohol-control policies. 81% said that, if alcohol was more expensive, consumption would decrease. 84% believed that public health campaigns were not effective.

Their views accurately represent the evidence-base for effective alcohol-control policies. Laws that regulate the price and availability of alcohol are effective at reducing drink-related harm, whereas education and information programmes, although important, do not reduce the harms caused by alcohol. Their opinions also correspond with those of the Chief Medical Officer for England, Liam Donaldson, who this year, in his yearly report, called for a

£0.50 minimum price per unit to be set for alcohol sold in off-licences and supermarkets. This policy would lead to 3393 fewer deaths, 97 900 fewer hospital admissions, 296 900 fewer sick days, and a benefit of nearly £1 billion per year, according to Donaldson.

But the call for a price increase on alcohol has fallen on deaf ears. UK Prime Minister Gordon Brown has flatly rejected the minimum price-per-unit proposal as unfair to the “responsible, sensible, majority of moderate drinkers”, even though Donaldson’s report states that “price increases generally reduce heavy drinkers’ consumption by a greater proportion than moderate drinkers’ consumption”.

As yet, no European country has a minimum price-per-unit policy, although the Scottish Government is considering it. If introduced in the UK, the scheme would signal good news for the population’s health and for the public purse, and money saved by the scheme could be put into health services. Ignoring the evidence on price increases may prove a popular political decision for Brown, but it will be a costly one for public health. ■ *The Lancet*

For the Royal Colleges’ survey see <http://www.rcplondon.ac.uk/files/Survey-Alcohol-Treatment-Services-Summary-RCP-RCN.pdf>  
For Liam Donaldson’s report see [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/AnnualReports/DH\\_096206](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/AnnualReports/DH_096206)

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www.thelancet.com Vol 373 April 18, 2009

A little further north however, the Scottish government has bitten the pricing bullet and committed itself to a broad range of measures aimed at reducing the availability of alcohol. Here is an Annex to their strategy paper published in March 2009 reporting research findings that if a minimum bench price of 40p per unit of alcohol were fixed, 1,381 deaths per annum could be avoided after 10 years. Similarly, thousands of hospital admissions per annum would be saved, and there would be very substantial savings in the criminal justice system as well.

A minimum price of 40p per unit of alcohol in the UK is approximately equivalent to a minimum price of one aussie dollar per aussie standard drink.

### Changing Scotland's Relationship with Alcohol: A Framework for Action

4 March 2009

**Annex B - Extract from *Independent Review of the effects of Alcohol Pricing and Promotion, based on modelling work for England, by SchARR, University of Sheffield***

#### Key findings for England for a minimum price of 40p per unit:

- Overall weekly consumption reduces by -2.6%.
- Consumption changes are greatest for harmful drinkers (-3.15 units per week).
- All-age hazardous drinkers have smaller reductions (-1.8%) but the absolute scale of reduction is much larger (-0.47 units per week).
- Moderate drinkers are affected in a small way (-0.07 units per week).
- Effects on health are estimated to be substantial with **deaths estimated to reduce by 157 within the first year and a full effect after 10 years of 1,381**. Again deaths are differentially distributed across the groups, with 2 saved in year 1 for 11-18 year olds but 48 for hazardous, 98 for harmful and 12 for moderate drinkers. Illness also decreased with an estimated reduction of 2,900 acute and 1,500 chronic illnesses within year 1.
- Hospital admissions are estimated to reduce by 6,300 in year 1 and a full effect after 10 years of 40,800 avoided admissions per annum.**
- Healthcare service costs are estimated to change by £25m in year 1, with a Quality Adjusted Life Year ( QALY) gain valued at £63 million.
- Crime is estimated to fall by 16,000 offences overall.**
- The harm avoided in terms of victim quality of life is valued at £21 million.**
- Criminal Justice system costs are estimated to reduce by £17 million.**
- Workplace harms are reduced by 12,400 fewer unemployed people and 100,400 fewer sick days.

In Australia, the medical profession takes a similar view to their British counterparts, as for example in the March 2009 editorial of the Medical Journal of Australia, supporting the alcopops tax then being hotly debated in the Senate. In my view, the trial last year of the alcopops tax demonstrated the same problem that occurred in Alice Springs in 2002, namely that unless store-wide measures are introduced, keen but poor drinkers will choose a cheaper product. However, if the alcopops tax is deployed as the first step towards the development of a comprehensive approach to the volumetric taxation of alcohol in Australia, then it has much to commend it.

## Alcohol taxation policy in Australia: public health imperatives for action

A statement by the Royal Australasian College of Physicians

Steven J Skov, for the Royal Australasian College of Physicians Alcohol Advisory Group

### Abstract

- The Australian Government's "alcopops" tax legislation will soon be voted on by the Senate. This is the first time in memory that an alcohol taxation measure has been informed principally by public health concerns.
- Much debate surrounds the utility of alcohol taxation as a measure to reduce alcohol-related harm. However, **the harms resulting from alcohol misuse in Australia are at unacceptable levels and action to reduce them is overdue.**
- There is good evidence from Australia and internationally that taxation and price measures are among the most effective and cost-effective in reducing alcohol consumption and related harms.** Recent alcohol sales data give an early indication that the alcopops tax is being effective in reducing consumption.
- Current alcohol tax policy is unwieldy and not well directed towards improving public health. A proportion of tax revenues dedicated to alcohol programs would assist public acceptance of the measures.
- A broad review of alcohol taxation policy is needed as part of a comprehensive approach to alcohol problems in Australia.

We already have evidence that while consumption has been significantly reduced in Alice Springs, it has been rising in Darwin, at a rate three times faster than their population increase. In fact, figures published by the Department of Justice in November 2009, show that wherever in the Territory supply restrictions have been introduced in the last three years (notably, Alice Springs, Katherine and Nhulunbuy), there has been a significant fall in alcohol consumption, and conversely, wherever there have been no supply restrictions (notably Darwin and Palmerston), per capita consumption has increased.

Here's just a taste of the sort of evidence on which these policy proposals are based. The New Scientist reported last month that US researchers reviewed 112 studies examining the effects of price and tax on alcohol consumption and found that, on average, a 10 per cent increase in the price of beer reduced consumption by 5 per cent, of wine by 7 per cent and spirits by 8 per cent. Another study breathtested 800 students leaving a campus bar over four nights. For each dollar increase in the cost of a standard drink there was a 30 per cent decrease in the chance that they left the bar drunk.



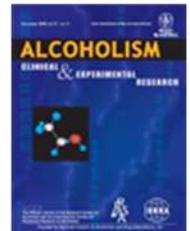
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Volume 33 Issue 11 (August 2009)



The studies I cite here are just a tiny fraction of the body of evidence which has now been established. The National Preventative Health Taskforce recently published an Addendum to their alcohol report I was talking about before. It is a list of relevant research and policy papers and reports published in just 9 months, up to June 2009. It runs to 470 entries.

Referring to research literature in *'Australia: The Healthiest Country by 2020'*, which was published in 2008, the Taskforce reached the following conclusion:

*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)<sup>10</sup>.*

It's not rocket science: increase price, reduce drinking, reduce harm. And what I propose is that in Alice Springs, and indeed throughout Australia, there be a simple formula: a minimum floor price for alcohol of a dollar a standard

<sup>10</sup> National Preventative Health Taskforce, *'Australia: The Healthiest Country by 2020'*(2009), 253.

drink. As an Australian standard drink is defined as 10 grams of pure alcohol, another way of putting it is: ten cents a gram.

Below on the left is an extract from a recent news report marvelling at the affordability of plonk these days.

On the right is a poster produced by the Alice Springs People's Alcohol Action Coalition illustrating what various popular products would cost if no alcohol were sold at less than a dollar a standard drink: the price of a slab of beer would not be affected. However, retailers would not be able to continue to sell super cheap specials such as cleanskin wine at two bucks a bottle, which works out at about 25 cents a standard drink, or port at \$7 a bottle, which comes in at 64 cents a standard drink. A 4 litre cask of red would set you back at least \$44.

## Wine cheaper than Coke and water

*The Daily Telegraph*  
December 12, 2009

**WINE is now cheaper than water and Coke, courtesy of a grape glut, a surging dollar and changing tastes.**

Woolworths' large-format liquor chain Dan Murphy's is selling 82,000 750ml cleanskins at \$1.99 apiece.

By comparison Woolies charges \$2.25 for Pump 750ml water bottles and \$3.07 for 600ml of Coca-Cola - equal to \$3.84 for 750ml.

"In my 15 years in the wine industry I can't remember a time when drinkers enjoyed better value for money," Dan Murphy's merchandise head Steve Donohue said.

So how do you sell wine for \$1.99? By buying it for as little as 45c/litre. That's the rumour in the Riverina district, where Dan Murphy's is known to have bought the product.

### Minimum Pricing For Alcohol - \$1 per Standard Drink

A minimum price 'benchmark' of one dollar per standard drink of takeaway alcohol would result in the cheapest products being more expensive. That will result in less alcohol being available to the most vulnerable drinkers. Most drinks already cost more than the minimum prices shown here and so will be unaffected by the minimum pricing.

<p>1.0 standard drinks x24 cans / stubbles</p>  <p>Minimum price \$24.00</p>	<p>1.2 standard drinks x24 cans / stubbles</p>  <p>Minimum price \$28.80</p>	<p>1.4 standard drinks x24 cans / stubbles</p>  <p>Minimum price \$33.60</p>
<p>20.4 standard drinks</p>  <p>Minimum price \$20.44</p>	<p>1.5 standard drinks x24 cans</p>  <p>Minimum price \$36.00</p>	<p>1.1 standard drinks x24 bottles</p>  <p>Minimum price \$26.40</p>

Products will only increase in price if they are cheaper than one dollar per standard drink. The standard drink information is printed on the packaging and consumers should make themselves aware of this information. The one dollar per standard drink calculation is easy for consumers to work out whether their preferred drinks will be affected.

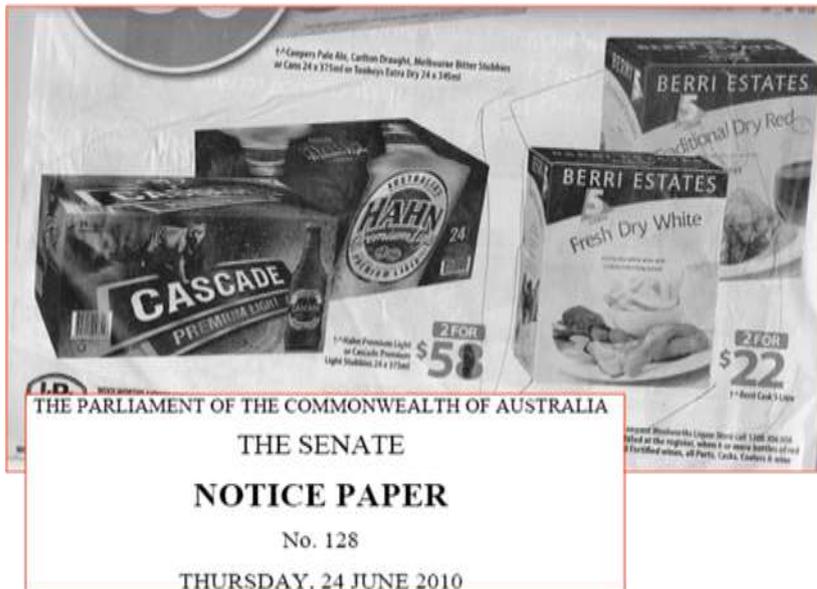
<p>750ml wine with 6 standard drinks each</p>  <p>Minimum price \$6.00</p>	<p>750ml wine with 8 standard drinks each</p>  <p>Minimum price \$8.00</p>	<p>750ml Port or Sherry with 11 standard drinks each</p>  <p>Minimum price \$11.00</p>	<p>2.0L Cask Wine with 21 standard drinks each</p>  <p>Minimum price \$21.00</p>
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**people's alcohol action coalition**

For further information or copies of other PAAC Information Sheets, please contact Jonathan Pilbrow 0438 552 564 or John Boffa 0418 812 141

Notwithstanding a motion passed on 25 June 2010 by the Australian Senate expressing concern about the irresponsible retailing of alcohol in the Alice by the big supermarket chains, the wheels of commerce continue to grind unabated.

Woolworths catalogue  
letterboxed in Alice  
Springs, 2 August 2010



**\*857 Senator Siewert: To move—That the Senate—**

- (a) notes that the price of alcohol has proven to be a significant factor in tackling alcohol abuse, especially among disadvantaged drinkers;
- (b) raises concern at the decision by Coles supermarkets to place on sale \$4 bottles of wine in Alice Springs;
- (c) calls on the Minister for Health and Ageing (Ms Roxon) to convene a meeting of the large supermarket chains and public health authorities to discuss responsible alcohol sales and promotions; and
- (d) calls on the Rudd Government to introduce a minimum price for alcohol.

Ironically, although Woolworths advertised this 25 cent a standard drink cask wine by way of a letterbox drop throughout Alice Springs in August 2010, 5 litre casks like those pictured cannot be sold in Alice Springs. Of course, Darwin is a different matter. By the way, the light beer you can see here on special works out at about \$1.50 a standard drink. In other words, a hardened drinker who spends all their disposable income on grog can get six times as much bang for their buck by buying the cask wine instead of the light beer.

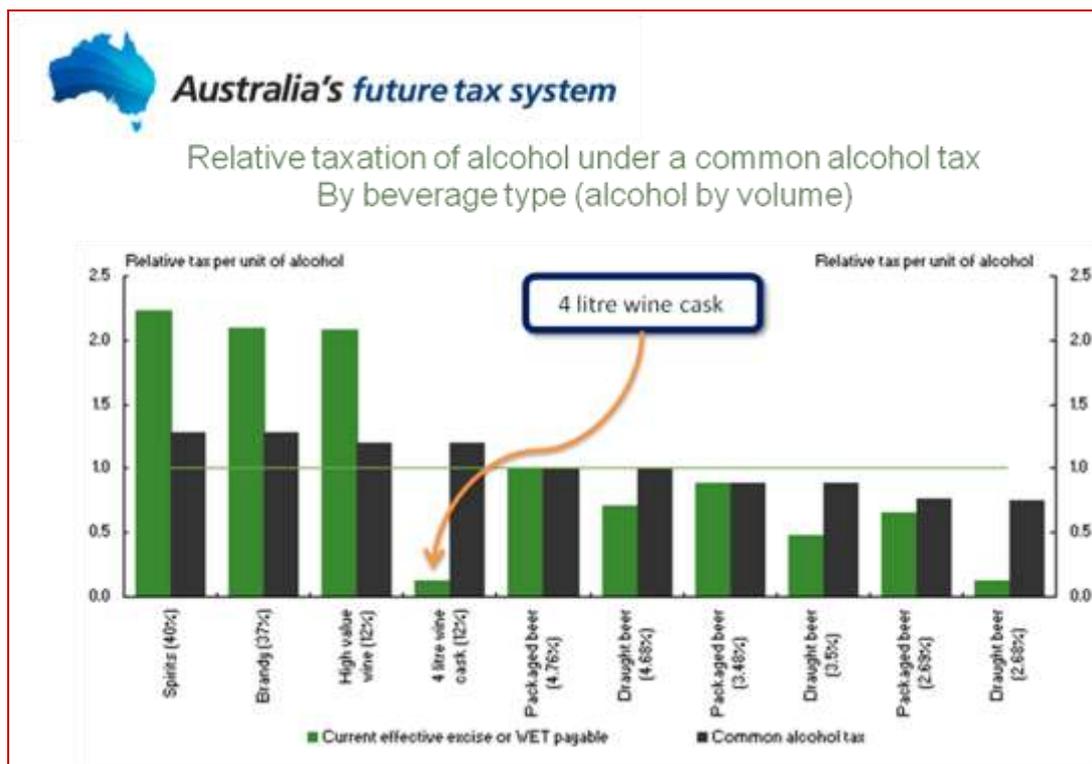
The National Health Preventative Taskforce suggests that before fixing a minimum floor price for alcohol, an exemption from the National Competition Policy on public interest grounds would first need to be granted by the ACCC. I have no doubt that the ACCC would grant such an exemption if requested to do so, just as it authorised the Casuarina Accord I talked about earlier. But, in the light of the recent amendments to the *Liquor Act* I referred to before, and in particular, s120C, it now appears that this would be unnecessary: Section 6 of the *Northern Territory (Self-Government) Act* (Cth) confers on the Territory parliament plenary power to legislate for the peace, welfare and good government of the Territory. And as I alluded to earlier, section 51 of the *Trade Practices Act* permits the Territory to legislatively permit what would otherwise be unlawful anti-competitive practice. The requisite statutory machinery is already in place.

## 5. What's in Store?

As has been seen, we now have provision for voluntary lawful price-fixing, with Part XA of the *Liquor Act*. Higher prices don't usually result in lower profits, so many retailers may well decide that it is in their shareholders' interests to go down this road. I certainly hope so. It would be in the public interest too.

However, we shouldn't just leave this up to Big, or for that matter, Small Liquor to decide. I propose that the *Liquor Act* be further amended, as you can see here, by the addition of one more category of liquor licence condition that the Licensing Commission can impose, namely, to borrow the language of the existing section 120C(1)(b)(v), 'the charging of a particular price for liquor'.

Another way moving closer to a minimum price regime would be for the Commonwealth to adopt the recently released Henry Tax review recommendation for a standard volumetric tax on alcohol to replace the existing hodge-podge of taxes on spirits, wines and beers.



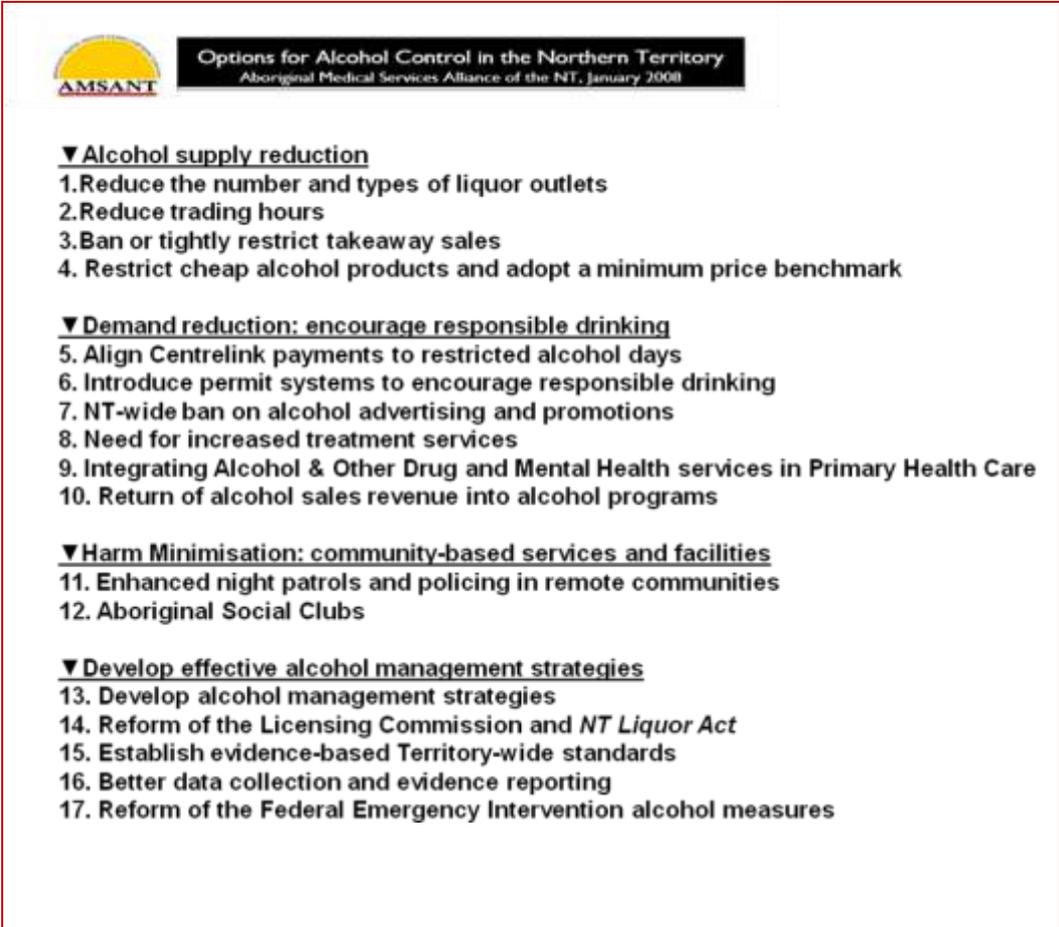
This isn't a new idea: the Henry Review acknowledges the success of the NT's own highly successful Living with Alcohol Program referred to above.

The green bars on the Table on the previous page taken from the Henry review show the current tax on different forms of alcohol, which are arranged in order of their strength, with spirits at the left, going down to light beer on the right. The black bars show how much tax would be payable if they were taxed according to their strength, that is, volumetrically.

You can see that the very low tax on cask wine gives it a ridiculous competitive advantage over other products. That's why cask wine is so harmfully cheap. The green horizontal line in this graph reflects a tentative suggestion by the Henry review that the current tax rate on full-strength beer – which is about 37 cents in the dollar - might be a starting point.

And this brings me back to the SACES report claim that we could save \$108 million dollars a year by re-introducing a previously tried harm-reduction measure. The measure they refer to is nothing more or less than the good old hypothesized Living with Alcohol program, funded by volumetric taxation.

I am not suggesting that there is a silver bullet for this massive and complex problem. Reduction in supply, or increase in price, should only form a part of a strategy which must also include measures targeted specifically at problem drinkers..



 **Options for Alcohol Control in the Northern Territory**  
Aboriginal Medical Services Alliance of the NT, January 2008

**▼ Alcohol supply reduction**

1. Reduce the number and types of liquor outlets
2. Reduce trading hours
3. Ban or tightly restrict takeaway sales
4. Restrict cheap alcohol products and adopt a minimum price benchmark

**▼ Demand reduction: encourage responsible drinking**

5. Align Centrelink payments to restricted alcohol days
6. Introduce permit systems to encourage responsible drinking
7. NT-wide ban on alcohol advertising and promotions
8. Need for increased treatment services
9. Integrating Alcohol & Other Drug and Mental Health services in Primary Health Care
10. Return of alcohol sales revenue into alcohol programs

**▼ Harm Minimisation: community-based services and facilities**

11. Enhanced night patrols and policing in remote communities
12. Aboriginal Social Clubs

**▼ Develop effective alcohol management strategies**

13. Develop alcohol management strategies
14. Reform of the Licensing Commission and *NT Liquor Act*
15. Establish evidence-based Territory-wide standards
16. Better data collection and evidence reporting
17. Reform of the Federal Emergency Intervention alcohol measures

AMSANT, the Aboriginal Medical Services Alliance of the Northern Territory, has published a succinct but broad-based and realistic strategy paper. As with the Alice Springs Alcohol Management Plan, it focuses on reducing supply, demand and harm. This extract just shows the headings

There is no reference to any measures involving the criminal justice system. In my view, the populist clamour for stiffer penalties and tougher policing must

be resisted. In dealing with offenders who have committed crimes of violence in a haze of alcohol, our courts often say they're applying the principle of general deterrence, that a tough punishment must be imposed to put off other people from committing similar crimes. Sentences have been ratcheted up accordingly. But there does not appear to be any evidentiary basis that general deterrence does in fact generally deter. On the contrary, our levels of incarceration are so high that it is, I would argue, readily apparent that we are imposing further costs and causing further harm by gaoling more offenders, more frequently, for longer periods.

I was talking to another one of our elected representatives recently about this. I said to him, why aren't we shouting from the rooftops that in Alice Springs we've dramatically reduced the rate of serious crime, and that we have a real shot at reducing that rate further, at next to no cost, simply by further turning down the tap. And he replied that people in Alice Springs are sick and tired of all the restrictions that have been imposed on them. And yes, he's right: as I have gone to some trouble to detail, over the last few years it's just been one governmental imposition after another: the alcohol court, the supply restrictions, the dry town laws, the Commonwealth emergency response, the ID Eye system, the alcohol ignition locks for repeat drink drivers, the Alcohol Accord and its 'kangaroo court'. Yes, he's right. People don't like it when governments come along and take away their takeaways, or sit down on the places they like to sit down and drink on.

And yes, some of these things have achieved nothing useful whatsoever: the stupid Commonwealth law that all purchases over \$100 have to be recorded in a book no-one ever reads (by the way, the Commonwealth has announced they're going to do away with that particular law); the stupid Northern Territory law which allows town councils to declare all public places 'dry', with no noticeable effect except to drive drinkers into even less safe locations. The stupid proposed Town Council draft by-law to make being drunk an offence, which the Council, in the face of overwhelming community opposition, ultimately abandoned.

And on some of the measures the jury is still out: the Alcohol Court doesn't seem to have actually achieved much yet, but with some fine-tuning it might do so. Compulsory income management is popular in some quarters and resented in others. The Federal government, to avoid complaints that it is racially discriminatory, are replacing this scheme with one which is spatially discriminatory, applying as it will to welfare recipients regardless of race, provided they live in the Northern Territory.

But there's been one measure which has cost virtually nothing, has been extraordinarily effective, is backed by evidence-based expert opinion locally, nationally and indeed globally, and points the way clearly to the future. We have this readily available substance which causes untold harm. So what do we do about it? We make it less readily available. This may not be very popular, but it works. Shorter hours. Fewer outlets. Higher prices. A dollar a drink. A grog free welfare payday. We did it with cigarettes, by making them so expensive it turned people off smoking them. And here, in Alice

Springs, we've at long last started to do it with grog. But we've got to do more. Unless of course we're prepared to let the carnage continue.

Because if we don't fix up this grog business, I can tell you one thing: whatever else we do to stop the violence, whatever else we do to address this town's social problems, however much money we spend, whatever laws we pass, or gaol sentences we impose, or programs we deliver, or houses we build, or theories we devise, or prayers we offer, I can tell you one thing: if we don't take the hard decisions and fix up this grog business first, whatever else we try, will fail.



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Alice Springs

9 August 2010