



**NTCOSS Submission to the Economic Policy Scrutiny Committee
Northern Territory Liquor Bill**

June 2019



14 June 2019

Jennifer Buckley
The Secretary
Economic Policy Scrutiny Committee,
GPO Box 3721, DARWIN NT 0801

Dear Jennifer,

I am pleased to forward you the following submission from NTCOSS on the NT Liquor Bill. The submission highlights some issues and recommendations which we urge the committee to consider with the aim of improving the clarity of the Bill ensure the Bill is as effective as it can be in addressing the harmful effects of Alcohol misuse on the NT community.

NTCOSS acknowledges and welcomes the progress made on alcohol reform by the Northern Territory Government (NTG) through the implementation of 75 of the 219 endorsed recommendations of the 2017 Riley Review. To date we have made submissions to the Risk-Based Licensing Framework and to the Exposure Draft of the Bill (attached). In this submission we have attempted to prioritise issues that we consider to be of greatest importance for the Economic Policy Scrutiny Committee's consideration.

NTCOSS has taken the opportunity to review the NT Liquor Bill tabled in the Northern Territory Legislative Assembly on the 15th of May 2019 and now referred to the Economic Policy Scrutiny Committee for inquiry. We have consulted interested NTCOSS members and key stakeholders including AMSANT, NAAJA, Amity and PAAC and raise some specific issues and recommendations in our brief submission below.

Please contact me if you have any questions or clarification regarding our submission.

Kind Regards

Wendy Morton
Executive Director

NORTHERN TERRITORY COUNCIL OF SOCIAL SERVICE INC (NTCOSS)

NTCOSS is a peak body for the Northern Territory community sector and is a voice for people affected by social and economic disadvantage and inequality. The community sector in the Northern Territory is made up of community managed, non-government, not for profit organisations who work in social and community service delivery, sector development and advocacy.

The community sector plays a vital role in creating social wellbeing for all Territorians and in building safe and healthy communities by providing services that enable people to access and participate in health services, education, employment, economic development, and family and community life.

NTCOSS represents a service sector with a high level of contact with individuals and their families who are impacted by alcohol use including those working in areas such as domestic violence, homelessness and child protection.

NTCOSS COMMENTS ON THE NT LIQUOR BILL

Interpretations - Harm

Despite the fact that minimising harm is a primary purpose of the Liquor Bill 2019 (s 3 (1)) the Bill does not provide any definition of harm. We believe it is important to incorporate a commonly understood definition and to use that as a measure for assessing the effectiveness of the Act.

Recommendation: That the Bill be amended to include a definition for harm as follows, or similar:

harm means harm relating to the sale, supply and consumption of alcohol including:

- (a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community);
- (b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community);
- (c) the adverse effects on a person's health;
- (d) alcohol abuse or misuse; and
- (e) domestic violence and/or anti-social behaviour, including causing personal injury and property damage.

1. Part 3 Division 7 - Section 68 (2) - Application for transfer of a liquor licence

We seek clarification of section 68(2) which deals with the transfer of liquor licences. While it is stated that sections 48 to 54 apply we are concerned that it is not clear that the application should also meet the requirements of section 55 regarding whether the applicant or their designated nominee, is a fit and proper person to hold a licence.

Recommendation: That in addition to sections 48 to 54, section 55 is also explicitly included as a requirement of any transfer of license. The Bill would be amended as follows:

‘Section 68 (2) Subject to this section, the application is to be made as if the proposed transferee is applying for a new licence and sections 48 to 55 apply to the application’.

Recommendation: Amend the Liquor Bill to include the requirement for a community impact assessment to be conducted for applications to transfer a liquor licence, where such an assessment has not been made within the past five years.

2. Part 3 Division 4 -Sections 57 (1) and 57 (2) - Objection to transfer of a liquor licence

We agree with concerns raised by PAAC and FARE that there is no capacity for community objections to a proposed transfer of license to a new licensee. We believe this is a particularly important inclusion especially with respect to the Commission's consideration of whether the applicant or nominee is a 'fit and proper person' to take on the license. Whilst this is an important responsibility of the Commission we also believe there should be an opportunity for members of the public to have their say on this matter and be able to bring concerns to the attention of the Commission.

Sections 57 (1) (a) to (d) of the Liquor Bill 2019 lists the types of applications to which an objection may be made. We recommend that Transfer of Licence be added to this section as another type of application to which an objection can be made.

Recommendation: Amend s57 (1) to allow objections to be made against applications to transfer liquor licences from a licensee to another person or entity.

Recommendation: Extend s57 (2) to allow additional grounds for objection including whether the applicant is considered fit and proper to hold a licence, government priorities to reduce alcohol harm, and other factors agreed by the Commission.

3. Part 3 Division 3 - Issuing Licences and Authorities

- 45 Public Interest and Community Impact
- 46 Community Impact Assessment guidelines
- 47 Onus on applicant

NTCOSS supports the inclusion of public interest and community impact as matters to be addressed in applications for new alcohol licenses or applications for changes to existing licenses. We would however like to reiterate concerns raised by Amity and outlined in our earlier submission to the Liquor Bill Exposure Draft regarding section 47. Onus on Applicant.

It is NTCOSS' view that whilst it is important for licensees as corporate citizens to address public interest and community impact through their license applications (s 47 Onus on applicant) we agree with Amity that there are well-documented risks in vesting this responsibility with the proponent (who has pecuniary interests) that need to be acknowledged and managed (see attached NTCOSS submission to the Liquor Bill Exposure Draft for more detail). To assist with this we recommend the following amendment:

Recommendation: Amend Division 3 Section 46 ('b) the benefits the proposed licence or authority would provide to the local and broader community' by replacing with 'the benefits and risks the proposed licence or authority would provide.....'

4. Part 3 Division 4 - s 57 Objecting to an application & Part 14 Miscellaneous – s 317 Review of the Act

NTCOSS has faith in the capacity of the independent Liquor Commission to analyse Public Interest

and Community Impact statements put forward by potential licensees as part of the application process including conducting an investigation (part 3 division 3 S 54. Investigation of applications). However, as indicated in our submission to the Exposure draft of the Bill, we remain concerned that community members wishing to make and sustain an objection to a significant and well-resourced application may be inadequately resourced, with respect to time, capacity and finances, to do so. This situation has arguably been played out in the current objections to the Woolworth's application to transfer an existing Stuart Park license to a new and much larger premises. In line with Amity's views and those of PAAC and FARE we recommend the following:

Recommendation: That an independent Community Defender's Office be established to support communities in licensing matters.

Recommendation: That a fund is developed to support communities engaging with NT Liquor Commission hearings associated with objections, where needed.

However, if these recommendations, supporting the rights and interests of community objectors under the Act, are not able to be incorporated into the Bill at this stage, which is our preference, we endorse the following recommendations of PAAC and FARE regarding a future review of the Act (Section 317):

Recommendation: That a provision be added to ensure that when conducting a review of the Act under s137, the Minister will be obliged to consider:

- i) The merits of establishing a process for determining the community impact assessment which is independent of the applicant
- ii) The need to provide support for objectors to participate in liquor licence objections in cases where there is substantial inequality of access to resources to participate in the application process, including the merits of establishing a fund to support the community in such situations

3. Part 6 Division 5 S 150 - Inedible substances containing alcohol

NTCOSS raised the need for a regulatory framework around the storage and sale of inedible substances including alcoholic mouthwash, vanilla essence and methylated spirits etc. in our submission to the Liquor Bill Exposure Draft. Our comments then were that:

'the misuse of mouthwash containing up to 26% alcohol peaked in Alice Springs in 2007. At the time the ABC reported a 500 % increase in sales. Since then considerable work has been done between community youth organisation CAYLUS and local retailers to try to restrict access to the product by storing it behind the checkout counter or by locking it away. In recent months a surge in use has been detected in Darwin since the introduction of the minimum floor price for alcohol was introduced in 2018 although the exact cause and scale is hard to determine. Rather than rely on unregulated and voluntary actions by retailers NTCOSS believed these high alcohol products require regulation to limit access and ensure retailers are guided by a framework that supports them to limit supply, refuse sale and reports suspicious sales.'

It remains NTCOSS' position that in addition to the search and seize provisions in s 150 (1) (a) and (b) it is important that the Bill make reference to the need for a regulatory framework for the sale and storage of inedible products containing alcohol. Whilst we acknowledge the significant progress made in Alice Springs by retailers to store these items appropriately we are also aware that this has

come about through considerable support from the Central Australian Youth Link-Up Service and is quite site specific. We are concerned that without a regulatory framework the approach to the sale and storage of these products will always be dependent on the good will of the retailer and ongoing encouragement and support from interested NGO's if and where they exist. We endorse the following recommendations also being made by PAAC and FARE:

Recommendation: That the Bill be amended by the addition of the following or similar to allow for the control of inedible substances containing alcohol: s150 (3): That the sale and storage of inedible substances containing alcohol may be prescribed by regulation.

Recommendation: That the Committee recommends that a similar provision be added to the Medicines, Poisons and Therapeutic Goods Act to allow for similar regulation of the sale of methylated spirits.