



Foundation for Alcohol Research & Education

7 December 2020

Mr Philip Timney  
Director of Liquor Licensing  
Licensing NT  
Department of Industry, Tourism and Trade  
Northern Territory Government  
GPO Box 1154  
Darwin NT 0801

Dear Mr Timney

## **RESPONSE TO WOOLWORTHS' GROUP APPLICATION FOR DARWIN DAN MURPHY'S**

We submit this response from the Foundation for Alcohol Research and Education (FARE) to materials provided to you by the Woolworths Group and Airport Development Group in relation to the proposed development of a Dan Murphy's at Sabine Road, Eaton.

Based on the information provided in this response the application should be rejected and the store should not go ahead.

Woolworths' revised application does not achieve the primary or secondary purposes of the Liquor Act 2019 (NT) (the Act) to minimise harm, enhance amenity, social harmony and community wellbeing. The store will increase harm and will have a significant adverse impact on the community.

Last year the NT Liquor Commission (the Liquor Commission) found Woolworths' original application to be unacceptable on multiple grounds. The change of location does not address the significant and numerous risks identified by the Liquor Commission.

In considering Woolworths' application, we understand that you do not have to apply the public interest and community impact test in s.49 of the Act, and the rules of natural justice do not apply. However, FARE is joined by a significant cohort of Darwin organisations in strongly encouraging you to apply that important test as you consider the impact of the proposed store on people in Darwin who are most at risk of harm.

Police data of harms in a five kilometre radius around the Bagot Rd site shows there are currently unacceptable levels of alcohol harm. That data applies to Woolworths' proposed new location. An overview of alcohol harm in the Northern Territory (NT) is provided at **Attachment A**.

As we will show, there is no evidence for Woolworths' assertion that the proposed Dan Murphy's will not increase the volume of alcohol in the Darwin community.

We also draw your attention to a report released by the Productivity Commission called *Overcoming Indigenous Disadvantage*. This four-year investigation examined the role that alcohol plays in contributing to poor health outcomes for Aboriginal and Torres Strait Islander peoples. It makes two policy suggestions to improve what is overall a bleak picture of harms and disadvantage:

- restrict access to alcohol
- inhibit the appeal of alcohol.<sup>1</sup>

Neither would be achieved in Darwin if the proposed Dan Murphy's store is approved.

FARE's response is based on five key grounds for rejecting the proposed Dan Murphy's:

1. Moving the store one kilometre does not alleviate the significant alcohol harms identified by the Liquor Commission.
2. The new store location will cause additional harms, as it is closer to Rapid Creek, a known area for long grassers. It is also near venues frequented by children and young people.
3. There is strong Territory and national opposition to the store, including from Aboriginal and Torres Strait Islander and community organisations and leaders.
4. Woolworths' mitigation measures will not alleviate alcohol harms identified by the Liquor Commission, and by opponents to the store.
5. There is critical information missing from Woolworths' application.

Each of these grounds are elaborated upon in **Attachment B**.

This response also includes a range of supporting materials from experts and Darwin community objectors.

Expert statements addressing the new location are provided by:

- Professor James Smith, Father Frank Flynn Fellow, Menzies School of Health Research
- Dr Michael Livingston, Senior Research Fellow, Centre for Alcohol Policy and Research
- Dr Chris Morrison, Assistant Professor, Columbia University
- Professor Peter Miller, Professor of Violence Prevention and Addiction Studies, Deakin University
- Dr Alison Ziller, Planning Lecturer, Macquarie University
- Professor Peter Phibbs, Chair of Urban and Regional Planning and Policy, Sydney University

These statements are provided as **Attachment C**.

Statements from concerned Darwin organisations and individuals are provided by:

- Mr John Paterson, Chief Executive Officer, Aboriginal Medical Services Alliance Northern Territory

- Ms Olga Havnen, Chief Executive Officer, Danila Dilba Health Service
- Ms Helen Fejo-Frith, President, Bagot Community Advisory Group
- Ms Deborah Di Natale, Chief Executive Officer, Northern Territory Council of Social Services
- Dr John Boffa, Spokesperson, People's Alcohol Action Coalition
- Ms Lesley Alford, Resident

These statements are provided as **Attachment D.**

Supporting documentation and materials demonstrating strong local and national objection to the store is also provided, including:

- Danila Dilba and AMSANT letter of objection to Gordon Cairns, Chairperson, Woolworths Group
- Danila Dilba letter of objection to Gordon Cairns, Woolworths
- Danila Dilba letter of objection to Chief Minister re law change
- Danila Dilba letter of objection to Paul Kirby, Minister for Small Business
- Danila Dilba letter of objection to Members of the NT Legislative Assembly
- Danila Dilba letter of objection to Tony Edmondstone, NT Airports
- Open letter to the Woolworths Board by community organisations
- PROMIS police data on alcohol harms near the Bagot Rd location

Further supporting documentation and materials are provided as **Attachment E.**

Please do not hesitate to contact us if you require any further information.

Yours sincerely



Caterina Giorgi  
Chief Executive Officer

## Attachment A - Alcohol Harm

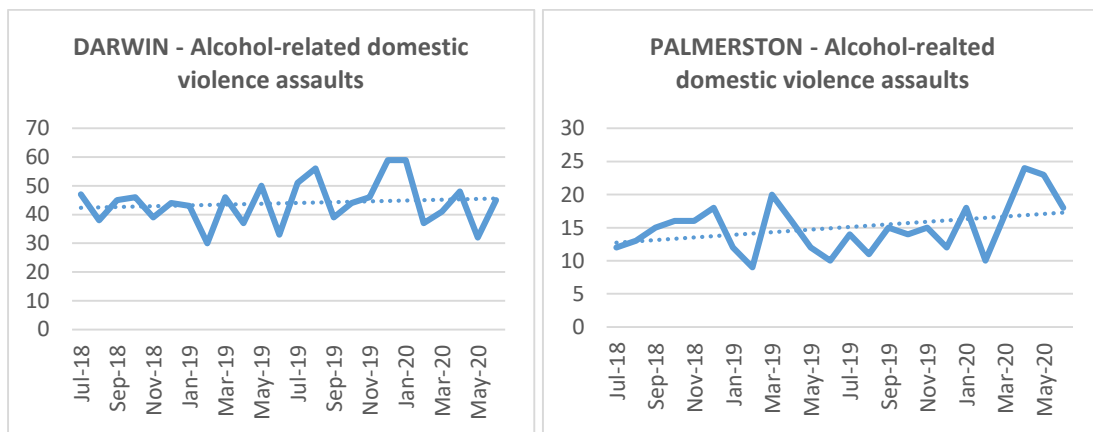
The Northern Territory (NT) has Australia’s highest proportion of deaths and hospitalisations attributable to alcohol.<sup>2</sup> In 2017, the NT recorded three times the alcohol-related death rate of the rest of the country. The NT saw 44.7 deaths per 100,000 people compared to the national average of 15.9 deaths per 100,000 people.<sup>3</sup>

Last year the Liquor Commission heard that the level of per capita consumption of alcohol in the NT had decreased by 14% over the past seven years. However, per capita consumption is still the highest in Australia.<sup>4</sup>

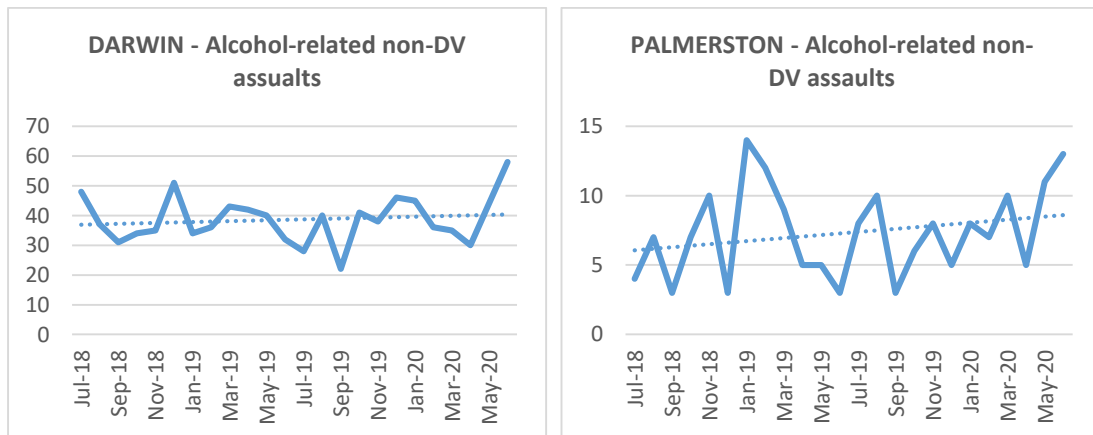
Meanwhile the social cost of alcohol has considerably increased as shown in Professor James Smith’s report *The social and economic costs and harms of alcohol consumption in the Northern Territory*.<sup>5</sup>

Alcohol harms near the proposed location are significant, and in some cases are increasing. Alcohol-related assaults increased by 5.8% in Darwin and 11.9% in Palmerston over the two-year period to June 2020.

**Figure One: Alcohol-related domestic violence assaults in Darwin and Palmerston – July 2018 to June 2020 (based on data from Northern Territory Police crime statistics)<sup>6</sup>**



**Figure Two: Alcohol-related non-domestic assaults in Darwin and Palmerston - July 2018 to June 2020 (based on data from Northern Territory Police crime statistics)<sup>7</sup>**



Also, as we discuss in the grounds of objection below, alcohol related crime around the proposed location on Sabine Rd is extremely high and has increased over recent years.

## Attachment B – Grounds for objecting to the Application

There are five grounds for our objection to the Woolworths Group's (Woolworths) application for the substitution of premises and variation of licence conditions in relation to a proposed Dan Murphy's.

The original store was proposed for the corner of Bagot Rd and Osgood Drive, Eaton. It was emphatically rejected by the NT Liquor Commission which found that:

- “[355] the Applicant has not satisfied us on the balance of probabilities, that the benefits to be derived from the grant of the application outweigh the potential for a significant increase in harm due to the use of liquor, over and above that already occurring within the community areas.
- [283] We do not think that it can be disputed that approving this application would lead to a massive increase in the density of packaged liquor outlets in both the 2 km and 5 km zones. The increase in capacity to influence alcohol availability in the 25 km trade zone would increase by approximately 25%. That is also a very significant increase in density.
- [289] We consider that such a massive increase in density as is proposed will lead to an increase in consumption by problem drinkers and subsequently to an increase in the level of alcohol-related harm.
- [326] Lest it be thought that misuse of alcohol is confined to indigenous Territorians, 24.9% of the non-indigenous adult population is at risk of long term harm through excessive alcohol consumption.”

The alternate site is only one kilometre (km) away, and these findings are relevant to the new location.

The model for Dan Murphy's poses risks to the community. Its low prices, aggressive traditional and digital marketing, extensive range and focus on online sales will all contribute to an increase in the volume of alcohol in Darwin. Evidence shows this will increase consumption amongst Darwin residents who are at most risk.

This store will also undermine the NT's comprehensive alcohol reform program which has contributed to significant reductions in alcohol harm.

Each of the grounds for objection are detailed below.

1. Moving the store one kilometre does not alleviate the significant alcohol harms identified by the Liquor Commission.

**a) The NT Liquor Commission found Darwin Dan Murphy's will result in a massive increase in outlet density in both a 2km radius and 5km radius around the Bagot Rd site. The new location remains in those zones.**

The Liquor Commission found [282-291] that outlet density would increase by 400 per cent in the two km radius around the old site, and by 80 per cent in the five km radius around the old Dan Murphy's site.

The Commission referred to the increases in density as “massive”. It spelled out [282] that outlet density is a proxy for volume of alcohol sales. It said at [231] that Darwin Dan Murphy’s projected volume of sales is four times the current volume of sales within the two km locality and the equivalent of 80 per cent of the current volume of sales within the 5 km radius of the site.

The Liquor Commission also revealed [230] that the store will sell 48 times the amount of alcohol sold by the Stuart Park BWS.

Increases in outlet density lead to increased harms. Australian research has quantified the association between outlet density and family violence. A Melbourne study found that a ten per cent increase in off-licence liquor outlets is associated with a 3.3 per cent increase in family violence.<sup>8</sup> In Western Australia, a separate study found that for every 10,000 additional litres of pure alcohol sold at an off-licence liquor outlet, the risk of violence experienced in a residential setting increased by 26 per cent.<sup>9</sup>

Leading alcohol harm reduction researcher and FARE expert witness Dr Michael Livingston provided evidence to the NT Liquor Commission. He spoke about how greater outlet density leads to an increase in the volume of alcohol in the community. His statement is in Attachment C.

When determining the harms of a Darwin Dan Murphy’s, outlet density and the volume of alcohol sold are the most important measures.

Woolworths has referred to the ‘net value of liquor sales’ which is not relevant in assessing harms. At the same time, Woolworths says that the store will not lead to “any significant additional alcohol” volume. This claim is contrary to research on increased outlet density.

Packaged liquor outlets are associated with assaults, domestic violence, chronic disease, and binge drinking (very heavy episodic drinking),<sup>10</sup> as well as child maltreatment,<sup>11</sup> vehicle crashes,<sup>12</sup> injuries among young adults,<sup>13</sup> harmful consumption of alcohol and hospital contacts for anxiety, stress, depression<sup>14</sup> and other adverse health outcomes such as those arising from falls and self-harm.

We urge you to verify the volume of alcohol sales from a Dan Murphy’s at the new location and consider the impact of a “massive” increase in alcohol in the community.

**b) Police data shows extremely high alcohol related crimes in the 5km radius around the Bagot Rd site, and shows those crimes rates are increasing over recent years.**

Police have provided detailed statistics to Danila Dilba from the PROMIS database on alcohol related crimes in a 5km radius around the Bagot Rd site. This data would therefore also apply to the proposed store.

The data shows that alcohol related crime in the area is up to twice as high as other parts of Darwin.

The data also shows a consistent increase in the level of alcohol related offending in that community area between 1 April 2016 and 31 March 2019. Please see Attachment E for the PROMIS data.

In her affidavit to the Liquor Commission Dr Sarah Giles referenced both the police data and her own observations as Danila Dilba's Clinical Director to discuss harms in a 5km radius of the Bagot Rd site ("the neighbourhood area"). The Commission's decision [324] quotes her affidavit as follows:

1. *Alcohol related Domestic Violence offences account for 71% of all Domestic Violence offences in the neighbourhood area.*
2. *The rate (per 100,000 people) of Domestic Violence offences is 29% higher in the neighbourhood area compared with the rest of Darwin.*
3. *The rate of Alcohol involved Domestic Violence offences is 41% higher in the neighbourhood area compared with the rest of Darwin.*
4. *In the 'neighbourhood area', alcohol is involved in:*
  - a. *64% of all assaults,*
  - b. *36% of sexual assaults,*
  - c. *40% of robbery offences, and*
  - d. *74% of all breach of violence order offences."*

The new site is in this neighbourhood area. Alcohol harms are already unacceptably high by NT and national standards.

**c) The proposed location of the store is still within walking distance of three dry Aboriginal communities experiencing significant alcohol harms.**

People in the Kulaluk, Minmarama and Bagot Aboriginal communities now walk to Nightcliff BWS to purchase alcohol.

The new Dan Murphy's site is still closer to Bagot and Minmarama than the Nightcliff BWS.

Alcohol products at the new Dan Murphy's will be cheaper than other stores.

Chairperson of the Gwalwa Daraniki Association, Helen Secretary, told the Liquor Commission [175] about the impact of price on alcohol purchasing behaviour in her community. The Decision says:

*"When asked how she saw the proposed Dan Murphy's outlet as affecting the alcohol problems she had identified, she said: "To me, it will increase. My understanding, I'm not a drinker, but my understanding of people that do consume*



*alcohol within our communities, including family members, I have heard that it's cheaper prices. If Dan Murphy's comes in and the prices are cheaper, that's where everyone is going to go and purchase".*

Woolworths' proposal to not advertise its 'lowest liquor price guarantee' will in reality have little impact. The Dan Murphy's brand is built on offering the lowest alcohol prices. That knowledge is deeply entrenched. This knowledge has been further reinforced in Darwin after years of coverage of the Dan Murphy's story.

President of the Bagot Community Advisory Group, Helen Fejo Frith, has indicated that the store's new location will contribute to further harm in her community.

*"Alcohol is already causing fights, crime, domestic violence and too many deaths and sorry business in Bagot and a lot of other communities across the Territory. We already have enough liquor outlets and we don't need more and we definitely don't need a megastore like this one."*

Aboriginal and Torres Strait Islander peoples experience disproportionate levels of alcohol harm.

The Productivity Commission has just released a report four years in the making that investigates Aboriginal disadvantage and the role alcohol plays in poor health outcomes.<sup>15</sup>

It finds that:

- *A higher proportion of Aboriginal and Torres Strait Islander adults abstain from alcohol than non-Indigenous adults, but a higher proportion of Aboriginal and Torres Strait Islander adults exceed alcohol risk guidelines.*
- *For both alcohol-related hospitalisations and alcohol-induced deaths, the rate for Aboriginal and Torres Strait Islander people was around four times the rate for non-Indigenous people.*
- *In 2017-18, the proportion of Aboriginal and Torres Strait Islander homicides involving both the victim and offender having consumed alcohol at the time of the offence (55 per cent) was three times higher than the proportion for non-Indigenous homicides (16 per cent).*

The report also found that key indicators are worsening, with rates of Aboriginal and Torres Strait Islander imprisonment, suicide and self-harm rising during the past four years, and the number of Aboriginal children being taken into out-of-home care has tripled.

Importantly, the Productivity Commission found that to address these very serious outcomes, the following measures are suggested:

- *restricting access to alcohol,*
- *inhibiting the appeal of alcohol.*

This timely report would indicate that given the greater population of Aboriginal and Torres Strait Islander peoples in the NT compared to other jurisdictions in Australia, it is important to reduce availability of alcohol – not increase it.

Research shows that alcohol has a disproportionate impact on people experiencing disadvantage. FARE expert witness Dr Chris Morrison gave evidence on this relationship to the NT Liquor Commission in 2019.

Dr Morrison discussed how increased access to alcohol is an explanation for socioeconomic disparities in health outcomes. Liquor outlets in areas of higher levels of disadvantage have cheaper alcohol, so any harm related to cheap alcohol disproportionately affects people in these areas.<sup>16</sup> These communities can find it harder to influence planning and zoning decisions, and therefore are less likely to be able to prevent the continuing proliferation of outlets.<sup>17</sup>

**d) The new site will result in significantly reduced prices across the industry, leading to greater harms.**

The proposed store will reduce liquor prices in Darwin, increasing consumption and alcohol harm.

Dan Murphy's sells more alcohol than any other packaged liquor business in Australia.<sup>18</sup>

The recently released Woolworths Annual Report says there are 241 Dan Murphy's stores<sup>19</sup>. Along with other brands in the Endeavour Drinks stable, Woolworths has Australia's greatest buying power to achieve the liquor industry's most significant economies of scale.

International evidence shows that lower prices lead to higher consumption levels.<sup>20</sup>

The Alcohol Policies and Legislation Review found that the people who drink the most alcohol and are most impacted by alcohol harm disproportionately depend on the cheapest alcohol.<sup>21</sup> Young people are also particularly sensitive to the price of alcohol.<sup>22</sup>

The Liquor Commission was unequivocal about the impact Dan Murphy's would have on reducing prices. It used an example [255-257] of the price of beer in Perth compared to Darwin.

*"Dan Murphy's in Perth was able to offer popular brands of beer at significantly lower prices than were available at BWS stores in Darwin. Of particular note, on 4 June 2019, a 30 can block of Victoria Bitter was on sale at Dan Murphy's Hyde Park WA for \$49.90, whilst it was being sold at BWS Darwin City for \$73. Even allowing for the container levy; that represents a saving of almost \$20 on a popular brand of beer and would take the cost close to the MUP. Whilst the Commission accepts that this is just one product in what is anticipated will be an extensive line of products likely to be provided by Dan Murphy's into the Darwin market, it provides a good example of the potential impact on price."*

The Liquor Commission found [259-260] that the impact on beer price would be particularly notable, and harmful:

*"Having regard to:*

- a. the size of the area within the proposed store for the display of beer products,*
- b. the existing higher proportion of beer sales in the Territory compared to the rest of Australia,*
- c. the Applicant's undoubted ability to identify profitable market opportunities, and*
- d. the demonstrated capacity of the Applicant to offer beer for sale at lower prices than is currently available,*

*we find that granting this application would lead to the price of beer coming down. Whilst Dan Murphy's, with its promise of lower prices, would likely offer beer at the lowest cost, its competitors would probably also reduce prices to maintain market share. We acknowledge the benefits that would flow to responsible consumers from lower price through increased competition. However, those benefits need to be weighed against the harms that might be visited upon the community through the irresponsible consumption of liquor."*

Woolworths now says it will add five to ten cents to its cheapest product prices. As shown in the beer example used above and in the evidence provided by experts in the information at Attachment C, this gesture is effectively empty when the brand will pull prices down by \$20 a carton.

This will not stop the significant downward pressure on prices across the sector. As a result, there will be increased sales of alcohol across the board, and a commensurate increase in harms.

**e) There is little evidence to substantiate Woolworths' claimed economic benefits.**

The Liquor Commission largely dismissed Woolworths' claims of economic benefit to the wider Darwin community.

The Commission said [312-315] that:

*"Although it is accepted there would be an estimated 80 construction jobs created during the building of the proposed store; the claimed additional 129 related jobs in the broader community are based on generalized assumptions and include both full and part-time workers for only one year. Given the estimated capital costs of the building will amount to \$11.5M of the estimated total cost of \$15M; it is likely that a substantial amount of these monies will be spent on sourcing material from outside the Northern Territory.*

*"Mr Tisato from the Liquor Wholesaler ALM; provided a statement on behalf of the AHA in which he predicted local job losses would result from the introduction of Dan Murphy's. He said: "These local job losses will occur due to more of the logistics and supply chain being conducted interstate, with independent wholesalers further squeezed from the market and the viability at local warehouse's under further challenge. Further, the proportion of total sales going through a large big box format will increase, which provides significantly lower staff to sales ratio than smaller location stores" ... On all the evidence before us, we do not accept that granting the licence would result in an overall increase in ongoing employment within the liquor industry."*

**f) Dan Murphy's focus on online liquor sales is likely to result in increased consumption and alcohol harm. Recent research by CAPR and FARE shows that many younger drinkers consume more alcohol, and at dangerous levels, when using online and rapid delivery services.**

The Endeavour Group reported a 161% increase in FY20 on demand delivery<sup>23</sup> with Dan Murphy's reported to be the key beneficiary of increased demand.<sup>24</sup>

The pandemic has seen a profound shift in shopping habits from store purchase to online. Industry reports found searches for Dan Murphy's were up 76 per cent earlier this year.<sup>25</sup>

Online sales and home delivery present a risk for young people in light of generally poor regulation across Australia. Research has shown that there is a widespread practice of unattended deliveries.<sup>26</sup>

The research found that the sudden growth in online alcohol sales and rapid delivery services is resulting in high levels of risky drinking associated with rapid delivery services. It found that on-demand delivery services were most popular among the youngest age group of 18 to 29 year-olds. It also found a quarter of deliveries were unattended or not made to the person who placed the order.

69 per cent of respondents who received an on-demand order reported consuming five or more standard drinks on the same occasion as their order. Nearly a third of participants reported consuming 11 or more standard drinks in one occasion at least weekly.

While we understand that ID checks at point of delivery are required in the NT and unattended deliveries are not permitted, there is no requirement for customers to prove their age at point of sale online and indications are that customers are not always asked to provide identification at point of delivery.

Lead author Dr Sarah Callinan found that risky drinkers are using on-demand delivery services to prolong their drinking occasions.

Young people will be adversely affected by the advent of a Dan Murphy's in Darwin.

#### **g) Evidence demonstrates that big box and chain stores are harmful.**

Packaged liquor chain outlets cause greater harms than other outlets.<sup>27</sup>

A report by FARE's expert witness Dr Chris Morrison found that chain outlets contribute substantially to trauma risk, with each additional outlet associated with a 35.3 per cent increase in intentional injuries and a 22 per cent increase in unintentional injuries in the local SA1 area.<sup>28</sup>

Dr Morrison found that chains sold cheaper alcohol than independent stores, helping to explain their greater harmful effect.

Darwin does not have a destination big box liquor store. It currently has convenience shopping.

Woolworths tries to argue that The Bottle-O and Cellarbrations at Pinelands are big box stores. The Liquor Commission dismissed this argument [285-286].

*"The Applicant points to the introduction of the "2 large format outlets" of "The Bottle-O" and Cellarbrations" at Pinelands as having had no impact on the declining trend of liquor consumption. We do not find that comparison helpful. Despite some controversy over the actual size of the trading areas of these outlets it is clear that neither of them is in the same league as the proposed Dan Murphy's store, nor for that matter the Applicant's existing BWS outlets, most of which sold much more liquor by PAC in 2018 despite their smaller floor space. As was pointed out in the Riley Review the issue is not the floor space but the volume of alcohol sold into the*

*community. Woolworths, through its sophisticated marketing systems and purchasing power, has a proven record as a market leader in generating sales of all its products. It was evident to us that Dan Murphy's outlet will have a much more significant impact as far as its capacity to influence consumption than either of these so-called "large-format outlets".*

Overall, the Liquor Commission found numerous reasons to reject Woolworths' application, many based on the location's proximity to people at risk of harm. It also cited elements of the Dan Murphy's business model as creating risk.

That proximity remains. The new location is in an area of unacceptably high alcohol related harms. Dan Murphy's is still likely to offer the cheapest alcohol in Darwin despite its offer to add five to ten cents to price. It will still aggressively market and advertise its products. The economic benefits to Darwin have been overstated.

The risks far outweigh the perceived benefits.

2. The new store location will cause additional harms, as it is closer to Rapid Creek, a known area for long grassers. It is also near venues frequented by children and young people.

The new store location is near areas frequented by Darwin's long grassing community. It is also near entertainment venues used by children and young people.

The population of long grassers in the areas of Eaton and Rapid Creek must be considered when assessing alcohol related harms related to the proposed location since the site is in close proximity to these areas.

Alcohol harm and public drunkenness are well documented among this population group. Research by Larrakia Nation Aboriginal Corporation in 2011 with long grassers in Darwin and Palmerston found that 73 per cent engaged in risky drinking practices that posed both short and long-term risks to their health.

Importantly, one-third of participants expressly stated a desire to reduce or quit drinking but cited the accessibility to alcohol and the drinking culture as common barriers to achieving sobriety.<sup>29</sup>

Many of the people who drink in public in Darwin do so because they are visitors to Darwin. They are often from dry communities, arriving and departing by air. They tend to set up camp in bushland settings close to the airport, particularly at Rapid Creek, but also in the bush adjacent to Osgood Drive. The new Dan Murphy's location will be easily walkable from these camps. This will increase alcohol harm amongst this community and has not been adequately addressed by either the Woolworths' application or the Liquor Commission's deliberations.

The new location also poses an increased public health risk for children and young people.

The proposed site is next to a family entertainment precinct containing businesses popular with both children and adolescents such as Kingpin, Flip Out, and the Darwin Ice Skating Centre. It is also in close proximity to the Bagot Park Velodrome and to the Mindil Aces Football Club, which is a major sporting facility for children across Darwin.

The new location is also adjacent to the Goodstart Early Learning Darwin. The Millner Primary School and Milner Preschool is nearby. The Community Impact Test highlights schools and childcare centres as places of sensitivity regards locating packaged liquor outlets.

Having a Dan Murphy's in close proximity to areas where children and young people learn, play and socialise will increase exposure and accessibility to alcohol, normalise alcohol use, and increase harms.

Use of alcohol by children under the age of 18 years is particularly problematic. Alcohol negatively affects the developing brain which can result in mental health and neuro-cognitive problems in adulthood.<sup>30</sup> Drinking during adolescence also leads to risky alcohol use, poorer health in later life, and increased risk of developing alcohol dependency.<sup>31</sup> The Draft NHMRC Alcohol guidelines recommend that children and young people under the age of 18 should not drink at all.

### 3. There is strong Territory and national opposition to the store including from many Aboriginal and Torres Strait Islander and community organisations and leaders.

The people and organisations listed below oppose the development of the proposed Dan Murphy's. This demonstrates the breadth of opposition to a Darwin Dan Murphy's.

- Pat Turner, Chief Executive Officer, National Aboriginal Community Controlled Health Organisation
- John Paterson, Chief Executive Officer, Aboriginal Medical Services Alliance Northern Territory
- Olga Havnen, Chief Executive Officer, Danila Dilba Health Service
- Thomas Mayor, National Indigenous Officer & NT Deputy Branch Secretary, Maritime Union of Australia
- Marion Scrymgour, Chief Executive Officer, Northern Land Council
- Helen Fejo-Frith, President, Bagot Community Advisory Group
- Deborah Di Natale, Chief Executive Officer, Northern Territory Council of Social Services
- Dr John Boffa, Spokesperson, People's Alcohol Action Coalition
- Scott Wilson, Chief Executive Officer, Aboriginal Drug and Alcohol Council South Australia
- Associate Professor Robert Parker, President, Australian Medical Association Northern Territory
- Professor James Smith, Father Frank Flynn Fellow (Harm Minimisation), Head of the Alcohol, Other Drugs and Gambling Team, Wellbeing and Preventable Chronic Diseases Division, Menzies School of Health Research
- Noelene Swanson, State Director for NT and WA, Save the Children
- Samuel Bush-Blanas, Chair, Northern Land Council
- Matthew Ryan, Emerging leader, Maningrida, West Arnhem
- Barbara Shaw, Chairperson & Chief Executive Officer, Aboriginal Medical Service Alliance Northern Territory & Anyinginyi Health Service
- Gibson Farmer, Chairperson, Tiwi Land Council



- Joe Martin-Jard, Chief Executive Officer, Central Land Council
- Carol Stanislaus, Chairperson, Danila Dilba Health Service
- Leeanne Caton, Chief Executive Officer, Yilli Rreung Housing Corporation
- Colleen Rosas, Chairperson, Northern Australian Aboriginal Justice Agency
- Priscilla Atkins, Chief Executive Officer, Northern Australian Aboriginal Justice Agency
- Joe Martin-Jard, Chief Executive Officer, Central Land Council
- Kim Hill, Chairperson, Yilli Rreung Trust
- Theresa Roe, Chairperson, Yilli Rreung Aboriginal Corporation
- Regina Bennet, Chief Executive Officer, Darwin Aboriginal & Islander Women's Shelter
- Jill Smith, Chief Executive Officer, Council for Aboriginal Alcohol Program Services
- Don Baylis, Chief Executive Officer, Top End Aboriginal Broadcasting Association
- Phynea Clarke, Chief Executive Officer, Central Australian Aboriginal Family Legal Unit
- Graham Dowling, Chairperson, Central Australian Aboriginal Congress
- Donna Ah Chee, Chief Executive Officer, Central Australian Aboriginal Congress
- Maria Harvey, Chief Executive Officer, Tiwi Island Training Education Board
- John Wilson, Chairperson, Top End Aboriginal Broadcasting Association
- Robyn Ragattieri, Business Manager, Top End Aboriginal Broadcasting Association
- Shaun Tatipata, Director, Deadly Enterprises
- Cassandra Carolin, Acting Chief Executive Officer, North Australia Aboriginal Family Legal Service
- Jayne Lloyd, Director, CatholicCare NT
- David Pugh, Chief Executive Officer, Anglicare NT
- Ben Abbatangelo, Writer
- Donna Murray, Chief Executive Officer, Indigenous Allied Health Australia Ltd
- Karl Briscoe, Chief Executive Officer, National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners
- Cindy Berwick, President, NSW Aboriginal Education Consultative Group Inc.
- Catherine Liddle, Chief Executive Officer, First Nations Media.
- Katrina Fanning PSM, Chairperson, ACT Aboriginal and Torres Strait Islander Elected Body
- Roianne West, Chief Executive Officer, Congress of Aboriginal and Torres Strait Islander Nurses and Midwives (CATSINaM)
- Donnella Mills, Chair, National Aboriginal Community Controlled Health Organisation (NACCHO)
- Jill Gallagher, Chief Executive Officer, Victorian Aboriginal Community Controlled Health Organisation

When Helen Fejo-Frith, President of the Bagot community advisory group, was asked what she would say to Woolworths board if given the chance, she said:

*"We don't want that outlet there...tell them also about all the harm, sorry business and everything that we've had over time through alcohol and that we've got enough outlets around where we live..."*

In their open letter, Pat Turner (CEO, NACCHO), John Paterson (CEO, AMSANT), Olga Havnen (CEO, Danila Dilba) and others have called on Woolworths to abandon their plans to build a Dan Murphy's in Darwin.

*"Alcohol is like no other product. It causes cancer. It fuels domestic violence. Drink driving wipes out lives in an instant. We see families literally torn apart under the influence of the product your company sells.*

*That's why you must abandon your plans to build a Dan Murphy's in Darwin."*

*"Our community is now on a path to a brighter future. Our kids are safer and our families are healthier with less alcohol washing through our streets.*

*Don't derail this important work.*

*We ask you to stop this plan to profit from people who are at their most vulnerable."*

Marion Scrymgour, CEO of the Northern Land Council expressed opposition to the proposed Dan Murphy's store, citing the negative impact of alcohol.

*"We don't want your mega store.*

*And I think that people need to realise that to bring in another liquor outlet, like we will see with*

*Dan Murphy, will cause untold trauma and damage to the Aboriginal community.*

*And it's not just one community. It's everyone that lives in this beautiful community on Larrakia land that will be affected by the ravages of what is being sold out of that Superstore."*

Deborah Di Natale, CEO of the NT Council of Social Services is also opposed. She represents 120 NGO's.

*"It [the proposed store] would increase the impacts of domestic family and sexual violence, and it will create so many flow on effects in terms of health for our community that we really need to have this stopped.*

*We would be saying to Woolies, you need to put people before profits in terms of your corporate social responsibility, what you are doing is unconscionable."*

Contrary to Woolworths' claims, it did not adequately consult local community organisations. Widespread opposition remains amongst local Aboriginal and Torres Strait Islander organisations, community organisations and community members evidenced by the large number of organisations listed above.

Samuel Bush-Blanski, Chair of the Northern Land Council has joined the chorus of opposition to the proposed store by expressing concern about the escalation of domestic violence, drink driving and crime rates that comes with increased alcohol supply and availability. He also expressed concern about Woolworths' community engagement by saying

*"This is to Woolworths. Give us evidence who you've been talking to and then we'll talk, but if you haven't got any evidence and if you're not talking to the right people, well, then, it's a no."*



Both Danila Dilba and Helen Fejo Frith say they have been misrepresented by Woolworths. They say that as the normal liquor licence process has been bypassed, they object to the application, and the site. Please see the attached statements from Danila Dilba and Helen Fejo-Frith at Attachment D.

In her letter to Woolworths by the Chairperson of the Gwalwa Daraniki Association, Helen Secretary, did not retract her testimony about the extent of alcohol harms in both Kulaluk and Minmarama communities. The Liquor Commission decision [171-175] summarises her evidence as follows:

- *“It’s getting worser. I’m a non-drinker but I grew up at Kulaluk since I was eight. I’m 50 years old now, and I’ve lived the life of seeing what alcohol does to family and extended family and its’ getting worser”.*
- *Ms Secretary expressed concern that her countrymen would not use pedestrian crossings. She said they had lost two family members on Dick Ward Drive from the beginning of the year up until now and stated”: “They don’t go and use no pedestrian crossing. They will just get from A to B and that’s why they’re getting hit by a car. And that’s all related to being intoxicated.*
- *“I see little indigenous kids, countrymen’s kids, come in from out of town, following their family members or their grandparents, crossing roads while they are intoxicated and it’s the traffic. Countrymen are not going to abide by any traffic rules while they are intoxicated and that’s why we are losing more and more of our people getting killed on the road, and it’s all because of alcohol”.*
- *In relation to the impact of the proposed outlet on aboriginal people travelling to the area, Ms Secretary said: “What my understanding of Dan Murphy’s and the prices and that, is it is right in the area where people are going to be coming in from bush on planes. They’re going to be coming in and living in the corners of our properties in the long grass and because of the dangers of those four cornered, five road sections, and people are getting killed”.*
- *When asked how she saw the proposed Dan Murphy’s outlet as affecting the alcohol problems she had identified, she said: “To me, it will increase. My understanding, I’m not a drinker, but my understanding of people that do consume alcohol within our communities, including family members, I have heard that it’s cheaper prices. If Dan Murphy’s comes in and the prices are cheaper, that’s where everyone is going to go and purchase”.*

Finally, we would draw your attention to an online petition signed by more than 133,000 Australians at [change.org](https://www.change.org/p/woolworths-keep-grog-out-of-our-communities):

<https://www.change.org/p/woolworths-keep-grog-out-of-our-communities>

#### 4. Woolworths' mitigation measures will not alleviate alcohol harms identified by the Liquor Commission, and by opponents to the store.

By recognising the need for additional mitigation of the Dan Murphy's outlet, Woolworths acknowledges the significantly increased risk of harm that this store poses compared to other outlets.

The Productivity Commission's recent report called *Overcoming Indigenous Disadvantage* at the role alcohol plays in poor Aboriginal and Torres Strait Islander health outcomes. It makes two policy suggestions to improve what is overall a bleak picture of harms and disadvantage.

The first is restricting access to alcohol. The second is inhibiting the appeal of alcohol.

Neither would be achieved in Darwin if this Dan Murphy's store is approved.

The proposed store, forecast to be one of the largest bottle shops, if not the largest in Australia, will actively work against efforts to reduce alcohol harm. It will not just increase the availability of alcohol, this outlet will increase the availability of alcohol by a magnitude not seen in Darwin before.

There is simply no evidence to that the measures suggested by Woolworths will mitigate the alcohol harm this store will cause.

In her statement at Attachment C, social impact expert Dr Alison Ziller says for mitigations to be effective, they must be tangible, deliverable and durably effective.

After reviewing Woolworths' mitigation measures she observes: "These mitigations are largely intangible, and characterised by such phrases as 'willing to discuss' and 'seek to communicate'. Worthy as these intentions may be they are not tangibly expressed ..... all the applicant has to do is to be 'willing' or to 'seek' and they can say the mitigation can be said to have been done."

Dr Ziller adds, "Most strategies to address alcohol dependency and harm rely on actions of others - by health professionals, community leaders and public agencies with a determined focus on reducing alcohol-related harm."

She also points out that there appears to be no mitigations directed to people who drink at risky levels in the non-Aboriginal population.

Proposed mitigation measures raised by Woolworths are addressed in the sections below.

##### **a) Prices above the MUP**

Dr Ziller's analysis found that the most tangible of the mitigations is Woolworths' voluntary minimum unit price (MUP). However, she finds several flaws with this measure including:

- As a voluntary measure, Woolworths can decide they no longer wish to apply the higher MUP or apply it to some products only or at certain times, but not on a consistent basis

- Any effort to enforce this measure, eg as a condition on their licence, would create a situation where Licensing NT would be applying different prices for different products among different retailers
- If applied as a condition or enforced through regulation in some other way, this could be challenged on the basis of competition law and may be removed
- There is no indication about whether this small increase in price will be indexed to remain higher than the MUP in the remainder of the Territory.

Professor Peter Miller’s statement at Attachment C challenges the effectiveness of Woolworths’ offer to charge more than the MUP.

Professor Miller says it is unclear how many products may be subject to that pricing. Professor Miller says alcohol harms will flow from Dan Murphy’s entire range, noting that the Dan Murphy’s business model is about attracting to people to buy in bulk.

The Liquor Commission also downplayed the relevance of the MUP [213] in the consideration of this application on the basis that it, along with the banned drinker register, could not be regarded as “the ‘silver bullet’ in the battle to change our harmful drinking culture”.

As mentioned above, even taking into account the few cents that Woolworths says it will add to alcohol prices, the new big box store will put significant downward pressure on prices across the board.

The Liquor Commission used a comparison of beer prices between Dan Murphy’s in Perth and BWS in Darwin City. It found the Perth Dan Murphy’s price \$20 below that of Darwin. With a magnitude of that size in savings, Woolworths offer of a few cents increase in price will still vastly outpace other outlets and set a significantly lower price benchmark in Darwin packaged liquor outlets.

Lower prices will lead to increased sales and increased harms.<sup>32</sup>

The Alcohol Policies and Legislation Review identified young drinkers as being particularly sensitive to low alcohol prices.<sup>33</sup> As discussed above the new location is next to KingPin Bowling and FlipOut and will be particularly problematic for Darwin children and young people, contributing to the normalisation of alcohol in society and putting them at increased risk of alcohol harms.

#### **b) RSA, team training, CPTED and posters**

Professor Miller has researched measures such as team member training, implementation and enforcement of Responsible Service of Alcohol (RSA) policies and procedures, adopting CPTED principles, use of Drinkwise materials, and community education.

Professor Miller says he has found these measures to be ineffective, or worse, actually increase alcohol use. We refer you to his statement at [Attachment C](#) for further detail.

We also bring to your attention Woolworths record in relation to these measures as mitigating against harms.

The Liquor Commission found [226] Woolworths is the largest overall supplier of liquor in the Northern Territory. Its business model, and mitigation measures have contributed in a significant way to the very high levels of alcohol related harms experienced in the Territory.

It is critical to note that RSA and other in-house training and practices only applies in store or at the point of sale. It does not mitigate against the many harms that occur after consuming the product away from the store; harms such as domestic violence, drink driving, child neglect, assaults and the hundreds of medical conditions associated with alcohol.

We also note that RSA standards were broken by several packaged liquor outlets, including those owned by Woolworths, in Western Australia.

WA Police designed a project to test the efficacy of RSA standards in Perth in two separate stings.

“Police cadets, nearly all of whom were aged 18 but who looked younger, were sent into 100 Perth city liquor outlets. In 72 of the 100 cases, the cadets were able to purchase alcohol without having to show identification.”<sup>34</sup>

Subsequent police investigations twelve months later showed no improvement by liquor outlets despite the negative publicity.<sup>35</sup>

As such we question both the effectiveness of the suggested mitigation measures, and we question Woolworths’ commitment to use these measures.

#### **c) Woolworths claims of premiumisation**

Woolworths’ claim of focusing on high end wine in both its original and revised application is not supported by any evidence.

As noted by the Liquor Commission in its decision [264] the Dan Murphy’s store layout demonstrates that the size and layout of the store ‘has been influenced by the much higher demand for standard beer products in Darwin than elsewhere in Australia and that the Applicant is hoping to capture a significant proportion of that market with the lower prices it is able to offer’.

In other words, the focus of that outlet was selling cheap beer.

Despite Woolworths mentioning in its revised application “the store has been designed with an emphasis on wine” there is no store new layout to demonstrate this. Indeed, Woolworths states it doesn’t expect ‘any material changes to the store plan at the new site’ (p 8).

No information is available about the extent to which the anticipated revenue from the store will be from cheap beer, cheap wine and cheap spirits.

#### **d) Traffic measures**

Chairperson of the Gwalwa Daraniki Association, Helen Secretary testified to the ineffectiveness of pedestrian walkways and other traffic upgrades suggested in the Woolworths’ application.

She told the Liquor Commission [172] that she was concerned that her countrymen would not use pedestrian crossings.

*She said they had lost two family members on Dick Ward Drive from the beginning of the year up until now and stated: "They don't go and use no pedestrian crossing. They will just get from A to B and that's why they're getting hit by a car. And that's all related to being intoxicated."*

These concerns are relevant to the new location.

#### **e) Engagement strategy**

The Engagement Strategy that Woolworths has suggested will not be effective in mitigating against alcohol related harms.

While Woolworths says it has committed to a strategy with the "three Indigenous Communities" near the proposed store its past practice and the current levels of antipathy and mistrust directed towards the store and Woolworths suggests this strategy will not achieve its stated aims.

Importantly Woolworths does not have agreement from the largest of the communities, Bagot, to be involved in the Strategy. Neither does it have agreement from Danila Dilba Health Service to be involved, the key alcohol and other drug service provider in those three communities.

Woolworths has demonstrated a poor track record in consulting with Aboriginal stakeholders.

The Liquor Commission made several findings regards Woolworths' consultation record including:

[212] "The Applicant still complains that the local indigenous communities refused to consult with it despite numerous entreaties to do so "over the last few months". However, it is apparent on the evidence that contact was only made with those communities well after the matter had been referred to the Commission and the Applicant had obviously committed to this site for its proposed Dan Murphy's outlet. If the Applicant had been hoping for a meaningful dialogue with those communities it should have sought their views prior to deciding to locate the site in such close proximity to their homes."

[62] "(James Scott McKenzie Woolworths Business Manager) conceded the limited nature of some of the consultation undertaken on behalf of the Applicant."

Woolworths has failed to consult with a large number of Aboriginal and Torres Strait Islander and community organisation stakeholders who object to the store. Many of these will be directly impacted by this store and are listed in section 3 of this document.

Further, and far more worryingly for the future of this proposed Strategy, Woolworths has deliberately misrepresented the views of two of its primary stakeholders.

Both Bagot elder Helen Fejo Frith, and CEO of Danila Dilba, Olga Havnen say that they do not support the new location, and never have. They said if there was a change of location they would not object – but only on the understanding the revised application would be subject to the full Liquor Act, including the Community Impact and Public Interest Test. Now that this is not occurring, they have made very clear that they object to the proposed store.

We refer you to Attachment D to outline many complaints about Woolworths' failure to consult on this proposed development.

## 5. There is critical information missing from Woolworths' application.

**a) Woolworths gives no detail about the volume of alcohol it will sell.** Volume of alcohol sales is a key determinant of density, and the 2019 Liquor Act demands it be considered in liquor licence applications. Woolworths talks about "the net value of liquor sales" when discussing the likely impact of its store. This is not a relevant measure when considering harms. The Liquor Act 2019 identifies outlet density, and the volume of alcohol sales to determine harms.

Woolworths asserts that a Dan Murphy's outlet could still derive market share without increasing the overall level of alcohol in the community. A rationale for this claim is that people will buy the same amount of alcohol, but it will be Dan Murphy's higher-end products and so cost more. There is no evidence that this will be the case in Darwin.

The Liquor Commission found [253] instead that based on the plans provided for the Bagot Road store:

"Although the Applicant has focused firmly on the fact that it will be bringing Territorians an opportunity to purchase a range of premium wines that have not been available in Darwin before, it is apparent that only 113 square metres of the store's total area will be devoted to premium wines. That is a mere 5.97% of the total area. Whereas 408 square metres, being 28.29% of the trading area, will be devoted to beer. When it was suggested to Mr Scott-Mackenzie that the area devoted to beer in the proposed Darwin store was greater than in other Dan Murphy's outlets he put it down to the:

"... ever growing range of beers that are available through craft and that sort of stuff...".

Given the evidence that the already minimal sales of craft beer are actually declining in the NT, we find this justification difficult to accept."

## **b) Woolworths gives no detail about the size or layout of the new store.**

The Bagot Rd Dan Murphy's premises were in excess of 1800sqm, making it one of the biggest bottle shops in Australia. While floor size is not an indicator of harms, the volume of sales is a critical predictor.

We know that at the previous location, alcohol sales into the neighbourhood area would quadruple. A store of this magnitude also greatly increases availability. That is a significant finding when considering an application for one of the country's biggest bottle shops within walking distance of three dry Aboriginal communities.

The layout of the store is also missing, and it is necessary to consider the harms of a store at the new location. The Liquor Commission's consideration of the Bagot Rd store layout provided evidence to reject Woolworths' assertions that it would sell higher-end products and wine. Instead the Liquor Commission found:



262. “Although the Applicant may be keen to promote its range of premium products to the more affluent sector of the Darwin market, it is clear that it will also have the greatest range of cheap wine around the MUP. Those products will be attractive to problem drinkers as well as those responsible consumers who will be looking for the best quality wine that can be purchased at or near the MUP. Once again it is a matter of weighing the potential risk of harm against the benefits that would flow through competition to responsible drinkers.”

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- <sup>3</sup> Northern Territory Government. Northern Territory Alcohol Policies and Legislation Reform. Alcohol-related <https://alcoholreform.nt.gov.au/data-and-evaluation/deaths>
- <sup>4</sup> Professor James Smith, affidavit to the NT Liquor Commission. Quoted in the Commission's decision [327] on Darwin Dan Murphy's Sept 19, 2019 [https://justice.nt.gov.au/data/assets/pdf\\_file/0003/731784/Reasons-for-Decision-Darwin-Dan-Murphys-200919.pdf](https://justice.nt.gov.au/data/assets/pdf_file/0003/731784/Reasons-for-Decision-Darwin-Dan-Murphys-200919.pdf)
- <sup>5</sup> Smith, J., Whetton, S. & d'Abbs, P. (2019). The social and economic costs and harms of alcohol consumption in the NT. Darwin, Menzies School of Health Research. [https://www.menzies.edu.au/icms\\_docs/302326\\_Final\\_Report\\_-\\_Social\\_and\\_Economic\\_Costs\\_and\\_Harms\\_of\\_Alcohol\\_Consumption\\_in\\_the\\_Northern\\_Territory.pdf](https://www.menzies.edu.au/icms_docs/302326_Final_Report_-_Social_and_Economic_Costs_and_Harms_of_Alcohol_Consumption_in_the_Northern_Territory.pdf)
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- <sup>7</sup> Northern Territory Police *Northern Territory crime statistics* viewed on 1 December 2020 at <https://pfes.nt.gov.au/police/community-safety/nt-crime-statistics/statistical-publications>
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- <sup>10</sup> Livingston M (2013) To reduce alcohol-related harm we need to look beyond pubs and nightclubs. *Drug Alcohol Rev* 32, 113–4.
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- <sup>14</sup> Pereira G, Wood L, Foster S, Haggart F (2013) Access to alcohol outlets, alcohol consumption and mental health. *PLoS ONE* 8, e53461
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