

KPMG

**Department of the Prime Minister
& Cabinet**

**Review of the Stronger Futures in
the Northern Territory Act (2012)**

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Contents

Executive Summary	i
Introduction	i
Tackling Alcohol Abuse	i
Land Reform	iii
Food Security Reform	iv
1 Review of the Stronger Futures Act (2012)	1
1.1 Introduction	1
1.1.1 Note on Context	2
1.2 Remainder of the report	2
2 Tackling Alcohol Abuse	3
2.1 Overview	3
2.2 Background	4
2.3 The Tackling Alcohol Abuse Measures	5
2.4 Effectiveness of the Tackling Alcohol Abuse Measures	8
2.4.1 Effectiveness of AMPs	8
2.4.2 Appointment of an Assessor	11
2.4.3 Alcohol-related Signage	12
2.4.4 Enforcement Measures	13
2.4.5 Impacts on Alcohol-related Harm	14
2.5 Future Directions	17
3 Land Reform	19
3.1 Overview	19
3.2 Background	20
3.3 The Land Reform Measures	21
3.4 Effectiveness of the Land Reform Measures	23
3.4.1 Human Rights	23
3.4.2 Consultation Process	24
3.4.3 Support for Land Owners	25
3.4.4 Ministerial Consent	25
3.4.5 Take-up of Leases	26
3.5 Future Directions	27
4 Food Security	30
4.1 Overview	30
4.2 Background	31
4.3 The Community Stores Licensing Measures	33

4.3.1	Modifications to the NTNER Arrangements	34
4.4	Effectiveness of the Community Stores Licensing Measures	35
4.4.1	Risk-based Licensing, Assessment and Monitoring	35
4.4.2	Community Consultation	37
4.4.3	Enforcement Measures	38
4.4.4	Governance and CATSI Act Incorporation	39
4.4.5	Impacts on Food Security	40
4.5	Future Directions	40
5	List of stakeholders consulted	43
6	References cited	44

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Executive Summary

Introduction

KPMG was engaged by the Department of the Prime Minister and Cabinet (DPMC) to conduct an independent review of the first three years of operation of the *Stronger Futures in the Northern Territory Act (2012)* ('the Stronger Futures Act' or 'the Act'), with a focus on the effectiveness of the special measures under the Act, namely: Tackling Alcohol Abuse; Land Reform; and Food Security (primarily licensing of community stores).

Specifically, the review evaluates whether, over the three years from 2012-13 to 2014-15, these individual measures have contributed respectively to:

- a reduction in alcohol-related harm amongst Aboriginal people in the Northern Territory (NT);
- the granting of individual rights and interests in land and the promotion of economic development in town camps and community living areas; and
- the promotion of greater food security for Aboriginal communities.

Assessed against the overarching objective of the Act, which is to support Aboriginal people in the NT to live strong, independent lives, where communities, families and children are safe and healthy,¹ this review finds, overall, that the first three years of operation of the Act have largely been effective.

Although issues exist in relation to assessing the impact of alcohol management reforms on alcohol management processes and alcohol related harm, for both land reform and food security reforms, the balance of evidence suggests that a legislative and policy framework in which beneficial results can occur has been created.

A summary of the effectiveness of each measure is provided below.

Tackling Alcohol Abuse

In 2007, the *Northern Territory National Emergency Response Act 2007 (NTNER)*, had the effect of regulating the purchase, sale and consumption of alcohol in what were termed 'prescribed areas', covering many Aboriginal lands.

When the Act came into effect, the prescribed areas that had been established under NTNER were continued and termed 'alcohol protected areas' (APAs).² The alcohol

¹ See s4 of the Stronger Futures Act.

² [Stronger Futures in the Northern Territory Bill 2011, Explanatory Memorandum](#). Accessed 1 July 2016.

restrictions instated with the NTNER continued to exist in APAs, with increased penalties for certain offences.

However, the *Stronger Futures Act* introduced a legislative provision for Alcohol Management Plans (AMPs)³ which, together with licenses and permits available under the *NT Liquor Act*, offer a means to effect more localised alcohol management arrangements driven by and tailored to individual communities.

The process for the development of AMPs that meet the Act's legislative standards is considered by a range of stakeholders to be complex and unwieldy, and since the majority of AMPs submitted to the Minister for Indigenous Affairs have been refused, it is not possible to conclude that AMPs under the Act have had any material impact on alcohol management processes or alcohol related harm in affected communities.

While some commentators have argued that it may have been beneficial for community leadership had the proposed AMPs been approved (noting the association between strong community leadership and reduced alcohol use and alcohol-related harm) others have suggested that their refusal was likely to have been beneficial, given the proposals included a request for additional, albeit contained, drinking provisions.

Overall, there is insufficient data available to the reviewers that would evidence comprehensive and robust links between the Act and changes in key indicators of alcohol related harm over the 2012 to 2015 period. While some positive changes in patterns of consumption have occurred contemporaneously with the Tackling Alcohol Abuse measures, it is problematic to attribute such outcomes to the operation of the Act.

Subsequent to the introduction of the *Stronger Futures Act*, the policy arrangements relating to AMPs have changed. The NT Chief Minister and the Commonwealth Minister for Indigenous Affairs have agreed to reduce the emphasis on Commonwealth approval of AMPs, so that plans to implement community supported actions to reduce alcohol related harm can be approved directly by the relevant NT Minister (responsible for the administration of the *NT Liquor Act*).⁴

In addition to AMPs, the Act includes provisions enabling the Minister for Indigenous Affairs to request that the relevant NT Minister⁵ appoint an alcohol licence assessor in relation to particular licenced alcohol premises, if the Minister reasonably believes the sale or consumption of liquor at or from the premises is causing substantial alcohol-related harm to the community. Since stakeholders consulted for this review indicated

³ Section 27 of the Stronger Futures Act refers.

⁴ The relevant NT Minister is defined in s5 of the Stronger Futures Act.

⁵ Being the Minister responsible for the administration of the NT Liquor Act. This is defined in s5 of the Stronger Futures Act.

that they are not aware of any such assessors being appointed, no evidence is found of this provision having been used with effect.

The Act also provides that (where determined by the NT Licensing Commission) notices may be posted on customary routes to an APA, or the customary departure locations for aircraft flying into the APA, to the effect that it is an offence to bring liquor into, to be in possession or control of liquor, or to consume or sell liquor, within an alcohol protected area.

In some instances, the signage erected as a result of provisions in the NTNER Act initially attracted criticism from communities. The *Stronger Futures* Act therefore included provisions⁶ to ensure that signage is respectful and appropriate for residents (while still meeting legislative requirements). Communities have since been consulted with some offering alternative artwork and wording. Funding for any new signage is available through the National Partnership Agreement on Remote Aboriginal Investment (known as NTRAI).

Land Reform

Under the Act, the Australian Government has enacted a package of land reform measures intended to extend opportunities for voluntary long term leasing, specifically in relation to Community Living Areas (CLAs) and Town Camps. The *Stronger Futures in the Northern Territory Regulation 2013* amends NT legislation to allow CLA land owners to grant leases and licenses for a broader range of purposes and to increase the threshold requirement for Ministerial consent from 12 months to 10 years.⁷

By easing leasing restrictions and broadening the categories of permissible land use to enable economic participation, the *Stronger Futures* Act measures are regarded to be compatible with human rights and the rights of Indigenous peoples to self-determination.

Removing restrictions in NT legislation that prevent commercial leasing and leasing for certain public infrastructure and services, creates the opportunity for individual leases for business or home ownership purposes, and offers greater equity of opportunity for land holders to pursue their development aspirations where favourable financial and economic circumstances allow.

Limited opportunities for economic development in remote communities have, however, continued to affect the extent to which these strengthened property rights might be exercised with respect to commercial leasing. Although with regards to

⁶ Section 14(2) of the Stronger Futures Act refers

⁷ Prior to the Stronger Futures Act, consent of the relevant NT Minister was required for leases or licences granted to a term greater than 12 months, whereas under the Stronger Futures regulations the consent of the relevant NT Minister is not required for leases and licences that are granted for a period of 10 years or less.

leasing for community and public infrastructure purposes, there is evidence to suggest that there has been some increase in take-up and investments made in communities by Government that would not otherwise have occurred.

In this regard, despite some concerns that the reforms do not go far enough to align the property rights of CLA land owners with those of traditional owners under the *Aboriginal Land Rights (Northern Territory) Act 1976 (ALRA)* the land reform measures have received broad support from stakeholders; support that is reflected in submissions made in response to the *Stronger Futures Act* consultation process and during subsequent land reform specific consultations.

Additional provisions under the Act, including the requirement for leasing or development proponents to consult with the relevant Land Council in conjunction with CLA land owners (if requested) were also broadly supported by stakeholders.

Food Security Reform

The *Stronger Futures Act* includes a food security measure, central to which is the licensing of community stores.⁸ This measure extends the store licensing scheme established under the NTNER with the objective of Part 4 of the Act being to enhance the contribution made by community stores to achieving food security for Aboriginal communities.⁹ Part 4 of the Act widens the scope of the Australian Government's focus on food security, by providing a licensing scheme for certain community stores operating in the food security area.¹⁰

Stores determined to be an important source of food, drink or grocery items for an Aboriginal community are prohibited from operating in the food security area unless the owner obtains a licence. There is an expectation that licensed stores will provide reliable access to an appropriate range of food, drinks and grocery items. For some stores this is a condition of their licence. Where stores are not doing this, licence conditions may be applied.

While it is not possible for this review to quantify the extent of the contribution made by recent store licensing measures to health and well-being outcomes in communities, the review finds that the response of stakeholders to the reforms has been broadly positive.

An important aspect of the administration of store licensing measures under the Act was to introduce a risk-based approach to licensing and ongoing monitoring and assessment of stores. Despite issues with the early operation of the scheme – for

⁸ Stronger Futures Act, *Stronger Futures in the Northern Territory (Food Security Areas) Rule 2012*, Explanatory Statement.

⁹ See s37(2) of the Stronger Futures Act.

¹⁰ See s36 of the Stronger Futures Act.

example, continuing to prescribe minimum stock lists based on store and community size only¹¹ – a tailored risk-based approach to compliance has since been developed to reflect the needs of an individual community store and its local market.¹²

Other changes have addressed a range of assessment, enforcement and capacity-building matters in ways that are broadly regarded as positive by stakeholders. These include:

- the use of fact sheets by officers conducting store licensing assessments to provide guidance on what might be considered a reasonable level of access to and supply of food, drink and grocery items, and whether a store constitutes an important source of food, drink and grocery items in its community;
- a civil enforcement regime designed to deter store owners from breaches without unnecessarily revoking the store license, thereby incentivising store owners to address any breaches; and
- the Secretary of DPMC may make a determination that the owner of a community store is required to become registered under the *Corporations (Aboriginal and Torres Strait Islander) (CATSI) Act 2006*, having regard to the relevant matters set out under section 62 of the *Stronger Futures Act*. Incorporation under the CATSI Act enables community stores to benefit from an incorporation framework specifically tailored to the particular risks and requirements of the Aboriginal corporate sector and those applying to ‘essential services’ in communities.

¹¹ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit, p.61.

¹² Department of the Prime Minister and Cabinet, KPMG Record of interview dated 23 June 2016.

1 Review of the Stronger Futures Act (2012)

1.1 Introduction

KPMG was engaged by the Department of the Prime Minister and Cabinet to conduct an independent review of the first three years of operation of the *Stronger Futures in the Northern Territory Act (2012)* ('the Stronger Futures Act' or 'the Act'), with a focus on the effectiveness of the special measures¹³ under the Stronger Futures Act, namely: Tackling Alcohol Abuse; Land Reform; and Food Security (licensing of community stores).

Specifically, the review evaluates whether over the three years from 2012-13 to 2014-15, these individual measures have contributed respectively to:

- a reduction in alcohol-related harm amongst Aboriginal people in the NT;
- the granting of individual rights and interests in land and the promotion of economic development in town camps and community living areas; and
- the promotion of greater food security for Aboriginal communities.

The review is a requirement of s117 of the Act, which stipulates that a review of the first three years of the operation of the Act must be completed by 15 July 2016, with the expectation that the report be tabled in both houses of Parliament by the Minister.¹⁴

In conducting this review, KPMG has undertaken a primarily desk-top analysis of existing data and reports, complemented by selected consultations with Australian and NT Government officials. The review was conducted in three phases: a reading of the legislation, associated regulations and explanatory notes; a literature review, consultation and data collection phase; and a report drafting and finalisation phase.

While KPMG was able to draw upon a substantial body of pre-existing and publicly available literature to inform the review, it should be noted that access to quantitative data sets for analysis was limited, given both the absence of data to assess some aspects of effectiveness and a lack of access to existing data sources within the

¹³ Their designation as 'special measures' indicates that the measures are taken to not be discriminatory under the *Racial Discrimination Act 1975*. Article 1(4) of the International Convention on the Elimination of All Forms of Racial Discrimination states that: "Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved." (Source: United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*. Office of the High Commissioner for Human Rights, adopted 1965.)

¹⁴ See s117 of the Stronger Futures Act.

timeframes available for this review. Issues, trends and developments identified in the literature, including matters relating to the available data, were discussed during consultations. These interviews assisted KPMG in identifying proxy information sources, where available.

1.1.1 Note on Context

The *Stronger Futures Act* was enacted to address specific Aboriginal disadvantage and consists of measures that have been developed taking into account the views of Aboriginal people expressed during an extensive consultation process.¹⁵

Assessed against the overarching objective of the Act, which is to support Aboriginal people in the NT to live strong, independent lives, where communities, families and children are safe and healthy,¹⁶ this review finds, overall, that the first three years of operation of the Act have largely been effective.

Although concerns exist in relation to the impact of alcohol management reforms on alcohol management processes or alcohol related harm, for both land reform and store licensing reform, the balance of evidence suggests that a legislative and policy framework in which beneficial results can occur has been created.

In reviewing each measure, it is acknowledged that elements of the special measures have operated in some form prior to the introduction of the *Stronger Futures Act* in 2012 and may continue until 2022 (based on the 10 year life span of the Act). They are therefore part of a long-term process of reform that cannot be assessed after three years in summative terms. Notably, a ban on possession or consumption of alcohol on Aboriginal land in the NT was a feature of the NTNER, as was a policy of land tenure reform favouring individual titles for commercial purposes, and the introduction of a community stores licensing program.

The need to sensitively place the achievements of individual measures in their context is particularly important where aspects of implementation are voluntary and where the factors affecting outcomes are socially, culturally and economically diffuse.

1.2 Remainder of the report

The remainder of this report assesses each of the reform measures in further detail.

¹⁵ The results of the Stronger Futures in the NT consultations, following the Stronger Futures in the Northern Territory Discussion Paper (June 2011) were published in the Stronger Futures in the Northern Territory: Report on Consultations (Australian Government, October 2011).

¹⁶ See s4 of the Stronger Futures Act.

2 Tackling Alcohol Abuse

2.1 Overview

The Tackling Alcohol Abuse measures under the *Stronger Futures Act* have continued the alcohol restrictions instated by the NTNER, with increased penalties for certain offences.¹⁷ As a departure from previous legislation the Act introduced a legislative provision for Alcohol Management Plans (AMPs) as a way to support a transition from pre-existing general alcohol restrictions to more localised arrangements driven by and tailored to individual communities.

The process for the development of AMPs within communities that meet legislated standards under the Act is considered by a range of stakeholders to be complex and unwieldy. Since all but one of the AMPs submitted to the Minister for Indigenous Affairs have been refused, it is not possible to conclude that AMPs under the Act have had any material impact on alcohol management processes or alcohol related harm in affected communities.

While some commentators have argued that it may have been beneficial for community leadership had the proposed AMPs been approved (noting the association between strong community leadership and reduced alcohol use and alcohol-related harm) others have suggested that their refusal was likely to have been beneficial, given the proposals included a request for additional, albeit contained, drinking provisions.

Overall, there is insufficient data available to the reviewers that would evidence a comprehensive and robust analysis of the extent to which key indicators of alcohol related harm have changed as a consequence of the Act over the 2012 to 2015 period. While some positive changes in patterns of consumption have occurred contemporaneously with the Tackling Alcohol Abuse measures, it is problematic to attribute such outcomes to the operation of the Act.

Subsequent to the introduction of the Act, the arrangements relating to AMPs have changed and the NT Chief Minister and the Commonwealth Minister for Indigenous Affairs have agreed to reduce the emphasis on Commonwealth approval of AMPs, so that work can occur directly between communities and the NT Government on the implementation of effective, community supported ideas to reduce alcohol-related harm.

¹⁷ Being bringing into, possessing, consuming, supplying or transporting less than 1,350 millilitres of alcohol within an alcohol protected area. Under the NTNER the penalty for this was an infringement notice; under the Stronger Futures Act, the penalty was increased to 100 penalty units, or six months in prison. Source: Department of the Prime Minister and Cabinet, written correspondence, 8 July 2016.

In addition to AMPs, the Act includes provisions enabling the Minister for Indigenous Affairs to request the NT Government to appoint an assessor in relation to particular licenced alcohol premises, if the Minister reasonably believes the sale or consumption of liquor at or from the premises is causing substantial alcohol-related harm to the community. Since stakeholders consulted for this review indicated that they are not aware of any such assessors being appointed, no evidence is found of this provision having been used with effect.

The Act also provides that notices may be posted in prescribed areas to the effect that it is an offence to bring liquor into, to be in possession or control of liquor, or to consume or sell liquor, within an alcohol protected area. Although prohibited material signs attracted criticism from communities when first installed under the NTNER Act, provisions under the Stronger Futures Act are now in place to ensure signage is respectful of Aboriginal people and appropriate for residents (while still meeting legislative requirements).¹⁸

2.2 Background

The Tackling Alcohol Abuse measures contained in the *Stronger Futures Act* operate in the context of several measures implemented over past decades by Australian and NT Governments, as well as by communities themselves, to address social, cultural, and economic and health problems associated with alcohol abuse. The Tackling Alcohol Abuse measures continue some past measures, inter-relate with others, and draw from a history of community-led initiatives.

Many Aboriginal communities in the NT have decided to prohibit or restrict the consumption of alcohol within their boundaries and declare themselves 'dry'.¹⁹ One tool that has been used to achieve this goal has been AMPs, which include a range of demand, supply and harm reduction measures, including constraints and restrictions on alcohol use and consumption within town boundaries. They have been used as a mechanism to reduce alcohol-related harm in Aboriginal communities since late 2002, including Alice Springs and remote communities throughout the NT.²⁰

In 2007, the Commonwealth introduced the NTNER Act. Among the provisions of the Act was a modification of existing NT law in relation to alcohol regulation, which had

¹⁸ Section 14(2) refers.

¹⁹ [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

²⁰ [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

the effect of turning certain Aboriginal lands and certain town camps in the NT into 'prescribed areas'.²¹ Bringing liquor into, being in possession or control of liquor, or consuming or selling liquor in these prescribed areas was defined as an offence under the NTNER.²²

In 2011, the NT passed a package of Bills to enact the *Enough is Enough* strategy, which included new bans for problem drinkers, mandated treatment, and a Banned Drinker Register (since abolished – as of August 2012).²³ The *NT Liquor Act* allowed local councils to implement Public Restricted Areas in which drinking liquor was made illegal. In 2013, the *Alcohol Protection Order Act (NT)* gave police a discretionary power to impose an Alcohol Protection Order (APO) on any person charged with an offence liable to a custodial sentence of six months or more, where the police have reason to believe that alcohol was associated with the offence.²⁴

2.3 The Tackling Alcohol Abuse Measures

The *Stronger Futures Act* includes amongst its provisions a set of Tackling Alcohol Abuse measures, aimed at reducing the levels of risky alcohol consumption in Aboriginal communities and associated alcohol related harm; thereby improving social, economic and health outcomes in relation to:

- rates of alcohol-attributable deaths and hospitalisations;
- incidence of alcohol-related assaults and alcohol related domestic violence;
- rates of people taken into police protective custody due to alcohol misuse/rates of alcohol-related crime;
- child abuse and neglect where alcohol has been a contributing factor;
- incidence of Foetal Alcohol Spectrum of Disorder (FASD); and

²¹ Prescribed areas are specifically defined under Section 4 of the NTNER Act and comprise: Certain Aboriginal land under the Aboriginal Land Rights (Northern Territory) Act 1976; Land granted to an association under the Lands Acquisition Act of the NT; and Town camps declared by the Minister for the purpose of s 4(2)(d) of the NTNER Act.

²² Parliamentary Joint Committee on Human Rights, Commonwealth of Australia. 2016. [Review of Stronger Futures Measures](#). Accessed 1 July 2016. .

²³ [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

²⁴ d'Abbs, Peter. "Widening the gap: The gulf between policy rhetoric and implementation reality in addressing alcohol problems among Indigenous Australians." *Drug and alcohol review* 34, no. 5 (2015): 461-466.

- other harms associated with alcohol misuse, such as chronic disease burden, the links to drug abuse and various psychological and emotional harms.²⁵

One component of the Act was a legislative provision for AMPs, as a way to support a transition from pre-existing general alcohol restrictions into more localised arrangements driven by and tailored to individual communities.²⁶ Along with more minor measures relating to signage and licensing assessment, the measure also contained important provisions that allow the Commonwealth to vary license conditions and drinking permits issued by the NT Government. There is also a provision for an independent review of alcohol laws to be carried out.²⁷

When the Act came into effect, the prescribed areas that had been established under NTNER were continued and termed ‘alcohol protected areas’ (APAs).²⁸ The alcohol restrictions prescribed under the NTNER also continued to apply, with some increased penalties for breaches relating to possession, consumption or supply of alcohol in APAs. These Commonwealth-created dry community provisions would have ceased to exist when the NTNER lapsed on 16 July 2012, if they had not been continued under the *Stronger Futures Act*. As it was, the substantive provisions of the Act commenced on the same day that the NTNER provisions lapsed; however, the provisions themselves were not materially altered by the *Stronger Futures Act* from the conditions that had previously existed.

The *Stronger Futures Act* did, however, materially change how communities could be engaged in efforts to control alcohol consumption, by including the legislative provision for AMPs based on the principle of involving communities in developing tailored harm minimisation approaches. While AMPs had already been operating outside of the NTNER and *Stronger Futures Act* frameworks, this legislative provision allowed for “existing alcohol protections to be preserved in ‘alcohol protected areas’ with additional provisions to enable the geographic areas covered by these protections to be changed over time and for local solutions to be developed”.²⁹ The purpose of AMPs was not necessarily to result in the removal of restrictions that were in place in the APAs, but to enable communities to develop localised management plans including such provisions as demand, supply and harm reduction measures, such as restricting or even banning the supply, possession or consumption of alcohol in specific restricted

²⁵ Parliament of the Commonwealth of Australia. Senate. 2012. [Replacement Revised Explanatory Memorandum, Stronger Futures in the Northern Territory Bill 2012](#). Accessed 1 July 2016.

²⁶ Parliamentary Joint Committee on Human Rights, Commonwealth of Australia. 2016. *Review of Stronger Futures Measures*. Accessed 1 July 2016.

²⁷ Section 28 of the legislation refers. This has not yet occurred.

²⁸ [Stronger Futures in the Northern Territory Bill 2011 Explanatory Memorandum](#). Accessed 1 July 2016.

²⁹ Parliamentary Joint Committee on Human Rights, Commonwealth of Australia. 2016. *Review of Stronger Futures Measures*. Accessed July 1, 2016.

areas. They can also include measures that address alcohol related harm impacts, such as women's shelters, support groups and sobering-up shelters, youth activities and so on.³⁰

Responsibility for approving AMPs under the legislation lies with the Commonwealth Minister for Indigenous Affairs, and AMPs were required to meet the standards outlined in the *Stronger Futures in the Northern Territory (Alcohol Management Plans) Rule 2013*, a legislative instrument made under the *Stronger Futures Act*, which established five minimum standards for AMPs.³¹ The five standards relate to:

- consultation and engagement (item 1 of Schedule 1);
- management of the alcohol management plan (item 2 of Schedule 1);
- alcohol management plan strategies – supply, demand and harm reduction (item 3 of Schedule 1);
- monitoring, reporting and evaluation (item 4 of Schedule 1); and
- clear geographical boundaries (item 5 of Schedule 1).³²

Between 2012 and 2015, communities that were developing AMPs or implementing alcohol management strategies were eligible to access funding from the Alcohol Management Plan Community Fund for community-based initiatives to support harm reduction and supply and demand reduction strategies. These could include proposals for community development and governance capacity building, alcohol and other drug treatment services, and/or diversion and prevention activities.³³

Subsequent to the introduction of the *Stronger Futures Act*, the policy arrangements relating to AMPs changed. In March 2015, the NT Chief Minister and the Commonwealth Minister for Indigenous Affairs agreed to reduce the emphasis on Commonwealth approval of AMPs, so that plans to implement effective, community supported actions to reduce alcohol related harm can be approved directly by the relevant NT Minister, without the need for a Commonwealth-approved AMP to be first in place.

Funding to implement community-supported initiatives that tackle alcohol-related harm is being provided to the NT Government under the National Partnership

³⁰ Smith, Langton, d'Abbs, Room, Chenhall & Brown, '[Alcohol management plans and related alcohol reforms](#)', *Indigenous Justice Clearinghouse*, October 2013. Accessed 27 June 2016.

³¹ *ibid.*

³² Minter Ellison. 2015. [Stronger Futures in the Northern Territory Act 2012. Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm](#). Accessed July 1, 2016.

³³ *Stronger Futures in the Northern Territory: Implementation Approach for the AMP Community Fund*. Australian Government: Canberra.

Agreement on Remote Aboriginal Investment (known as NTRAI) announced in the 2015-16 Commonwealth Budget. The NTRAI also includes funding to tackle alcohol through the provision of demand and harm reduction initiatives. There is also funding under the NTRAI for police services in remote Aboriginal communities.³⁴

The *Stronger Futures Act* includes a provision enabling the Australian and NT Governments to work together to more closely scrutinise the operations of particular licensed premises that may be associated with substantial alcohol-related harm in the community.³⁵ This includes empowering the Indigenous Affairs Minister to request the NT Government to appoint an assessor under the *NT Liquor Act* to examine the practices at a licensed premises and to recommend changes.

The *Stronger Futures Act* also provides that, where the NT Licensing Commission determines, notices should be posted in APAs to the effect that it is an offence to bring liquor into, to be in possession or control of liquor, or to consume or sell liquor, within an alcohol protected area. These signs are to be visible at the place where a customary access route enters the area or the customary departure locations for aircraft flying into the area.³⁶

2.4 Effectiveness of the Tackling Alcohol Abuse Measures

2.4.1 Effectiveness of AMPs

The importance of effective, genuine community engagement in developing agreements has been consistently voiced by stakeholders. In its submission to the parliamentary inquiry on the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities, the Aboriginal Peak Organisations NT (APONT) was one of a number of stakeholders to reinforce the need for people to be in control of their own actions and services, and the need to engage Aboriginal people in the planning and development of strategies to address the alcohol misuse.³⁷

³⁴ Senate Finance and Public Administration Legislation Committee, Answers to Questions on Notice. Question reference number 64, Friday 23 October 2015.

³⁵ *Stronger Futures in the Northern Territory. A ten year commitment to Aboriginal People in the NT*. Australian Government, Canberra. July 2012.

³⁶ Minter Ellison. 2015. [*Stronger Futures in the Northern Territory Act 2012. Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm*](#). Accessed 1 July 2016.

³⁷ House of Representatives Standing Committee on Indigenous Affairs Inquiry on the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities, tabled 2015.

A criticism of the NTNER measures in general was the lack of consultation with Aboriginal people in their development.³⁸ The use of AMPs, a community-driven, place-based approach to managing alcohol, was regarded as one way to engage with communities to address problem drinking concerns raised in the 2011 Regulation Impact Statement (RIS) of the *Stronger Futures in the NT Bill*.³⁹ The RIS stated that to be effective, AMPs needed to be “well-planned and focused on harm minimisation strategies that work”, and proposed that minimum criteria or standards for AMPs be outlined in legislation, to “ensure that AMPs are directed at reducing alcohol related harm in communities.”⁴⁰

Since the implementation of the measures in the Act, eight AMPs have been submitted to the relevant Commonwealth Minister, of which one has been approved (developed by the Titjikala community).⁴¹ As per the intention of the legislation, the one AMP that has been approved does not change pre-existing alcohol restrictions, but rather operates alongside them.⁴² In other locations, the APA provisions relating to alcohol continue to operate without community-led amendment, enhancement or modification.⁴³

The fact of their refusal means the AMP provisions under the Act cannot have had any material impact on alcohol management processes or alcohol related harm in the affected communities. It is nevertheless instructive to consider why this has been the case and whether there have been any further consequences.

Based on the literature reviewed and consultations conducted for this review, it is apparent that the AMP development process was considered to be unwieldy and complex. Stakeholders considered that AMPs “are required to satisfy a host of conditions covering matters such as the roles and responsibilities of community agencies and local liquor licensees; measurable outcomes and benchmarks; a mechanism for addressing disputes; and so on”, which are complex for communities to

³⁸ Aboriginal culture - Politics & media - Northern Territory Emergency Response (NTER) - “[The Intervention](#)”, accessed 28 June 2016.

³⁹ [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

⁴⁰ *ibid.*

⁴¹ Senator the Hon Nigel Scullion MP, Letter to Chair, Parliamentary Joint Committee of Human Rights, the Hon Philip Ruddock MP, 28 September 2015, ref. C15/90430.

⁴² Parliamentary Joint Committee on Human Rights, Commonwealth of Australia. 2016. *Review of Stronger Futures Measures*. Accessed 1 July 2016.

⁴³ *ibid.*

reach a consensus on.⁴⁴ The Minimum Standards are also considered to have proven to be “rigid and time-consuming”,⁴⁵ which has contributed to low levels of success.

Of the seven that were refused, the official reason provided was that “each... had the potential to increase alcohol related harm”.⁴⁶ Stakeholder consultation suggests that at least some of the justification for refusal was the inclusion of a provision for alcohol consumption in designated areas, as opposed to a blanket ban.⁴⁷ Senator the Hon Nigel Scullion, as Commonwealth Minister for Indigenous Affairs, refused the AMP submitted by the Borroloola community on the grounds that “...it included measures that had the potential to increase alcohol-related harm, including a system that would have allowed residents to drink within local communities.”⁴⁸

Communities often want designated drinking zones to protect their drinkers from potentially more risky behaviours, such as drink driving or drinking in isolated locations away from community support.⁴⁹ Therefore, in not approving AMPs that requested a Ministerial variation to existing alcohol restrictions in the APA so as to make provision for contained drinking, the Commonwealth provisions are argued to have prevented at-risk communities from enacting containment strategies to manage and protect the safety and welfare of drinking community members.

However, the available literature suggests that the most effective interventions are those that apply community-wide bans, rather than bans on a location-specific basis, given that local bans have tended to shift consumption to outlying areas.⁵⁰ According to some stakeholders,⁵¹ deaths such as those that occurred of two Jilkminggan community members who had travelled to Mataranka to drink could have been prevented had alcohol bans also applied to them in Mataranka: that is, through a stricter, rather than less strict, approach.

⁴⁴ d'Abbs, Peter. "Widening the gap: The gulf between policy rhetoric and implementation reality in addressing alcohol problems among Indigenous Australians." *Drug and alcohol review* 34, no. 5 (2015): 461-466.

⁴⁵ Senator the Hon Nigel Scullion MP, Letter to Chair, Parliamentary Joint Committee of Human Rights, the Hon Philip Ruddock MP, 28 September 2015, ref. C15/90430, cited in *Parliamentary Joint Committee on Human Rights. Commonwealth of Australia. 2016. Review of Stronger Futures measures; Department of the Prime Minister and Cabinet, Issue of Interest 2014 – Update on the implementation of the Alcohol Management plans in the Northern Territory. Response to a Commonwealth Ombudsman request by email of 19 November 2015.*

⁴⁶ Parliamentary Joint Committee on Human Rights. Commonwealth of Australia. 2016. *Review of Stronger Futures measures.*

⁴⁷ Professor Peter d'Abbs, Menzies School of Health Research, KPMG Record of interview dated 23 June 2016.

⁴⁸ Z. Hope, '[Borroloola calls for Canberra to butt out of booze laws](#)'. NT News, 15 September 2015. Accessed 24 June 2016; Professor Peter d'Abbs, Menzies School of Health Research, KPMG Record of interview dated 23 June 2016.

⁴⁹ Professor Peter d'Abbs, Menzies School of Health Research, KPMG Record of interview dated 23 June 2016.

⁵⁰ Gray and Wilkes, 'Reducing alcohol and other drug related harm'. *Closing the Gap Clearing House Resource Sheet no. 3, December 2010.*

⁵¹ Dr. John Boffa, Central Australian Aboriginal Congress. KPMG Record of interview dated 24 June 2016.

It is also understood that moves to relax standards generally emanate from some vested community interest, such as a powerful community member who drinks or a licensee-owner.⁵² Certainly in some instances, the AMPs that were submitted to the Minister would arguably not have effectively prevented drinking at harmful levels; for example one AMP that sought to limit alcohol purchase to six full-strength beers per person per day.⁵³ These perspectives offer some reasons to support the position the Commonwealth has taken: of not approving all of the AMPs put to it.

The literature also suggests that where alcohol restrictions are created with a high level of community involvement, they are more effective at curtailing alcohol consumption and harm.^{54,55} Those AMPs that were developed and submitted to the Commonwealth but not approved would have represented a considerable investment of time and energy for communities, who had managed to reach an agreement between competing interests for presentation to the Minister. In many Aboriginal communities in the NT, leadership and authority are in short supply, with who is ‘in charge’ contested in many instances.⁵⁶ This makes managing alcohol use in the community, along with many other issues, difficult. Approval of the proposed arrangements may have boosted community capacity and confidence to tackle other pressing issues.⁵⁷ As such, some stakeholders voiced the opinion that the refusal represents something of a lost opportunity to validate the work that had been undertaken and the consensus outcome achieved.⁵⁸

2.4.2 Appointment of an Assessor

One of the Tackling Alcohol Abuse measures implemented under the Act was the option to appoint an assessor under the *NT Liquor Act* to examine licensed premises with the potential to put communities at risk. The RIS issued with the Bill noted that there are already provisions in the *NT Liquor Act* relating to the appointment of assessors, but considered that “...providing the Commonwealth Minister with a power to request an assessment would add weight to any assessment conducted after such a request and permit the Commonwealth Minister to draw the NT Minister’s attention

⁵² Professor Peter d’Abbs, Menzies School of Health Research, KPMG Record of interview dated 23 June 2016.

⁵³ Dr. John Boffa, Central Australian Aboriginal Congress, KPMG Record of interview dated 23 June 2016.

⁵⁴ Smith, Langton, d’Abbs, Room, Chenhall & Brown, ‘[Alcohol management plans and related alcohol reforms](#)’, *Indigenous Justice Clearinghouse*, October 2013. Accessed 27 June 2016.

⁵⁵ E.g. Smith, Rodriguez et al.; and Taylor & Thompson et al.; cited in People’s Alcohol Action Coalition *Submission to the Inquiry into the House of Representatives Standing Committee on Indigenous Affairs Inquiry on the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities*. n.d.

⁵⁶ Professor Peter d’Abbs, Menzies School of Health Research, KPMG Record of interview dated 23 June 2016.

⁵⁷ *ibid.*

⁵⁸ *ibid.*

to premises of concern,”⁵⁹ thus giving community residents or consumers an additional avenue for redress if they were concerned about the management or operation of a licensed premises, without any additional regulatory burden on licensees.

While the 2015 Independent Review of the effectiveness of NT and Commonwealth laws in reducing alcohol-related harm reports the inclusion of the measure in the Act, the 2016 Review of Stronger Future measures by the Parliamentary Joint Committee on Human Rights makes no mention of its implementation.^{60,61} During consultations, stakeholders indicated that they are not aware of any assessors that have been appointed since the legislation came into place.⁶² Other stakeholders mentioned that there has been an increased effort in the regulation of licenses through license assessors, however this has only been the case in towns rather than in remote communities.⁶³ In one case a request was made under this provision by the Commonwealth Minister to the relevant NT Minister, however the request was declined;⁶⁴ thus in summary, no evidence is found of this provision having been used with effect.⁶⁵

2.4.3 Alcohol-related Signage

Following the enactment of the NTNER Act, prescribed area signs were introduced. The signs read “No liquor” and “No pornography” and list the offences and penalties for breaching the restrictions.

The alcohol and pornography signs attracted significant criticism, with communities making requests for signage that was more respectful and appropriate for residents,

⁵⁹ Cited in [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

⁶⁰ Minter Ellison. 2015. [Stronger Futures in the Northern Territory Act 2012. Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm](#). Accessed 1 July 2016.

⁶¹ Parliamentary Joint Committee on Human Rights, Commonwealth of Australia. 2016. [Review of Stronger Futures Measures](#). Accessed 1 July 2016.

⁶² NT Director General Licensing. KPMG Record of interview dated 22 June 2016.

⁶³ Dr. John Boffa, Central Australian Aboriginal Congress, KPMG Record of interview dated 24 June 2016.

⁶⁴ Department of the Prime Minister and Cabinet, KPMG record of interview, 27 June 2016.

⁶⁵ It is further noted that the Commonwealth sought to remove this provision as part of the *Omnibus Repeal Day (Spring 2014) Bill* and *Spring 2015 Repeal Bill*. The Bills did not pass the Senate and have lapsed. Accessed 11 July 2016.

while still meeting legislative requirements.⁶⁶ The following specific recommendations were made in the RIS:⁶⁷

- evidence of locations where there is high traffic and/or incidences of alcohol related crime, where the placement of signs would be warranted;
- advice from NT Police, the Licensing Commission and other relevant agencies on the consequences of not having signs at particular locations for the proper enforcement of the new alcohol restrictions; and
- the outcomes of consultations with affected communities on the content and wording of the signs, to ensure they are respectful.

The *Stronger Futures Act* provides that (where determined by the NT Licensing Commission) notices may be posted on customary routes to an APA, or the customary departure locations for aircraft flying into the APA, indicating that it is an offence to bring liquor into, to be in possession or control of liquor, or to consume or sell liquor, within an area that is an alcohol protected area.⁶⁸ Section 14(20) of the *Stronger Futures Act* provides that the wording on such signs is required to be respectful of Aboriginal people.

Subsequently, communities have been surveyed regarding whether they wanted more respectful signage, and some communities have designed their own artwork and agreed on wording.⁶⁹ Funding for any required amendments for signs to make them more culturally appropriate, or any other requested changes, is available under the NTRAI.

2.4.4 Enforcement Measures

One consequence of the declaration of prescribed areas has been that the NT was able to establish Temporary Beat Locations (TBLs) in all towns other than Darwin. Under this initiative, police officers are placed full-time in front of all alcohol takeaway shops, requiring customers to provide ID under the *NT Liquor Act*, preventing consumption if a person cannot name a legal location on which they intend to drink, and threatening

⁶⁶ [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

⁶⁷ *Ibid.*

⁶⁸ Minter Ellison. 2015. [Stronger Futures in the Northern Territory Act 2012. Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm](#). Accessed 1 July 2016.

⁶⁹ Department of the Prime Minister and Cabinet, Issue of Interest 2014 – Update on the implementation of the Alcohol Management plans in the Northern Territory. Response to a Commonwealth Ombudsman request by email of 19 November 2015.

potential seizure of alcohol that is being consumed if it is being done so illegally.⁷⁰ The People's Alcohol Action Coalition has raised questions about the legality and sustainability of the TBL approach,⁷¹ but consider it is associated with a reduction in alcohol consumption in the communities where it has been applied. A noticeable decline in public drunkenness as well as female assault was seen following the introduction of TBLs in Alice Springs and Tennant Creek, attributed to the introduction of the measure.⁷²

TBLs are not part of the Tackling Alcohol Abuse measures, but do rely on the APA provisions contained in the *Stronger Futures Act*. As such, they are a positive, albeit unintended consequence of the measures, and one which has been associated with a reduction in alcohol consumption and harm.

Some stakeholders also suggested that this type of approach has had the effect of further reducing the problem of people moving to urban areas to avoid community drinking bans, as it ensures they cannot escape the bans by moving to town.⁷³

Another consequence of the legislation cited by one stakeholder was that the designation of APAs under the Act also allowed NT legislation that had the effect of increasing the criminalisation of public drinking, providing for an increased range of punishments including imprisonment, mandatory treatment orders and other forms of "harassment" of people engaged in public drinking.⁷⁴ According to this view, such measures, which play to often popular support among urban voters and politicians for "even tougher solutions", principally result in disillusionment among communities and resistance amongst drinkers.⁷⁵

2.4.5 Impacts on Alcohol-related Harm

No data was available that would support a comprehensive and robust analysis of the extent to which there has been any change in the key indicators that the Tackling Alcohol Abuse measures were intended to address over the 2012 to 2015 period.

⁷⁰ Dr. John Boffa, Central Australian Aboriginal Congress, KPMG Record of interview dated 23 June 2016.

⁷¹ People's Alcohol Action Coalition Submission to the Inquiry into the House of Representatives Standing Committee on Indigenous Affairs Inquiry on the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities. n.d.

⁷² ['Temporary Beat Locations target anti-social behaviour in Katherine'](#), website of the Chief Minister of the NT citing NT police and health data, accessed 1 July 2016.

⁷³ Dr. John Boffa, Central Australian Aboriginal Congress, KPMG Record of interview dated 23 June 2016.

⁷⁴ d'Abbs, Peter. "Widening the gap: The gulf between policy rhetoric and implementation reality in addressing alcohol problems among Indigenous Australians." *Drug and alcohol review* 34, no. 5 (2015): 461-466.

⁷⁵ *Ibid.* and Professor Peter d'Abbs, Menzies School of Health Research, KPMG record of interview dated 23 June 2016.

Data on these harms is collected and reported on by a range of NT Government and Commonwealth agencies, such as NT Police, NT Health, NT Attorney General, the Australian Bureau of Statistics (ABS) and the Australian Institute of Health and Welfare. Some of the data reports encounter the data quality issue of timeliness (for example, that reports are released one to two years after the reference period).

Some of the measures of harm, in particular FASD, are difficult to measure and not widely reported on. The available data on causes of death does not specifically allow for the reader to understand all alcohol attributable deaths of Aboriginal people in the NT.⁷⁶ Identifying hospital presentations or admissions as alcohol related is also not straightforward, and is dependent on how data is captured and coded by individual workers at each hospital. There is also little data on FASD in Australia, due to a lack of diagnosis. Further, due to year to year variability in this data, it is difficult to detect a consistent upward or downward trend.⁷⁷

There is some evidence of reduced alcohol use in the NT around the time of the introduction of the Act. Estimated per capita alcohol consumption in the NT dropped from 13.33 litres per person in 2012 to 12.21 litres in 2014, the lowest estimated consumption value recorded for the NT in the 2007-14 period. Similarly, wholesale alcohol supply in the NT dropped to the lowest supply value recorded for the NT in the same period.⁷⁸ In Alice Springs, wholesale alcohol supply dropped by 10 per cent during 2014 while in Tennant Creek supply in 2014 was 22 per cent less than in 2013. Both towns experienced a significant decline in alcohol supplies since 2012. In Darwin (where TBLs do not apply), the total alcohol supply increased by one per cent compared to 2013.⁷⁹

However, Australian Government data⁸⁰ suggest that overall, alcohol consumption patterns have not changed markedly over the period where the *Stronger Futures Act* and the preceding NTNER provisions came into effect, and that any change observed has not been proven to be statistically significant.

- Data from the ABS Health Survey suggest that there was a small apparent change in the rate of short-term risky/high-risk alcohol consumption for Indigenous

⁷⁶ Australian Bureau of Statistics (ABS) 2016. Causes of Death, Australia. Cat. No. 3303. ABS, Canberra.

⁷⁷ For example, [NT Police statistics](#) available; [NT Department of the Attorney-General and Justice data](#) available, both accessed 11 July 2016.

⁷⁸ NT Department of Business, [Northern Territory Wholesale Alcohol Supply 2007 to 2014](#).

⁷⁹ NT Department of Business, [Northern Territory Wholesale Alcohol Supply 2007 to 2014](#).

⁸⁰ Unpublished data, ABS 2012-13 National Aboriginal and Torres Strait Islander Health Survey, from the AIHW Health Performance Framework NT report, provided by the Department of the Prime Minister and Cabinet, written correspondence, 8 July 2016.

Australians aged 18 and over between 2004–05 (40 per cent) and 2012–13 (36 per cent), but that this was not statistically significant.

- The proportion of Indigenous adults who consumed alcohol at risky levels at least once per week over the preceding 12 months (defined as five or more drinks for females and seven or more for males on a single occasion) fell from 16 per cent in 2004-05 to 14.7 per cent in 2012-13 - however this fall was also not statistically significant - while the proportion of Indigenous adults who were drinking excessively every week fell from 15 per cent in 2004-05 to 13 per cent in 2012-13, also not statistically significant.
- Long-term alcohol risk for Indigenous NT adults was 8 per cent in 2004-05 and 9 per cent in 2012-13 (not found to be statistically significant).

There is some data that points to reductions in alcohol-related harm in terms of safety and security in reported statistics over the relevant period.

- Over the 12 months from 1 June 2014 to 31 May 2015, there was a 22.2 per cent reduction in the level of alcohol-related assaults in Alice Springs compared with the previous 12 months.
- During the same period, alcohol-related family violence assaults also decreased significantly, by 23.2 per cent.⁸¹

Tennant Creek experienced a steady increase in alcohol-related assaults from 2003 to the end of 2013. During 2014, with the introduction of a range of measures, the number of offences dropped to an amount on par with 2011-12 assault rates.⁸² In general terms, evidence suggests that dry community prohibitions result in reductions in alcohol-related harm.⁸³ However, some available figures point to increased incidence of alcohol-related harm in terms of health over the relevant period in the NT;⁸⁴ for example between May 2011 and June 2013, there was a 68 per cent increase in the number of alcohol related hospitalisations in the NT (84 per cent of this increase was due to hospitalisations in Alice Springs). These figures are affected, however, by contemporaneous influences such as a change in NT police procedures so that all people picked up for drunkenness in Alice Springs were taken to hospital rather than the police lock-up.⁸⁵

⁸¹ NT Department of Business, [Alice Springs Alcohol Management Plan 2016-2018](#).

⁸² NT Department of Business, [Tennant Creek Alcohol Management and Action Plan 2014-2017](#).

⁸³ E.g. National Drug Research Institute (2007), in [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed 24 June 2016.

⁸⁴ Department of the Prime Minister and Cabinet, written correspondence, 8 July 2016.

⁸⁵ *ibid.*

Overall, the data is not consistent nor statistically robust. As such, while certain positive changes occurred contemporaneously with the Tackling Alcohol Abuse measure, it is problematic to attribute these outcomes to the operation of the Stronger Futures Act.

2.5 Future Directions

The Tackling Alcohol Abuse measure has continued the prohibitions that were implemented under the NTNER with some modifications, particularly to the ability of communities to develop more localised AMPs.

That only one AMP was approved by the Commonwealth Minister, having met the Commonwealth's legislative requirements means, however, that the AMP provisions established under the *Stronger Futures Act* are likely to have had limited impact on alcohol management processes or alcohol related harm.

There is also some suggestion that unsuccessful efforts made to secure approval of AMPs since the introduction of the Act may have eroded community empowerment, notwithstanding that refused applications did not meet minimum standards intended to protect people from further alcohol-related harm. A particular sticking point appears to be the extent to which communities might have been seeking to regulate, rather than prohibit, alcohol consumption.

There are divergent views on the benefits of community engagement versus prohibition. Evidence suggests that activities to support and engage the community in alcohol management efforts are more likely to be successful in reducing alcohol use and harm in the long-term. The implication is that there may have been value in approving AMPs as a means of strengthening community leadership and engagement. However, there is also evidence to suggest that community-wide restraints are more likely to be effective than more targeted efforts, which would suggest that prioritising the existing blanket provisions, rather than agreeing to localised exemptions under AMP-type arrangements, may also have been beneficial.

Newly established policy arrangements provide for direct work between the NT Government and communities to implement community-supported ideas to reduce alcohol related harm, many of which will come from already developed AMPs. This will not require Commonwealth approval of the AMP, and communities can seek to vary license or permit conditions within their community. The Commonwealth retains the power to vary license conditions and drinking permits issued by the NT Government.

How this development may affect outcomes in communities is so far unknown, although even with the utmost community will, a community's ability to act on problem drinking will remain constrained if effective enforcement mechanisms by

police are limited. As such, the involvement of the NT Government and the ability for police resources to be provided through NTRAI funding is regarded by some commentators to be a positive development.⁸⁶

Overall, the existence of multiple, divergent perspectives with regards to alcohol management reforms, points to the importance of ensuring that policy is informed by the best possible evidence of what works – in terms of programs and policies that result in reduced alcohol-related harm for all members of the community. A number of reviews of the impact of alcohol restrictions to date have been unable to reach a decisive conclusion due to a lack of available evidence, and data that would allow for the establishment of a baseline for alcohol-related harm. The data available has also limited the analysis able to be undertaken for this review.

⁸⁶ Professor Peter d'Abbs, Menzies School of Health Research, KPMG Record of interview dated 23 June 2016.

3 Land Reform

3.1 Overview

Under the *Stronger Futures Act*, the Australian Government has enacted a package of land reform measures intended to extend opportunities for voluntary long term leasing, specifically in relation to CLAs and Town Camps. The *Stronger Futures in the Northern Territory Regulation 2013*, amends NT legislation to allow CLA land owners to grant leases and licenses for a broader range of purposes and to increase the threshold requirement for Ministerial consent from 12 months to 10 years.⁸⁷

By easing leasing restrictions and broadening the categories of permissible land use to enable economic participation, the measures in the Act are regarded to be compatible with human rights and the rights of Indigenous peoples to self-determination. Removing restrictions in NT legislation that prevent commercial leasing and leasing for certain public infrastructure and services creates the opportunity for individual leases for business or home ownership purposes, and offers greater equity of opportunity for land holders to pursue their development aspirations where favourable financial and economic circumstances allow.

Limited opportunities for economic development in remote communities have, however, continued to affect the extent to which these strengthened property rights might be exercised with respect to commercial leasing. Although with respect to leasing for community and public infrastructure purposes, there is evidence to suggest that there has been some increase in take-up and investments made in communities by Government that would not otherwise have occurred.

In this regard, despite some concerns that the reforms do not go far enough (to align the property rights of CLA land owners with those of traditional owners under the ALRA) the land reform measures have received broad support from stakeholders. Support which is reflected in submissions made in response to the consultation process ahead of the introduction of the Act and during subsequent land reform specific consultations.

Additional provisions under the *Stronger Futures Act*, including the requirement for leasing or development proponents to consult with the relevant Land Council in conjunction with CLA land owners (if requested) were also broadly supported by stakeholders.

⁸⁷ Prior to the Stronger Futures regulations, consent of the relevant NT Minister was required for leases or licences granted to a term greater than 12 months, whereas under the Stronger Futures regulations the consent of the relevant NT Minister is not required for leases and licences that are granted for a period of 10 years or less.

3.2 Background

The Australian Government has expressed its commitment to reforming land tenure arrangements in the NT in order to provide Aboriginal people with the opportunity to pursue home ownership and economic development opportunities on community-titled Indigenous land.⁸⁸ The need for land reform to reduce barriers to economic development in Aboriginal communities was a consistent theme of the Stronger Futures Act consultations – which evidenced the need for land reform to encourage private home ownership and improve business and employment opportunities, given previous restrictions on the granting of individual titles, the range of permitted land uses and on the ability for commercial dealings in land to be undertaken.⁸⁹

The land reform measures implemented under the NTNER provided, amongst other arrangements, for mandatory five year leasing by Government in prescribed NTNER communities.⁹⁰ As part of its commitments under the *Stronger Futures Act*, the Australian Government has enacted a package of land reform measures intended to extend opportunities for voluntary leasing, specifically in relation to CLAs⁹¹ and Town Camps.⁹²

Under pre-existing NT legislation, restrictions placed on the uses to which CLA conditional freehold title land can be put, and on the ability of Aboriginal land-holders to grant leases without Ministerial consent have applied. This means that dealings in land for commercial development, private home ownership and some government and community services have not been permitted, despite the land-holder's aspiration.

Rules on how CLA land can be used have meant that CLA land owners have had less opportunity to use their land for economic development purposes compared to other Aboriginal communities in the NT (in particular those communities located on or holding land under the ALRA).

⁸⁸ Australian Government (March 2013) Community Living Area Land Reform in the Northern Territory: Discussion Paper.

⁸⁹ Australian Government (October 2011) Stronger Futures in the Northern Territory: Report on Consultations.

⁹⁰ Australian Government (2011) Northern Territory Emergency Response: Evaluation Report 2011.

⁹¹ ss35(2) of the Act defines a community living area as "an area granted or created as an Aboriginal community living area by or under a law of the Northern Territory." A community living area is generally a small portion of land excised from a pastoral lease and granted as conditional freehold to an Aboriginal community for residential purposes where Aboriginal people did not benefit from land granted under the *Aboriginal Land Rights (NT) Act 1976*. There are approximately 105 CLAs in the Northern Territory.

⁹² ss34(2) of the Act defines a Town Camp as "land that, at commencement, is leased primarily for residential, community or cultural purposes for Aboriginal people under" either the *Crown Lands Act (1992)* or the *Special Purposes Leases Act (1978)*. Town camps are areas of land covered by leases in perpetuity, granted to Indigenous Housing Associations or Aboriginal Corporations. Special Purpose Leases were historically issued for land outside of town areas, with the intention since 1992 that these leases be phased out and converted to either a Crown Lease in Perpetuity or a Freehold title. There are 43 Town Camps in the Northern Territory.

For example, ss110(1) of the *Associations Act (NT)* provides that an association incorporated under the Act cannot enter into a lease for a term of more than 12 months without the consent of the Minister, while the purposes to which the lease may be put are limited to the provision of health, education or housing services (ss110(6)). Similarly, ss110(8) provides the same leasing restrictions in relation to CLA land owners that are Aboriginal Corporations, with the additional restriction that leases of less than 12 months also require Ministerial consent. Furthermore, although permissible uses for CLA land under the *Planning Act (NT)* are broad, the scheme specifies that land is not to be used for any commercial or economic activity without prior Ministerial consent.

Similar limitations apply to holders of Town Camp leases under the *Special Purposes Leases Act (NT)* or the *Crown Lands Act (NT)*, with restrictions on the sub-division of leases and their permitted uses. These leases are also subject to statutory restrictions or procedural requirements that may prohibit certain dealings in land, such as mortgages and other security-type transactions.

The detrimental effect of these constraints on the freedom of Aboriginal land owners to pursue economic development opportunities was captured in feedback from CLA land owners, community members, the NT Government, Land Councils and the NT Cattlemen's Association during consultations held in early 2013. These consultations aimed to inform the design of the specific regulatory mechanisms through which land reform measures under the Act could be implemented.⁹³ While some submissions broadly opposed land reform,⁹⁴ the majority of consultations consistently confirmed the need for change and supported the aspiration of Aboriginal people to pursue economic development opportunities on their land.

3.3 The Land Reform Measures

Part 3 of the Act enables the Commonwealth to modify any law of the NT relating to the use of or dealings in land, planning or infrastructure, as they apply to an Aboriginal CLA or Town Camp. The land reform measures provide the Commonwealth with powers to make amendments to NT legislation in relation to CLAs and Town Camps and to instate regulations to ease those leasing restrictions that have hitherto inhibited Aboriginal land-holders from using their land for economic development and private home ownership purposes.

⁹³ Australian Government (June 2013) Community Living Area Land Reform in the Northern Territory: Outcomes Paper.

⁹⁴ Noting that of the submissions that opposed CLA land reform, some erroneously stated that CLA land owners' consent to development on their land had been removed by Stronger Futures legislation.

Specifically, section 33 of the *Stronger Futures Act* defines the objective of land reform as being:

- (a) to facilitate the granting of individual rights or interests in relation to land in town camps and community living areas; and
- (b) to promote economic development in town camps and community living areas.⁹⁵

The explanatory memorandum for the Stronger Futures Bill further qualifies these objectives, which are explained as facilitating voluntary long term leasing, including for the grant of individual rights and interests, as a first step in realising the Commonwealth's commitment to establishing tenure arrangements that enable economic development and home ownership opportunities in Aboriginal communities.⁹⁶

Division 2, which deals with Town Camps, enables regulations to be made to amend particular laws of the NT that apply to a Town Camp, in particular the *Crown Lands Act (NT)* and the *Special Purposes Leases Act (NT)* and including the power to modify the purpose to which a lease granted under these Acts may be used.⁹⁷ Specific provisions are also made to allow for the treatment of existing leases granted under the *Special Purposes Leases Act (NT)* as though these were leases granted under the *Crown Lands Act (NT)*, with less onerous restrictions on dealings in land which remove those particular barriers to home ownership and economic development that apply under the *Special Purposes Leases (NT)* legislation.⁹⁸

Division 3 deals with CLAs and also provides for regulations to be made to modify particular laws of the NT to the extent that those laws apply to a CLA. Following consultations conducted in early 2013 and after considering feedback from Aboriginal land-holders, Land Councils, the NT Government and the NT Cattlemen's Association, the *Stronger Futures in the NT Regulation 2013* that addresses CLA matters was instated (25 July 2013).⁹⁹

This regulation modifies the *Associations Act (NT)* law for owners of CLA land to:

- allow an incorporated association, an incorporated trading association, an Aboriginal or Torres Strait Islander corporation or a person, to grant leases and licences over their lands for any purpose related to a use or development allowed

⁹⁵ s33, Division 1, Part 3 of the Stronger Futures Act.

⁹⁶ Section 2.46 of the Revised Explanatory Memorandum to the Stronger Futures in the Northern Territory Bill 2012.

⁹⁷ See s34(6), Division Two, Part 3 of the Stronger Futures Act.

⁹⁸ See s34(4) and s34(5) of the Stronger Futures Act.

⁹⁹ Parliament of the Commonwealth of Australia, *Stronger Futures in the Northern Territory Regulation 2013* [Select Legislative Instrument No. 184, 2013].

under the *NT Planning Scheme* (including for commercial, infrastructure and public purposes); and

- to require that consent be sought from the relevant NT Minister only for leases for terms greater than 10 years, as opposed to leases with terms greater than 12 months.

To date, no additional regulations have been enacted that are particular to Town Camp tenures. In both cases, it is a requirement that the Commonwealth Minister for Indigenous Affairs consult with affected stakeholders (including the NT Government, CLA land owners (if requested), the relevant Land Councils) prior to enacting a regulation. Where consultations are to be conducted with the owner of the CLA land area, provision is also made for consultation with the relevant Land Council so that support for the land holder may be offered. Provision is also made for consultation with ‘any other person the Minister considers appropriate to consult’.¹⁰⁰ Since CLA land is located within pastoral leases, this may include for example, the NT Cattlemen’s Association.

3.4 Effectiveness of the Land Reform Measures

3.4.1 Human Rights

By easing leasing restrictions and broadening the categories of permissible land use to enable economic participation, the Stronger Futures measures are not only consistent with the Commonwealth’s commitment to voluntary leasing arrangements on Aboriginal land but, according to the Parliamentary Joint Committee on Human Rights, are compatible with human rights including the rights of Indigenous peoples to self-determination.¹⁰¹

The Committee makes this conclusion on the basis that an expansion of the options and circumstances under which Indigenous peoples can voluntarily decide to lease their land, by removing land tenure impediments that restrict the economic and social development of Aboriginal communities, is essential to securing the “full and equal enjoyment of fundamental freedoms” and therefore a foundation of self-determination. The Committee goes on to state that the right to self-determination

¹⁰⁰ See s34(4), s34(8) and s35(4) of the Stronger Futures Act.

¹⁰¹ See Section 2.56 of the Parliamentary Joint Committee on Human Rights (2016) Review of Stronger Futures Measures. The right to self-determination encompasses the right of peoples to freely pursue economic, social and cultural development, under article 1 of the International Covenant on Civil and Political Rights and article 1 of the International Covenant on Economic, Social and Cultural Rights.

“...includes the entitlement of peoples to control their destiny”, which includes “...being free to pursue their economic, social and cultural development”.¹⁰²

At a minimum, removing restrictions in NT legislation that prevent commercial leasing and leasing for certain public infrastructure and services, creates the opportunity for individual leases for business or home ownership purposes, and offers greater equity of opportunity for land holders to pursue their development aspirations where favourable financial and economic circumstances allow. By bringing the purposes for which land can be leased in line with the purposes for which land can be used (subject to the prevailing planning scheme), the measures have, therefore, conferred improved property rights, with the effect of affording CLA land owners similar rights to development as those enjoyed by holders of Aboriginal land under the ALRA.

3.4.2 Consultation Process

The Parliamentary Joint Committee on Human Rights also comments extensively on the importance of ensuring proper consultation with Indigenous groups in order for the right to self-determination to be realised,¹⁰³ and makes the conclusion, based on evidence provided in the *Community Living Area Land Reform Outcomes Paper*,¹⁰⁴ that sufficient consultation was conducted with land owners and relevant Land Councils in drafting the 2013 regulation. Although the relevant power in the Act does not specifically require consultation with land owners on this matter (only that consultation be undertaken if it is requested), the Committee noted that in developing the regulations, consultation meetings were held across the NT in 16 selected CLAs and with a number of cattle station owners.

Importantly, CLA community discussions demonstrated consistent support from CLA land owners for reforms to enable leasing for a greater variety of purposes – support that is reflected in submissions in response to the *Community Living Area Land Reform in the Northern Territory: Discussion Paper* from both the Central and Northern Land Councils.¹⁰⁵ Although arguing the need for broader reform beyond that contained in the regulation, the Central Land Council (CLC) agreed there is a genuine need for reform of NT legislation to give CLA land owners greater control over their land, while

¹⁰² See Section 2.43 of the Parliamentary Joint Committee on Human Rights (2016) Review of Stronger Futures Measures, March 2016.

¹⁰³ See Section 2.51 of the Parliamentary Joint Committee on Human Rights (2016) Review of Stronger Futures Measures.

¹⁰⁴ Australian Government (June 2013) Community Living Area Land Reform in the Northern Territory: Outcomes Paper.

¹⁰⁵ Australian Government (March 2013) Community Living Area Land Reform in the Northern Territory: Discussion Paper.

the Northern Land Council also supported the measures, noting the urgent need for restrictions on leasing to be removed and the importance of secure tenure to enable commercial and government investment. The NT Cattlemen's Association did, however, propose an amendment to the reforms and sought a legislated right for any adjoining pastoralist to be consulted on any new leasing or development proposals on CLA land.

3.4.3 Support for Land Owners

In addition, the *Stronger Futures Act* includes a provision allowing CLA land owners to request assistance from the relevant Land Council in relation to dealings in their land.¹⁰⁶ The requirement for leasing or development proponents to consult with CLA land owners in conjunction with the relevant Land Council was also broadly supported by stakeholders responding to the Discussion Paper, notwithstanding that the majority of CLA land owners would typically already be represented by a Land Council.

The provision is argued to facilitate efficiency and transparency of process and to lessen the administrative burden on those CLA entities not engaged in any other activities beyond holding a CLA land title; although as the CLC has argued, this does not necessarily mean that CLA land-holding entities will receive all necessary administrative and legal support to effectively manage land dealings, given that consultation and approval procedures that exist under the ALRA do not exist under the *Stronger Futures Act*.

Other stakeholders, however, have commented to the contrary, suggesting that any requirement for development proponents to negotiate through Land Councils could create further administrative inefficiency.¹⁰⁷

3.4.4 Ministerial Consent

A potential constraint for Aboriginal land owners of the measures under the Act when compared to the ALRA includes the consent requirement provisions, which although modified to require that consent from the relevant NT Minister need only be sought for leases with terms of greater than 10 years,^{108,109} remains more restrictive than

¹⁰⁶ See s35(4) of the *Stronger Futures Act*.

¹⁰⁷ KPMG Record of interview dated 28 June 2016.

¹⁰⁸ See Schedule 7 (5) of the *Stronger Futures in the Northern Territory Regulation 2013* [Select Legislative Instrument No. 184, 2013].

¹⁰⁹ *Stronger Futures in the Northern Territory Regulation 2013: Explanatory Statement* [Select Legislative Instrument No. 184, 2013].

requirements under the ALRA where a 40 year threshold is applied.¹¹⁰ The requirements of most commercial leases or individual leases for private home ownership will typically be in excess of a decade and would therefore be subject to consent requirements.

It should be noted, however, that a range of views were presented on this issue in submissions on the *Community Living Area Land Reform Discussion Paper*¹¹¹ and during consultation discussions to produce the *Community Living Area Land Reform Outcomes Paper*¹¹², which demonstrated general support for measures that give more decision-making control to CLA land owners. While some stakeholders sought to extend the limit to 40 years, a 10 year threshold was considered to provide an appropriate balance. This addressed the concerns of those stakeholders, such as the NT Cattlemen's Association, who otherwise sought a provision for pastoralists to be consulted on any new leasing or development proposals on adjacent CLA land.

The provision for 10 years compares to the previous arrangements whereby the requirement for Ministerial consent applied in the majority of cases, and is understood to resolve the potentially competing priorities of giving greater control to CLA land owners while retaining sufficient checks and balances until longer term reform options are considered.¹¹³

3.4.5 Take-up of Leases

Overall, given the expansion of freedoms under the *Stronger Futures Act* for CLA land owners to issue leases for a broader range of social and economic development purposes, it could be expected that this would be reflected in an increase in the take-up of new leases. With regards to Government investments in community and public purpose infrastructure, as presented below, there is some evidence to suggest that this has indeed been the case; although demand for commercial leases may have remained limited in remote communities and is ultimately contingent on broader demographic, policy, financial and economic drivers beyond the control of these measures.

Based on data provided by the Office of Township Leasing several leases have been negotiated in CLAs since the 2013 Regulation, for a range of public and community

¹¹⁰ See the Central Land Council (October 2013) submission to the Australian Government, titled Land Reform in the Northern Territory: Evidence not Ideology.

¹¹¹ Australian Government (March 2013) Community Living Area Land Reform in the Northern Territory: Discussion Paper.

¹¹² Australian Government (June 2013) Community Living Area Land Reform in the Northern Territory: Outcomes Paper.

¹¹³ KPMG Record of interview dated 21 June 2016.

purposes. This includes leases over Commonwealth assets – such as government staff housing (6 communities) and early childhood centres (3 communities) – held by the Executive Director of Township Leasing, and various public housing precinct sub-leases with the NT Government.¹¹⁴ Although relatively few in number, these leases constitute significant investments that would not necessarily have been permissible under pre-existing legislation.¹¹⁵

The same outcome could not, however, be evidenced strongly with regard to commercial leases, largely because data held by Land Councils in relation to CLA leases was not available for this review. According to sources within the NT Government, the potential for localised, small-scale economic activity in remote CLA communities “ought not to be overstated”, while the NT Government has been called upon to invoke the requirement for Ministerial consent in relation to long-term commercial leases “only infrequently”.¹¹⁶

The reforms have, however, enabled the construction or upgrade of several community stores (funded by the Aboriginals Benefit Account Community Stores Infrastructure Project) as a consequence of the legislation now enabling long term commercial leases in CLA excisions.¹¹⁷ Based on data provided by the Australian Government, store works have been carried out in four CLA communities to date (Jilkmungan, Epenarra, Engawala and Bulla).¹¹⁸

In other communities the absence of underlying economic drivers has limited the extent to which commercial leasing opportunities can be exercised (despite the removal of statutory impediments) making the material outcome for leasing more skewed towards the take-up of Government leases for public infrastructure projects. In this regard, the *Stronger Futures* Act land reforms have sustained what is widely regarded by stakeholders to be a welcomed precedent established under the previous NTNER reforms; that systematic land administration and payment for leases on Aboriginal land is a ‘business as usual’ requirement.¹¹⁹

3.5 Future Directions

Notwithstanding the overall support amongst stakeholders, arguments were made during reform consultation discussions and for the purposes of this review, to suggest

¹¹⁴ Leasing data provided by the Office of Township Leasing, written correspondence.

¹¹⁵ Department of the Prime Minister and Cabinet, KPMG Record of interview dated 21 June 2016.

¹¹⁶ NT Department of Local Government and Communities, KPMG Record of interview dated 28 June 2016.

¹¹⁷ NT Department of Local Government and Communities, KPMG Record of interview dated 28 June 2016.

¹¹⁸ Leasing data provided by the Department of the Prime Minister and Cabinet.

¹¹⁹ See KPMG Land Reform Measures section of the Australian Government (2011) Northern Territory Emergency Response: Evaluation Report 2011.

that further reform is necessary under NT legislation to address the vulnerability of CLA titles (where the tenure is held by an Aboriginal association or corporation) and the administrative uncertainty for CLA land owners (associated with the absence of procedural provisions for consultation and approvals that necessitates some form of systematic support to manage land dealings).^{120,121}

The potential of further reform to bring the property rights of CLA land owners qualitatively closer to those available to ALRA land holders should be acknowledged and was recognised by the Australian Government in its *CLA Outcomes Paper*¹²² as a potential area for discussion with the NT Government.¹²³ Although beyond the purview of the current reforms, which modify existing legislation, one idea regarded as meriting further consideration is a proposal to establish under NT legislation a statutory land trust model, capable of providing CLA land owners with the high level of tenure protection and support generally accepted as needed (given the greater commercial and administrative risks they are exposed to when exercising strengthened property rights).¹²⁴ Such a model may also reduce the administrative burden of conducting land dealings with CLA land owners from the perspective of Government.

In addition, a number of submissions to the Commonwealth's *CLA Discussion Paper*¹²⁵ highlighted where NT planning issues may also require future consideration, including the application of the NT Planning Scheme to CLA communities and the way in which town planning frameworks can best be applied. Area plans are already developed for several towns located on ALRA land, with the intention that these be added to Schedule 5 of the NT Planning Scheme: with the proposal that a similar process might apply to the larger CLA communities.¹²⁶ Progress has been made since 2013 with regards to the development of detailed area plans for CLA communities that have grown to encroach surrounding pastoral or ALRA land, as well as communities which consist of CLA title for one area and ALRA title for another (and where the complexity of tenure arrangements may impact the effectiveness of community decision-making).¹²⁷

¹²⁰ See the Central Land Council (October 2013) submission to the Australian Government, titled Land Reform in the Northern Territory: Evidence not Ideology.

¹²¹ NT Department of Local Government and Communities, KPMG Record of interview dated 28 June 2016.

¹²² Australian Government (June 2013) Community Living Area Land Reform in the Northern Territory: Outcomes Paper.

¹²³ *ibid.*

¹²⁴ *ibid.*

¹²⁵ *ibid.*

¹²⁶ *ibid.*

¹²⁷ NT Department of Local Government and Communities, KPMG Record of interview dated 28 June 2016.

Finally there remains potential for the NT Government to modify NT legislation and arrangements that continue to affect the economic development potential of Town Camps, particularly in cases where the nature of the underlying tenure and restrictions imposed by the planning scheme have impeded commercial leasing and development. It is intended that a proposed consultancy to assess the economic development potential of Town Camps and to review the associated tenure and land-use planning requirements will identify these needs.^{128,129}

¹²⁸ See Krishnan, S (2016), '[Urgent review planned into Northern Territory's Indigenous town camps](#)'. ABC, accessed 21 June 2016

¹²⁹ KPMG Record of interview dated 28 June 2016.

4 Food Security

4.1 Overview

The *Stronger Futures Act* includes a food security measure, central to which is the licensing of community stores.¹³⁰ The Act extends the store licensing scheme established under the NTNER with the objective to enhance the contribution made by the community stores in the NT to achieving food security in Aboriginal communities.¹³¹ Part 4 of the Act widens the scope of the Australian Government's focus on food security, by providing for a licencing scheme for certain community stores operating in the food security area.¹³²

Stores determined to be an important source of food, drink or grocery items for an Aboriginal community are prohibited from operating in the food security area unless the owner obtains a licence, while conditions of the license include needing to provide a reasonable ongoing level of access to a range of food, drink and grocery items, to promote food security.

While it is not possible for this review to quantify the extent of the contribution made by recent store licensing measures to health and well-being outcomes in communities, the review finds that the response of stakeholders to the reforms has been broadly positive.

An important aspect of the store licensing measures under the Act was to introduce a risk-based approach to licensing and ongoing monitoring and assessment of stores. Despite issues with the early operation of the scheme – for example, imposing minimum stock lists based on store size rather than markets, and failing to undertake monitoring and assessment visits in accordance with the Act – a tailored risk-based approach to compliance has since been developed to reflect the needs of an individual community store and its local market.

Other changes have addressed a range of assessment, enforcement and capacity-building matters in ways that are broadly regarded as positive by stakeholders. These include:

- the use of fact sheets by officers conducting store licensing assessments to provide guidance on what might be considered a reasonable level of access to and supply of

¹³⁰ Stronger Futures Act, *Stronger Futures in the Northern Territory (Food Security Areas) Rule 2012*, Explanatory Statement.

¹³¹ See s37(2) of the *Stronger Futures in the Northern Territory Act 2012*.

¹³² See s36 of the *Stronger Futures in the Northern Territory Act 2012*.

food, drink and grocery items, and whether a store constitutes an important source of food, drink and grocery items in its community;

- a civil enforcement regime designed to deter penalise store owner breaches without unnecessarily revoking the store license, and which incentivise store operators while engaging in a dialogue with non-compliant stores; and
- a requirement that stores incorporate under the *Corporations Aboriginal and Torres Strait Islander (CATSI) Act 2006*, in order to benefit from an incorporation framework specifically tailored to the particular risks and requirements of the Aboriginal corporate sector and those applying to ‘essential services’ in communities.

4.2 Background

Community stores are often the primary source of food and other essential goods in remote areas and play a pivotal role in determining the social, economic and health outcomes of remote Indigenous communities.¹³³ It is, however, costly and logically complex to transport fresh food to remote communities while the small population size of communities, high operating costs and historically poor management and governance practices have contributed to market failure.¹³⁴

As part of the NTNER, the Australian Government established a licensing regime for community stores in prescribed areas.¹³⁵ In October 2008, the legislative licensing requirements were extended to additional stores outside these prescribed areas in proximate or frequented locations (including station stores and privately owned stores).^{136,137}

The NTNER Act identified nine aspects of store licensing to be taken into account when determining whether a licence should be issued, including:

- the store’s capacity to meet the requirements of the Income Management regime;

¹³³ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (2009), [Everybody's business: inquiry into community stores in remote Aboriginal and Torres Strait Islander communities](#), Australian Parliament House, Canberra, 2009, p. 1.

¹³⁴ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit.

¹³⁵ Cultural & Indigenous Research Centre (2011) Evaluation of the Community Stores Licensing Program Final Report, FAHCSIA, May 2011.

¹³⁶ *ibid.*

¹³⁷ According to FACHSIA (2009) submission to House Standing Committee on Aboriginal and Torres Strait Island Affairs, *Everybody's business: inquiry into community stores in remote Aboriginal and Torres Strait Islander communities*: in 2009 there were 175 remote community stores in operation. At December 2010, 91 stores had licenses. Most stores (38 per cent) were located where there were fewer than 300 people, 34 per cent between 301 and 600 people, and 21 per cent of stores were located where the population was greater than 601.

- the quality of retail management, and the quantity and range of groceries and consumer items, including healthy food and drink, available and promoted at the community store;
- the financial structure, retail practices and governance practices of the store, including the character of the owner and manager; and
- other matters specified by the Minister or the Secretary of DPMC.¹³⁸

A 2011 review of the store licensing provisions introduced under the NTNER found overall the licensing process to be effective, but suggested several areas of improvement for consideration, including:

- a more flexible assessment process to make allowances based on the nature of the store and the size of the community (for example, in terms of the list of items that should be offered);
- on-going assessment to prevent lapses in standards following an initial assessment; and
- a review of case management processes, which tended to vary depending on the relationships between case managers and store managers.¹³⁹

An evaluation of store licensing by the Cultural and Indigenous Research Centre of Australia (CIRCA) concluded, however, that store licensing had overall had a positive impact on food security in remote communities, despite continuing issues of cost, citing improvements in retail management practices, including greater transparency in financial reporting, as benefits. The evaluation also indicated that grant funding available through the licencing program had helped stores purchase infrastructure for storage and display that had improved stock management, while the abolition of 'book-up' and compliance with income management requirements led to a significant improvement in financial management.¹⁴⁰

Assessing the effects of store licensing on store governance practices, however, was regarded by the evaluators to be more difficult. The 2011 CIRCA report cites good governance practices as critical for sustainable store improvements, but the evaluation did not find evidence to suggest that licensing had a substantial impact on good governance practices.¹⁴¹

¹³⁸ See s93(1) Northern Territory National Emergency Response Act 2007.

¹³⁹ Cultural & Indigenous Research Centre (2011) Evaluation of the Community Stores Licensing Program Final Report, FAHCSIA, May 2011.

¹⁴⁰ *ibid.*

¹⁴¹ *ibid.*

Although it is problematic to assess the impact of stores licensing on these areas, the CIRCA evaluation concluded that the sustainability of community stores would be enhanced by improving the practices that underpin effective community stores, such as skilled and experienced managers and good governance, including good financial management practices. Stakeholders consulted as part of the CIRCA evaluation therefore suggested that licensing could be enhanced if there are requirements with regards to management skills and qualifications, accountancy practices and governance practices.¹⁴²

4.3 The Community Stores Licensing Measures

The objective of the store licensing measure is to enable special measures to be taken for the purposes of promoting food security in Aboriginal communities and to enhance the contribution made by the community stores to improve access to fresh, healthy food.¹⁴³ The *Stronger Futures Act* extends the store licensing scheme established under the NTNER, in order to further "...counter the effects of market failure in remote communities, and the broader social and food security consequences for a community if a store fails".¹⁴⁴ To support expanding the scheme to more communities and improving its operation, a \$40.8m funding package was made available for 10 years from 2012-13 onwards.¹⁴⁵

The measure is intended to improve the health and wellbeing of Aboriginal people and advance Aboriginal people's enjoyment of human rights, such as the right to an adequate standard of living, including adequate food, and the right to the highest attainable standard of physical and mental health.¹⁴⁶ The licensing of community stores is intended to help achieve this outcome, through an improved supply of food, drink and grocery items for Aboriginal people living outside of major centres.¹⁴⁷

Section 46 of the Act defines food security as a reasonable, ongoing level of access to a range of food, drink and grocery items that is reasonably priced, safe and of sufficient quantity and quality to meet nutritional and related household needs.

A broad summary of the food security matters in relation to community stores are:

¹⁴² Cultural & Indigenous Research Centre (2011) Evaluation of the Community Stores Licensing Program Final Report, FAHCSIA, May 2011.

¹⁴³ s37(2), Stronger Futures Act (2012).

¹⁴⁴ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit, p. 47.

¹⁴⁵ *ibid.*

¹⁴⁶ *ibid.*

¹⁴⁷ *ibid.*

- whether the store will provide a satisfactory range of healthy and good quality food, drink or grocery items – as appropriate to the size, market and specialisation of the store;
- whether the store will take reasonable steps to promote good nutrition and healthy products, potentially through nutrition education sessions, prominently displaying healthy products and by pricing mark-up policies that encourage healthy choices; and
- whether the store will address other aspects of its operations which may impact on food security, including: the quality of retail management practices; financial practices; the character of the owner and manager; the store's business structure, governance practices and employment practices; and the store's infrastructure, premises and equipment.¹⁴⁸

Part 4 of the Act widens the scope of the Government's focus on food security compared to previous legislation, since the provision no longer applies to only certain Aboriginal communities and instead applies to the whole of the NT, other than the areas excluded by rule. Stores determined to be an important source of food, drink or grocery items for an Aboriginal community are prohibited from operating in the food security area unless the owner obtains a licence. There is an expectation that licensed stores will provide reliable access to an appropriate range of food, drinks and grocery items. For some stores this is a condition of their licence. Where stores are not doing this, licence conditions may be applied.

An owner of a store requiring a license may also be required (by the Secretary of DPMC or delegate of the Secretary) to become registered under the CATSI Act, so that further controls on corporate governance can be provided. The Secretary or delegate may also appoint authorised officers to assess community stores for the purposes of making determinations under Part 4 of the Act.¹⁴⁹

4.3.1 Modifications to the NTNER Arrangements

The *Stronger Futures Act* extends the community stores licensing scheme established under the NTNER until 2022, with modifications to the way the licensing scheme operates to be more consistent with contemporary regulatory practice. The intention is to reduce any unnecessary burden on industry without impacting on food security outcomes.

¹⁴⁸ See Division Four, Licensing of Community Stores, 46, Stronger Futures Act.

¹⁴⁹ Part 4, Division 3, Stronger Futures Act.

Transitional arrangements included in Part 4 of the *Stronger Futures Act* provided that the community stores with licences granted under the NTNER Act would continue to apply, and would be subject to the same monitoring and compliance arrangements available to new licences issued under the *Stronger Futures Act*.¹⁵⁰

Changes to the way the licencing scheme works under the *Stronger Futures Act* include the following provisions:

- the removal of prescriptive requirements under the NTNER, replacing them with a set of matters to be considered by the delegate in relation to granting licenses, such as the range and quality of food and drink, promotion of healthy products, the quality of retail management practices and infrastructure, the governance and financial practices of the store and the character of the operator;¹⁵¹
- introduction of a requirement that the community must be consulted in order to determine whether any additional stores should be licenced;¹⁵² and
- introduction of a greater range of sanctions, ranging from formal warnings and fines, to enforceable undertakings.¹⁵³

Another change was a shift in the way the scheme is administered, to follow a risk-based monitoring framework, with those community stores assessed as ‘risky’ receiving more regular visits.¹⁵⁴

Furthermore, community store licensing will only apply to stores that are an important source of food, drink or grocery items for an Aboriginal community in parts of the NT where there is an inadequate level of competition and choice, a measure that is expected to increase the number of stores licensed by about 20 per cent, from 90 to 110.¹⁵⁵ As of 30 June 2016, there were 101 licensed stores in operation.¹⁵⁶

4.4 Effectiveness of the Community Stores Licensing Measures

4.4.1 Risk-based Licensing, Assessment and Monitoring

An important aspect of the administrative approach taken to store licensing under the Act was to introduce a risk-based approach to licensing and ongoing monitoring and

¹⁵⁰ Part 4 of the Stronger Futures (Consequential and Transitional Provisions) Act (2012).

¹⁵¹ Part 4, Division 4, s46(2), Stronger Futures Act.

¹⁵² Part 4, Division 3, s41(2), Stronger Futures Act.

¹⁵³ Part 4, Division 8, Stronger Futures Act.

¹⁵⁴ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit.

¹⁵⁵ *ibid.*

¹⁵⁶ Department of Premier and Cabinet, (2016) data provided to KPMG on 28 June 2016.

assessment of stores. Despite this intention, a 2014 performance audit of the measures completed by the Australian National Audit Office (ANAO) found that the Australian Government was still imposing prescriptive requirements rather than making adjustments to reflect the risk-based approach to licencing intended under the *Stronger Futures Act*. According to the ANAO, this means that the Australian Government continued to require all stores to comply with a minimum list of stock and operational requirements based on store and community size – as per the NTNER Act – rather than applying a tailored approach based on the specific risks identified in a community store.¹⁵⁷

The ANAO reported that this resulted in the imposition of unnecessary operational and stock requirements, which can create additional costs for stores. Consequently the ANAO recommended a tailored risk-based approach to compliance be developed to reflect the needs of an individual community store and the needs of the community it operates in.

The ANAO examined a sample of stores against their risk ratings and found either significant divergence between the store's rating and internal guidance material, or that no risk assessment was completed. The ANAO concluded that more care is needed in attributing risk and that clarification of the Australian Government's risk appetite would strengthen this approach.¹⁵⁸

Further concerns were raised by the ANAO on this matter, specifically in relation to processes for store assessments. In addition to assessments to determine the requirement for a licence and any specific conditions to be met, the Act also provides for monitoring visits once stores have been licensed.¹⁵⁹ In keeping with similar regulatory schemes, it is intended that these visits will focus on visual inspections, without requiring significant effort from operators.¹⁶⁰

According to the legislation, the risk rating should inform the degree and frequency of store monitoring and assessment. However, the ANAO found that "...there is not a strong link between the number of required visits and the number of actual visits," with approximately two-thirds of expected visits actually occurring, resulting in some stores having fewer or greater visits than required.¹⁶¹

¹⁵⁷ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit, p.14.

¹⁵⁸ *ibid.*

¹⁵⁹ See s54, *Stronger Futures in the Northern Territory Act (2012)*

¹⁶⁰ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit.

¹⁶¹ *ibid.*

The Australian Government's response was to accept the ANAO's finding and agree to strengthen the risk-based approach. Australian Government officers interviewed for this review confirmed this position, although it has not been possible as part of this evaluation to determine whether the new risk assessment framework is being consistently applied.¹⁶² Data on the number of monitoring and assessment visits undertaken by financial year was, however, provided, showing that the number of visits has declined in recent years, as would be expected under a targeted, risk-based approach to monitoring and assessment.

Table 1. Number of monitoring and assessment visits by financial year

Financial year	No. of monitoring & assessment visits
2012-13	107
2013-14	134
2014-15	74
2015-16	66
Total	365

Source: Department of the Prime Minister and Cabinet, 2016¹⁶³

4.4.2 Community Consultation

Community consultation is an important aspect of the operation of the scheme and s41(2) of the Act requires the Secretary of DPMC to consult those living in communities regarding whether a licence should be required.¹⁶⁴ The ANAO performance review of the stores licensing scheme identified that the Australian Government had not been entirely consistent with regards to the operation of its guidelines for consultation. Rather than keeping a list of all stores as required, the Australian Government only considered those stores it had itself identified as a priority for consultation.¹⁶⁵ However, officers within the Australian Government interviewed for this review reported that they undertake community consultation in all cases when considering whether a store license is necessary.¹⁶⁶

Officers maintained that there is no one-size-fits-all approach to consultation and a tailored consultation framework is developed to meet the needs of individual cases based on the application of principles.¹⁶⁷ The ANAO identifies one example of where

¹⁶² Department of the Prime Minister and Cabinet. KPMG record of interview, 23 June 2016.

¹⁶³ Data provided by the Department of the Prime Minister and Cabinet, written correspondence.

¹⁶⁴ Part 4, Division 3, s41(2), SNFT Act (2012).

¹⁶⁵ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit.

¹⁶⁶ Department of the Prime Minister and Cabinet. KPMG record of interview, 23 June 2016.

¹⁶⁷ *ibid.*

consultation processes could have been made more robust to enable delegates to make more informed decisions.¹⁶⁸

The ANAO also indicates that the Australian Government did not apply a consistent interpretation of what is to be considered a reasonable level of access to and supply of food, drink and grocery items for the purpose of store licensing.¹⁶⁹ Officers consulted as part of this review reported, however, that this issue has now been resolved. Fact sheets produced for staff conducting store assessments now provide the necessary guidance, with material on how to determine whether a store constitutes an important source of food, drink and grocery items.¹⁷⁰

4.4.3 Enforcement Measures

Aboriginal community stores are typically the major source of food for their community, making it challenging to take action against stores that do not comply with licencing conditions. The Act aims to address this issues through a civil enforcement regime designed to penalise breaches without unnecessarily revoking the store license. Enforcement options available to Government include seeking an infringement notice, seeking an enforceable undertaking, commencing action in court to impose a civil penalty (and as a last option revoking a licence),¹⁷¹ measures that progressively pressure store operators while engaging in a dialogue with non-compliant stores.

Due to potential implications for food security, the Australian Government applies clear internal guidelines that stores breaching a licence must be dealt with on a case by case basis, while alternatives to formal action should always be investigated first.¹⁷² Accordingly the ANAO found that formal activities had only commenced twice under the Act as at 2014.¹⁷³

This position was confirmed by Australian Government officers who reported a general preference to working with stores to address non-compliance rather than resorting to stronger enforcement measures.¹⁷⁴ Officers also reported that having progressive enforcement provisions in the legislation made store operators more willing to work collaboratively with Government to address compliance issues, although this could also impede progress towards a revocation in cases where this might otherwise be

¹⁶⁸ ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit.

¹⁶⁹ *ibid.*

¹⁷⁰ Australian Government, (2012) Stronger Futures in the Northern Territory Food Security and Community Store Licensing, Operational Guidelines, Considering whether a community store needs to be licensed.

¹⁷¹ Part 4, Division 8, Stronger Futures.

¹⁷² ANAO (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2 2014-15 Performance Audit.

¹⁷³ *ibid.*

¹⁷⁴ Department of the Prime Minister and Cabinet. KPMG record of interview, 23 June 2016.

immediately justifiable. In this instance the view was held that the civil penalty procedures provided for in the legislation can be slow and costly for both parties.

4.4.4 Governance and CATSI Act Incorporation

Governance and financial transparency issues can be further threats to the viability of a store and, therefore, the food security of Aboriginal communities. Considerable management capacity is required in order to address the various difficulties which arise in operating a store in a remote location.

By providing that certain stores be required to incorporate under the CATSI Act, the *Stronger Futures Act* continued provisions introduced under the NTNER Act in 2010. This provides the framework for program assistance to stores with management and governance issues. The CATSI Act provides an incorporation framework specifically tailored to the particular risks and requirements of the Aboriginal corporate sector.¹⁷⁵ Community store owners that are incorporated under the Act are covered by the special provisions that apply to an ‘essential service’ and receive a wider range of support than is available under other legislation in respect of an ‘essential service’.¹⁷⁶

These powers enable the Registrar of Indigenous Corporations to provide early proactive regulatory assistance when a corporation providing an essential service experiences governance or financial difficulties. Unlike a receivership, voluntary administration or liquidation, the special administration process under the CATSI Act is not driven by creditors, and its prime focus is on the best interests of members and the corporation and to protect public funding and ensure the maintenance of the service.¹⁷⁷

According to stakeholders, most stores have now voluntarily incorporated under CATSI. The Australian Government advised that as at 27 June 2016 there are 101 licensed stores operating, of which 64 are considered community owned. Of the community owned stores, 55 are incorporated under CATSI while a further four community owned stores are Proprietary Limited Companies that are themselves owned by CATSI Act corporations.¹⁷⁸

Overall, stakeholders interviewed for this review indicated their support for the provision which they felt had contributed to an improvement in governance practices and financial management of stores. Anecdotally, stores are considered to perform better as a consequence, compared to 2007, with fewer reported problems, not just in

¹⁷⁵ Corporations (Aboriginal and Torres Strait Islander) Act (2006).

¹⁷⁶ *ibid.*

¹⁷⁷ *ibid.*

¹⁷⁸ Department of the Prime Minister and Cabinet, KPMG record of interview, 27 June 2016.

relation to finances and government, but also with regards to store cleanliness, hygiene and stock management.

Some stakeholders interviewed also said that the introduction of criminal history checks for store owners and managers has resulted in a number of store managers leaving the industry in the NT.¹⁷⁹

4.4.5 Impacts on Food Security

Given the overall improvements in store regulation, governance and management since the *Stronger Futures Act* reforms, an associated improvement in food security and related social, economic and health outcomes in communities would be expected. While this may be the case, it has not been possible for this review to determine the extent of impact and the contribution made by recent store licensing measures.

The NT Market Basket Survey provides some insight into the availability, quality and cost of food before and after 2012. Some insights from the NT Market Basket Survey include that since 2012:

- there has been no increase in the average number of varieties of vegetables in remote stores. Over the same period, the average number of fruit has increased from 10 in 2012 to 11 in 2015;
- there has been a slight decline in the percentage of fresh fruit and vegetables rated as good; and
- the average cost of food in remote stores has remained higher by around 30 per cent than the average cost of food in supermarkets and corner stores across the NT over the 2012 to 2015 period.¹⁸⁰

However, it is not possible to attribute these results to the operation of the *Stronger Futures Act* as it applies in selected locations.

4.5 Future Directions

The Community Stores Licensing measure under the *Stronger Futures Act* is intended to enhance the contribution of community stores to achieving a reasonable, ongoing

¹⁷⁹ Department of the Prime Minister and Cabinet, KPMG record of interview, June 2016.

¹⁸⁰ KPMG analysis of NT Department of Health, Northern Territory Market Basket Survey 2015.

level of access to a range of food, drink and grocery items that is affordable, safe and of sufficient quantity and quality to meet nutritional and related household needs.¹⁸¹

Implementation of the community stores licensing measures under the *Stronger Futures Act* has enabled the continued operation of the store licencing program that was previously part of the NTNER legislation. Key changes to the stores licensing scheme under the Act include the shift to a more risk-based approach to license assessment and monitoring, greater emphasis on community consultation for determining if a store needs to be licensed, and the progressive application of a broader range of enforcements for stores that are not meeting requirements.¹⁸²

The operation of the stores licencing measures under the Act has continued to evolve since their first introduction. For example, in response to an ANAO review of the scheme in 2014, the Australian Government revised its approach to the assessment of individual stores, and has produced a detailed risk assessment framework to support staff to more consistently undertake assessments using a risk-based approach.

The stores licensing measures are intended to enhance the contribution currently made by the community stores to improve access to fresh, healthy food. Although its implementation correlates with an overall maintenance of the quality and availability of fresh, healthy food, it is not possible given the poor granularity of data available from stores to directly attribute this outcome to measures under the Act. The measures are, however, consistent with this intention.

The Australian Government collects a range of data (including on store conditions, finances, product range) as part of the monitoring and assessment process. However, this data does not seem to be collected in a format that is easily interrogated, or that enables the relevant officers to identify trends in outcomes. The ANAO has therefore suggested there is scope for the Australian Government to apply a greater focus on outcomes in monitoring the scheme and progress towards meeting objectives, including through the use of point of sale data to track changes in purchasing and consumption patterns. The ANAO has also suggested that data on licensing collected through monitoring visits (stock levels, pricing) be aggregated into a single data base to enable better assessment of program objectives, such as accessibility to healthy food.

As recognised by Australian Government officers interviewed for this review, with access to better consumer information, licencing staff could then work collaboratively with store operators to identify actions the store could take to improve outcomes for their community. The Australian Government could also consider how to better

¹⁸¹ ANAO (2014) *Food Security in Remote Indigenous Communities* ANAO Report No. 2 2014-15 Performance Audit, p. 12.

¹⁸² Part 4, Division 4, the Stronger Futures Act.

support community stores to continue to improve their operations. This might include the development of guidance material for good practice store operations, including best practice approaches to nutrition promotion and product placement (as well as focusing on financial management and governance processes).

In terms of an overall impact on food security, notwithstanding the absence of data, it is apparent that food affordability as well as supply continues to be a challenge in the context of remote communities. The *Stronger Futures Act* has broadly maintained the initial improvement in the availability of healthy food that occurred under the NTNER, however, the average cost of a food basket in community stores remains substantially higher than that in urban supermarkets or corner stores.¹⁸³

¹⁸³ Northern Territory Health, (2015) Northern Territory Market Basket Survey 2015.

5 List of stakeholders consulted

The following stakeholders were consulted in the course of conducting this review.

Measure	Stakeholders Consulted	Organisation	Date completed
Land Reform	Office of Township Leasing, Land Branch	Department of the Prime Minister and Cabinet	June 2016
	Land Tenure Unit	NT Department of Local Government and Communities	June 2016
Tackling Alcohol Abuse	Cindy Bravos, Director General	NT Department of Licensing	June 2016
	Health Branch	Department of the Prime Minister and Cabinet	June 2016
	Professor Peter d'Abbs	Substance Misuse Studies, Menzies School of Health Research	June 2016
	Dr. John Boffa	Central Australian Aboriginal Congress / Chief Medical Officer	June 2016
Store Licensing	Assoc. Professor Julie Brimblecombe	Menzies School of Health Research	June 2016
	Preventative Health Policy Branch	NT Department of Health	June 2016
	Steve Moore	Outback Stores	July 2016
	Food Security and School Nutrition Section	Department of the Prime Minister and Cabinet	June 2016
	NT Community Stores Section	Department of the Prime Minister and Cabinet	June 2016

6

References cited

- Australian Bureau of Statistics (ABS) (2016). Causes of Death, Australia. Cat. No. 3303.
- Australian Bureau of Statistics (ABS) 2012-13 National Aboriginal and Torres Strait Islander Health Survey, Unpublished data, from the AIHW Health Performance Framework NT report.
- Australian Government (June 2013) Community Living Area Land Reform in the Northern Territory: Outcomes Paper.
- Australian Government (March 2013) Community Living Area Land Reform in the Northern Territory: Discussion Paper.
- Australian Government (2012), *Stronger Futures in the Northern Territory. A ten year commitment to Aboriginal People in the NT*. Canberra, July 2012.
- Australian Government, (2012) *Stronger Futures in the Northern Territory Food Security and Community Store Licensing, Operational Guidelines, Considering whether a community store needs to be licensed*.
- Australian Government (2011) *Stronger Futures in the Northern Territory: Report on Consultations*.
- Australian Government (2011) *Northern Territory Emergency Response: Evaluation Report 2011*.
- Australian Government (n.d.), *Stronger Futures in the Northern Territory: Implementation Approach for the AMP Community Fund*. Canberra.
- Australian National Audit Office (ANAO) (2014) Food Security in Remote Indigenous Communities ANAO Report No. 2, 2014-15 Performance Audit.
- Central Land Council (2013), Submission to the Australian Government, *Land Reform in the Northern Territory: Evidence not Ideology*. October 2013.
- Chief Minister of the NT (2016), '[Temporary Beat Locations target anti-social behaviour in Katherine](#)', website of the Chief Minister of the NT citing NT police and health data, accessed 1 July 2016.
- Creative Spirits (n.d.), [*Aboriginal culture - Politics & media – Northern Territory Emergency Response \(NTER\) - “The Intervention”*](#), accessed 28 June 2016.
- Cultural & Indigenous Research Centre (2011), *Evaluation of the Community Stores Licensing Program Final Report*, FaHCSIA, May 2011.
- d'Abbs, Peter (2015), "Widening the gap: The gulf between policy rhetoric and implementation reality in addressing alcohol problems among Indigenous Australians." *Drug and alcohol review* 34, no. 5: 461-466.

Department of the Prime Minister and Cabinet (2014), Issue of Interest 2014 – Update on the implementation of the Alcohol Management plans in the Northern Territory. Response to a Commonwealth Ombudsman request by email of 19 November 2015.

Gray and Wilkes (2010), ‘Reducing alcohol and other drug related harm’. *Closing the Gap Clearing House Resource Sheet no. 3*, December 2010.

Hope, Z (2015), ‘[Borroloola calls for Canberra to butt out of booze laws](#)’. NT News, 15 September 2015. Accessed 24 June 2016.

House of Representatives Standing Committee on Indigenous Affairs (2015), *Inquiry on the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities*, Australian Parliament House, Canberra, tabled 2015.

House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, (2009) [Everybody's business: inquiry into community stores in remote Aboriginal and Torres Strait Islander communities](#), Australian Parliament House, Canberra, 2009, p. 1.

Krishnan, S. (2016), ‘[Urgent review planned into Northern Territory's Indigenous town camps](#)’. ABC. Accessed 21 June 2016.

Minter Ellison, (2015). [Stronger Futures in the Northern Territory Act 2012. Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm](#). Accessed July 1, 2016.

[NT Department of the Attorney-General and Justice data](#).

[NT Department of Business, Alice Springs Alcohol Management Plan 2016-2018](#).

[NT Department of Business, Northern Territory Wholesale Alcohol Supply 2007 to 2014](#).

[NT Department of Business, Tennant Creek Alcohol Management and Action Plan 2014-2017](#).

NT Department of Health, Northern Territory Market Basket Survey 2015.

[NT Police](#), accessed 11 July 2016.

Parliament of the Commonwealth of Australia (2014 and 2015), *Omnibus Repeal Day (Spring 2014) Bill* and *Spring 2015 Repeal Bill*.

Parliament of the Commonwealth of Australia (2013), *Stronger Futures in the Northern Territory Regulation 2013*: Explanatory Statement [Select Legislative Instrument 2013 No. 184].

Parliament of the Commonwealth of Australia (2012), [Replacement Revised Explanatory Memorandum](#). *Stronger Futures in the Northern Territory Bill 2012*. Accessed 1 July 2016.

Parliament of the Commonwealth of Australia (2012), *Stronger Futures in the Northern Territory (Food Security Areas) Rule 2012*, Explanatory Statement.

Parliament of the Commonwealth of Australia (2011), [Stronger Futures in the Northern Territory Bill 2011, Explanatory Memorandum](#). Accessed 1 July 2016.

Parliament of the Commonwealth of Australia (2011), [Stronger Futures in the Northern Territory Bill – Alcohol proposals Regulation Impact Statement / Post Implementation Review](#). Department of Families, Housing, Community Services and Indigenous Affairs, November 2011. Accessed on 24 June 2016.

Parliamentary Joint Committee on Human Rights (2016), Commonwealth of Australia. [Review of Stronger Futures Measures](#). Accessed 1 July 2016.

Scullion, Nigel (Senator, the Hon, MP) (2015), Letter to Chair, Parliamentary Joint Committee of Human Rights, the Hon Philip Ruddock MP, 28 September 2015, ref. C15/90430.

Senate Finance and Public Administration Legislation Committee (2015), Answers to Questions on Notice. Question reference number 64, Friday 23 October 2015.

Smith, Langton, d'Abbs, Room, Chenhall & Brown (2013), '[Alcohol management plans and related alcohol reforms](#)', *Indigenous Justice Clearinghouse*, October 2013. Accessed on 27 June 2016.

People's Alcohol Action Coalition, (n.d.), *Submission to the Inquiry into the House of Representatives Standing Committee on Indigenous Affairs Inquiry on the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities*.

United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*. Office of the High Commissioner for Human Rights, adopted 1965.