



## **Objection to Joint licence applications: A000192547, A000192548 & A000192549 (Fitzroy Valley)**

This objection sets out the Commissioner for Children and Young People Western Australia's views on the proposed amendment to the liquor restrictions in the Fitzroy Valley.

### **Role of Commissioner for children and young people**

As Commissioner for Children and Young People in Western Australia, I have a statutory responsibility to monitor and review laws, policies, practices and services that affect the wellbeing of children and young people under the age of 18 in WA, and in doing so, have regard to the best interests of the children and young people as being of paramount importance. I work under the principles that children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation. I believe that the views of children and young people, on all matters affecting them, are of paramount importance and should be given serious consideration in any decision-making process<sup>1</sup>.

To date, the voices of the affected young people and children have been silent on the impact of alcohol-related harm and the need to address alcohol abuse within the community. All reviews and progress reports into the alcohol restrictions on Fitzroy Crossing and Halls Creek are clear that people under 18 years were not interviewed (as a requirement of the ethical clearance granted for the research)<sup>2,3</sup>. Accordingly, my objection has a two-fold purpose of presenting evidence of the impact that these changes would have on children and young people living in the Fitzroy Valley, and providing an opportunity for their voices to be heard by decision-makers.

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<sup>1</sup> Commissioner for Children and Young People Act 2006 (WA) Section 3 and 4 p2.

<sup>2</sup> Kinnane S et al 2009, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a 12 month period*, Drug and Alcohol Office, p.15.

<sup>3</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p.22.

## Alcohol-related harm

The harm associated with alcohol abuse affects children and young people living in the Fitzroy Valley in many aspects of their life. Foetal Alcohol Spectrum Disorder (FASD) is prevalent, as is poor nutrition, poor school attendance and completion rates, and physical violence. Without addressing these issues, the chance of a broader cultural change in the approach to alcohol consumption is slim.

Key areas of impact highlighted in consultations with children and young people include community safety, health and education. The evidence of the impact of alcohol-related harm on children and young people in these key areas will be explored in the following sections, including what the children and young people from these communities have to say on the impact of alcohol on their lives.

### Community safety – domestic and community violence

The link between alcohol consumption and child protection issues has been well documented, alongside the frequently associated impact of family and domestic violence on children and young people<sup>4</sup>. Psychological trauma and mental health impacts, school difficulties, likelihood of substance abuse, early school-leaving, self-harm and suicide attempts and higher potential for violent behaviours themselves have all been reported<sup>5</sup>. The child does not have to be the victim of violence themselves – the existence of violent behaviour in the household has been shown to cause trauma and yet, according to the United Nations Convention on the Rights of the Child 'all children and young people have a right to live free from violence in any form'<sup>6</sup>.

The 2010 review in Fitzroy Crossing noted that domestic and community violence were prevalent prior to the imposition of the restrictions and even that for two years post-restrictions, reported domestic violence increased<sup>7</sup>. This was attributed to an increase in reporting of threats, less severe violence and victims following through on complaints<sup>8</sup>.

It is of note, though, that a similar increase in domestic violence offences was not displayed in Halls Creek, which has the same restrictions on takeaway liquor as Fitzroy Crossing. Over

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<sup>4</sup> Laslett AM, Mugavin J, Jiang H, Manton E, Callinan S, MacLean S, & Room R 2015. *The hidden harm: Alcohol's impact on children and families*.

<sup>5</sup> Richards K 2011, *Children's exposure to domestic violence in Australia, Trends and issues in crime and criminal justice, No 419*, Australian Institute of Criminology, p.3.

<sup>6</sup> United Nations 1990, *Convention on the Rights of the Child*, Article 19.

<sup>7</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p.29.

<sup>8</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p.27.

the five years since the imposition of the restrictions, verified family violence offences in Halls Creek dropped by between 24 per cent and 56 per cent from that initial height<sup>9</sup>.

Residents also stated that violence had decreased, but still remained a concern in the community, and was often linked directly to availability of alcohol on pay days and after alcohol was brought into town<sup>10</sup>. A number of the comments by children and young people (see section on consultation with children and young people) reflect their concerns about family and domestic violence related to alcohol, and their fear that reducing restrictions would increase the incidence of such violence.

## **Health impacts of alcohol-related harm on children and young people**

The harmful use of alcohol is also a serious health burden not only in the Fitzroy Valley but globally. The concept of harmful use of alcohol is broad and encompasses drinking that causes detrimental health and social consequences not only to the person drinking but to their family and community<sup>11,12</sup>.

There is extensive research showing that alcohol consumption by children and young people can have considerable negative effects. It is associated with adverse effects on brain development, health complications and alcohol-related problems later in life, chronic health conditions, increased risk-taking behaviour including sexual behaviour and self-harm, and contributes to the leading causes of death among adolescents<sup>13,14,15</sup>.

Children and young people are less likely to use alcohol if they have little or no access to alcohol<sup>16</sup>. When alcohol restrictions are in place, there is less ready access to alcohol, and consequently a decreased rate of drinking for children and young people. In addition, children and young people are also at risk of modelling behaviour seen in their families and communities. Where children and young people are exposed to excess alcohol use and

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<sup>9</sup> Akesson G 2015, *The Impact of the Liquor Restrictions in Halls Creek: Quantitative Data – Five years post-restriction*, Drug and Alcohol office.

<sup>10</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p.27-28.

<sup>11</sup> World Health Organisation, 2010, *Global Strategy to reduce the harmful use of alcohol* p5-6.

<sup>12</sup> Laslett M et al 2015. *The hidden harm: Alcohol's impact on children and families*.

<sup>13</sup> National Health and Medical Research Council (Australian Government) 2009, *Australian Guidelines to reduce health risks from drinking alcohol*, p57-65.

<sup>14</sup> Australian Medical Association 2009, *Alcohol Use and Harms in Australia (2009) – Information paper*

<sup>15</sup> Australian Drug Foundation 2013, *Fact Sheet: Young People and Alcohol, June 2013 (for parents)*.

<sup>16</sup> Resnick MD et al 1997. Protecting Adolescents from Harm: Findings from the National Longitudinal Study on Adolescent Health. *The Journal of the American Medical Association* 1997, 278(10) 823-832.

resulting violence, they are at risk of mirroring and continuing these behaviours<sup>17</sup>. This cycle needs to end.

Unsurprisingly, mental health disorders, depression, self-harm; suicide and Fetal Alcohol Spectrum Disorder (FASD) are all significant health issues in the Fitzroy Valley. Suicide rates among Aboriginal people in the Kimberley region are among the highest in the world, with 102 suicides by Aboriginal people reported between 2005 and 2014<sup>18</sup>.

Youth suicide in particular was a significant driver in the community support for the current restrictions and though I note that there is considerable work being done in area of youth suicide prevention, more needs to be done to address this significant and 100% preventable cause of loss in these communities<sup>19,20</sup>. Keeping the current restrictions in place supports the community in addressing issues contributing to youth suicide including access to support and medical services, as well as addressing underlying issues of the intergenerational cycle of alcohol abuse, high unemployment and social isolation in remote areas.

The high prevalence of FASD has also been identified by the community in the Fitzroy Valley as a major health issues directly related to alcohol consumption<sup>21,22,23</sup>. For Fitzroy Crossing, the Lililwan study of children born between 2002 and 2003 identified a prevalence rate of 120 per 1,000 children compared to an overall rate of 0.26 per 1,000 birth in WA (4.08 per 1,000 Aboriginal children compared to 0.03 per 1,000 for non-Aboriginal children) . This differential rate is partially explained by research which shows that although fewer Aboriginal women than non-Aboriginal women drink alcohol, those that do tend to drink do so at more harmful levels<sup>24,25</sup>.

FASD is used to refer to the range of adverse clinical outcomes that may result from alcohol exposure during pregnancy, and it includes FAS (Fetal Alcohol Syndrome). It is known to cause or contribute to brain damage, birth defects, poor growth and learning and behavioural problems and can result in a range of secondary disabilities including learning

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<sup>17</sup> Laslett AM, Mugavin J, Jiang H, Manton E, Callinan S, MacLean S, & Room R 2015. *The hidden harm: Alcohol's impact on children and families*.

<sup>18</sup> McHugh C et al 2016, *Increasing Indigenous self-harm and suicide in the Kimberley: an audit of the 2005—2014 data*, p33.

<sup>19</sup> Parke E 2014, *Families used to look after each other as Kimberley region records seven suicides in seven weeks*. ABC News online.

<sup>20</sup> World Health Organisation, 2014, *Preventing suicide: a global imperative* p36.

<sup>21</sup> Elliot E, Latimer J, Fitzpatrick J, Oscar J & Carter M. 2012. There's hope in the valley. *Journal of Paediatrics and Child Health* Volume 48, Issue 3 p190.

<sup>22</sup> Department of Health 2010, *Fetal Alcohol Spectrum Disorder Model of Care, Health Networks Branch*, Department of Health p13-16.

<sup>23</sup> Kimberley Success Zone 2014, *Understanding and addressing the needs of children and young people living with Fetal Alcohol Spectrum Disorders (FASD): A resource for teachers*, National Curriculum Services, p10-22.

<sup>24</sup> Zubrick S et al 2004, *The Western Australian Aboriginal Child Health Survey: The Health of Aboriginal Children and Young People*, Telethon Institute for Child Health Research, p.116.

<sup>25</sup> Owens D 2015, *Nations highest rate of fetal alcohol syndrome documented in WA's Fitzroy Valley*, ABS News online.

difficulties. The inability of children and young people with FASD to remember the stories and traditions of their elders, or to communicate their culture to future generations, also poses a real threat to the survival of Aboriginal culture in the Fitzroy Valley.

The effects of FASD are not limited to childhood; disrupted education, unemployment, increased mental health problems, higher rates of youth crime, and alcohol and drug problems are also reported<sup>26</sup>. What is most devastating about this condition is that it is also 100% preventable<sup>27</sup>.

The Australian Alcohol Guidelines note that maternal alcohol consumption can harm the developing fetus and recommend all women who are pregnant or planning a pregnancy or breastfeeding, not drinking is the safest option<sup>28</sup>. The alcohol restrictions in Fitzroy Crossing and Halls Creek support this by limiting access to full-strength and mid-strength takeaway alcohol.

## **Educational impact of alcohol-related harm on children and young people**

Attendance at school has been identified as a key component of academic success and that every day of attendance in school contributes towards a child's learning. Ensuring that children and young people in Fitzroy Valley are able and ready to attend school every day is vital to their future success and that of their community<sup>29</sup>.

The 24 month report into the Fitzroy Crossing restrictions asserted that alcohol had had a significant impact on educational outcomes for children and young people. Children and young people in particular were reported to be unable to sleep due to noise from parties and from anti-social behaviour. It was noted that the environment of many alcohol-affected households were not conducive to a safe and healthy environment for children. Thus, the children who did attend school were impacted by poor sleep, poor nutrition, poor supervision and support and lack of boundaries, which consequently impacted on their educational outcomes<sup>30,31</sup>.

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<sup>26</sup> Commissioner for Children and Young People 2012, Foetal Alcohol Spectrum Disorder, Issues Paper 10, Commissioner for Children and Young People WA.

<sup>27</sup> House of Representatives Standing Committee on Indigenous Affairs 2015, Alcohol, hurting people and harming communities, Chapter 6, paragraph 6.2.

<sup>28</sup> National Health and Medical Research Council (Australian Government) 2009, *Australian Guidelines to reduce health risks from drinking alcohol Guideline 4* p67.

<sup>29</sup> Hancock KJ, Shepherd CCJ, Lawrence D, & Zubrick SR 2013. Student attendance and educational outcomes: Every day counts. Report for the Department of Education, Employment and Workplace Relations, Canberra.

<sup>30</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p.42.

<sup>31</sup> Education and Health Standing Committee 2011, Alcohol Restrictions in the Kimberley: A Window of Opportunity' for improved health, education, housing and employment, p16.

## Impact of the current restrictions

Between 2007 and 2009, alcohol restrictions were imposed on 3 licenced premises in the Fitzroy Valley, which 'prohibit the sale of packaged liquor, exceeding a concentration of ethanol in liquor of 2.7% at 20°C to any person, other than a lodger (as defined in Part 3 of the Liquor Control Act 1988 (WA))' <sup>32</sup>. The licensees affected by these restrictions have submitted a joint application to amend the restrictions to allow the sale of mid-strength alcohol (3.5%) in these premises (in both Halls Creek and Fitzroy Crossing) <sup>33</sup>.

It is not disputed that the current restrictions have been effective in reducing the levels of alcohol-related harm and/or ill-health occurring in the Fitzroy Valley. The applicants have already presented statistical evidence supporting the continuation of the restrictions which will not be repeated here <sup>34</sup>. Essentially the applicants accept that on the whole, across the measures reported (police and health statistics) the restrictions have had a positive effect, with a reduction in drink driving, assault and domestic violence offences as well as a significant reduction in alcohol-related police tasking (90% to 70-80% in Halls Creek, Fitzroy Crossing data not available) <sup>35</sup>. Though the number of alcohol-related emergency department presentations remained lower post-restriction compared to pre-restriction, it is noted that the number of arrivals by ambulance was stable but has increased in the last few years <sup>36</sup>.

Reviews of the restriction also note that the benefits include reduced severity of domestic violence; reduced severity of wounding from general public violence; reduced street drinking; a quieter town; less litter, families purchasing more food and clothing; families being more aware of their health and being proactive in regard to their children's health; reduced humbug and anti-social behaviour; reduced stress for service providers; increased effectiveness of services already active in the valley; generally better care of children and increased recreational activities; and a reduction in the amount of alcohol being consumed by people in the community <sup>37</sup>.

At the Education and Health Standing Committee hearings, local police gave evidence about how the alcohol restrictions in Halls Creek and Fitzroy Crossing had engendered a quieter

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<sup>32</sup> Dwyer Durack Lawyers 2015, *Public Interest Assessment for joint licence applications A000192548, A000192547& A000192549*, p2.

<sup>33</sup> Dwyer Durack Lawyers 2015, *Public Interest Assessment for joint licence applications A000192548, A000192547& A000192549*, p4.

<sup>34</sup> Dwyer Durack Lawyers 2015, *Public Interest Assessment for joint licence applications A000192548, A000192547& A000192549*, p8-17.

<sup>35</sup> Akesson G 2015, *The Impact of the Liquor Restrictions in Halls Creek: Quantitative Data – Five years post-restriction*, Drug and Alcohol office, p2-3.

<sup>36</sup> Akesson G 2015, *The Impact of the Liquor Restrictions in Halls Creek: Quantitative Data – Five years post-restriction*, Drug and Alcohol office, p3.

<sup>37</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p10.

environment where children and young people could get sleep and be ready for school in the mornings<sup>38</sup>.

The 24 month Fitzroy Crossing report stated that school enrolments had increased, children's behaviour was becoming less unruly and more inclined towards boundaries of behaviour, and fewer families were presenting as being in crisis<sup>39</sup>.

## **Consultation with children and young people**

As the applicants correctly note, the reviews of the restrictions do not include anecdotal information or feedback from the community or local business or those aged under 18, all of whom are directly affected by the restrictions. The applicant included evidence from residents and stakeholders in his application and I have done the same. It is important that all views are taken into consideration in a balanced way. As Commissioner, I visited Fitzroy Crossing recently (April 2016) to consult with children and young people, to hear their views and concerns and to ensure that their evidence is heard in the consideration of the application to amend the restrictions. I have also partnered with a local agency there, the Nindilingarri Cultural Health Service, to conduct an informal series of focus groups in the area about alcohol use and alcohol-related harm and safety issues. The outcomes of these consultations are presented below.

### **In Fitzroy Crossing**

On my visit to Fitzroy Crossing I spoke with children and young people about issues affecting them, including the impact of alcohol in their community. They expressed concern about adults being drunk and how this affected them, with kids reporting being hungry, missing school or being too tired to learn if they did go, violence and fighting in families, being scared and frightened, and the rubbish and litter associated with drinking, including glass in the river.

Noting that the restrictions have been in place for almost 9 years (imposed on 2 October 2007) it seems clear that there are still many challenges to overcome in the area related to alcohol abuse. The children and young people spoke from their personal experience of the impact of alcohol in their daily lives, that it affects everything for them and that life was much better without alcohol. A recurrent theme was that the children and young people felt safer and better cared for when their community was alcohol free:

'Alcohol affects all your life' – boy, 14 years

'When there is more grog in town I don't feel safe' – girl, 9 years

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<sup>38</sup> Education and Health Standing Committee 2011, *Alcohol Restrictions in the Kimberley: A Window of Opportunity for improved health, education, housing and employment*, Parliament of Western Australia, p63-64.

<sup>39</sup> Kinnane S et al 2010, *Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period*, Drug and Alcohol Office, p..

'Some people go through my house and I don't feel safe' – boy, 9 years

'I don't feel safe when I am in a car and the driver is drunk' – girl, 7 years

'The kids will have trouble learning, having energy, sleeping, feeling safe, hunting and running' – girl, 12 years<sup>40</sup>

'It makes you deaf when your parents put the music loud and you get headaches' – girl, 12 years

'When your parents get drunk you will be worried all night when you sleep and you will be crying' – girl, 10 years

'When someone drinks, I feel sad because they don't look after me' – girl, 7 years<sup>41</sup>

Children and young people spoke about how their experiences of drunk people in their community and at home, that when people were drunk they swore, fought, littered, and drove unsafely:

'Alcohol isn't good because kids see their parents fighting, yelling and all sorts of stuff. People are actually spending money on alcohol rather than spending it on food which is a waste of money. It can also affect people's health' – girl, 14 years

'People fight and I feel low' – boy, 8 years

They try and hit you'

'They sing out really loud'

'They swear at kids'<sup>42</sup>

Feedback showed that the children and young people have a clear understanding of how alcohol impacts the community, the benefits of the reducing alcohol consumption, and provided ideas on how to address these issues:

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<sup>40</sup>Nindilingarri Cultural Health Service, *Consultation with children and young people, Fitzroy Valley, August 2016* (All those with ages from consultation with Nindilingarri, those without from consultation with the Commissioner for Children and Young People on regional visit to Broome, April 2016).

<sup>41</sup> Nindilingarri Cultural Health Service, *Consultation with children and young people, Fitzroy Valley, August 2016* (all those with ages from consultation with Nindilingarri, those without from consultation with The Commissioner for Children and Young People on regional visit to Broome, April 2016.)

<sup>42</sup> Commissioner for Children and Young People 2016, *Consultation with children and young people, Fitzroy Valley, April 2016* (all those with ages from consultation with Nindilingarri, those without from consultation with The Commissioner for Children and Young People on regional visit to Broome, April 2016.)



'Craziness; fights; people getting mad; people die; dehydration; heart attack; disease; people fight in the bush; people go to greylands (mental health); bullying; smoking; breakdown in your mind; we have to sleep at a different camp; growling; no money for food; asking and robbing people for money; shouting; swearing; less active; don't feel safe in our homes; hard to sleep; lots of humbugs; more FASD, busting glass, car crashes'<sup>43</sup>

'No alcohol in Fitzroy because there will be more violence more drink driving more abuse more break-ins. Also there will be more young mums drinking and more kids with alcohol syndrome. Even if the alcohol is lifted they will still go to Derby or Broome and bring back alcohol to sell because the alcohol cost too much in Fitzroy' -

'Lodge and the Crossing Inn have to work with the old people to have a better run pub and police better and have no kids hanging around the pubs, lift the age higher for drinking alcohol'

'Families will be better off with no alcohol and drugs and better future for the children and have a job'

'Grog – make the kids sad, people go mad, fighting, make old people worried' – boy, 14 years

'There will be more trouble in town and communities' (if the laws change) – girl, 13 years

'More parents drinking at home and less care for their children' (if the laws change) – girl, 14 years<sup>44</sup>

Children and young people who spoke to me were concerned about the impact of increased alcohol availability if the restrictions were changed but they also acknowledged that not everyone in the community supported the restrictions and that more could be done to reduce alcohol-related harm in the community, including the impact of 'sly-grogging'.

During my visit, I also had the opportunity to talk people who provide children and youth services in the area. They identified a range of key issues that require further attention and resourcing, that:

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<sup>43</sup> Commissioner for Children and Young People 2016, *Consultation with children and young people, Fitzroy Valley, April 2016* (all those with ages from consultation with Nindilingarri, those without from consultation with The Commissioner for Children and Young People on regional visit to Broome, April 2016.)

<sup>44</sup> Commissioner for Children and Young People 2016, *Consultation with children and young people, Fitzroy Valley, April 2016* (all those with ages from consultation with Nindilingarri, those without from consultation with The Commissioner for Children and Young People on regional visit to Broome, April 2016).

- the alcohol restrictions (in Fitzroy) have achieved significant improvements in community safety but more is needed to address 'sly grogging'<sup>45</sup>, and to support families to make changes, improve parenting skills and promote healing,
- overcrowding, family breakdown, and alcohol and drug problems remain problem areas for children and young people, increasing their risk behaviours and reducing their capacity to attend or engage at school,
- the research into FASD in the Fitzroy Valley has been important in improving recognition of the disability caused by drinking in pregnancy and the support needed for children, young people and adults who are affected,
- employment options for young people affected by FASD are needed to give these young people a positive future, and
- family and community empowerment, healing programs and trauma-informed work were critical.

Everyone I spoke to emphasised that the key to future success of programs in the area is long term investment, community empowerment and ownership of the problems and solutions<sup>46</sup>. This includes addressing the excessive alcohol use culture in the Fitzroy Valley.

## In Halls Creek

Two projects about alcohol-related harm have recently been conducted with children and young people in Halls Creek. The first, the Nicholson Block Prevention project worked with children to capture their expressions of how grog affected their lives. Children aged six to 12 and their carers met with community support workers to talk about their lives and if/how they changed when someone close to them 'got on the grog'. Notes were taken and a list of 'what kids say' was presented to community leaders in order to determine which messages would appear on a new billboard at the entrance to the community. The 'Kids Say No billboard' is erected at the corner of the Northern Highway and access road to the community, and is depicted below.



<sup>45</sup> 'Sly-grogging' refers to the importation of alcohol into restricted areas by an unlicensed person who then on-sells at an inflated price.

<sup>46</sup> Commissioner for Children and Young People 2016, *Regional Visit Report: Broome and Fitzroy Crossing*.

The second project with children and young people is a community-based activity conducted with the Kimberley Community Drug and Alcohol Service (KCADS), Melbourne-based theatre director, Bryan Derrick, the local Aboriginal Medical Service, Yura Yungi and Halls Creek High School. The two week project has had two intakes, in 2015 and 2016, with a third funded for later in 2016. Young Aboriginal people, (12 years and older) are supported to write, rehearse and present their own play to capture and communicate their experiences of alcohol-related harm.

The first play, written entirely by the children and young people and called 'Given Half a Chance', told the story of a young Aboriginal boy who has a father who drinks heavily. The drinking leads to family violence directed at the boy's mother. The pressures at home causes the boys poor performance at school, his subsequent drift into petty crime, a car theft, a fatal accident and a broken hearted mother. The play was an honest and confronting representation of their lived experience of alcohol-related harm<sup>47</sup>. The feedback from a teacher of those involved noted:

'This project empowered students at educational risk to create and perform their own plays. Students responded exceptionally well, attending rehearsals during school and after school hours. This was an incredible surprise as some students who would rarely come to school whole-heartedly participated in the creation and performance of the play. The success of this project has empowered students to feel a strong sense of achievement and it has inevitably increased their confidence in themselves and in their learning'

The second play, in April 2016, was called 'Night'. Actors include young male offenders; community members, Elders and musicians. It is a true story about relentless family and domestic violence; neglect and hunger; desperation; homes invaded by drunken predators and gangs of little children and youth who roam the streets at night too afraid to go home.

As reported in the first iteration of the program, the previously elusive, notoriously unreliable, shy and in constant stand offs with families and the law, young offenders committed to the program, rehearsing for six hours each and every day; shared their painful stories with the group; developed their characters and kept their appointments with Juvenile Justice and the local police. Projects like this provide a safe space for children and young people to explore and express the unique issues affecting them and their peers while building confidence and self-esteem.

It is imperative that the adults in these communities support the efforts by children and young people to overcome alcohol-related harm.

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<sup>47</sup> Commissioner for Children and Young People WA, Participation Guidelines examples, Kimberley Community Alcohol and Drug Service, *the Theatre of Transformation Project: 'Given Half a Chance'*.

## **Building a supportive and nurturing community**

I note that there have been improvements in the communities of Fitzroy Crossing and Halls Creek since restrictions have been imposed but it is important that the communities have time to build on these improvements – cultural change will require a lengthy commitment to building better and more nurturing environments for these children and young people. I also wish to draw attention to the unmet need for programs and services in the communities, without which there is a considerable risk that these improvements will not be sustainable.

Everyone I spoke to on my visit to Fitzroy Crossing emphasised that the key to future success of programs in the area is long term investment, community empowerment and ownership of the problems and solutions<sup>48</sup>. This includes addressing the excessive alcohol use culture in the Fitzroy Valley.

Additional services are required to support the work addressing the underlying issues which contribute to excess alcohol use in these communities. As noted within, effective enforcement of the current restrictions and community-led initiatives with associated long-term funding which are aimed at reducing alcohol consumption in the community are also vital to address the impact of alcohol-related harm on children and young people in the Fitzroy Valley.

Working in partnership with the strong leaders, both young and old, in the Aboriginal community to develop and implement these strategies will make a real difference to the health and wellbeing of children and young people across the Fitzroy Valley. Investment in our children and young people to break the cycle of disadvantage and create positive futures with a strong connection to their Aboriginal culture is much needed and I look forward to continuing to work with the Kimberley community, government and other service providers, to make this happen.

## **‘Sly-grogging’ and the black market in full strength liquor**

The application to amend the current alcohol restrictions is based on the premise that they have given rise to unintended and harmful consequences – namely that there is now a thriving black market in the sale of full strength beer and that the practice of ‘grog runs’ to nearby towns for the purpose of purchasing full-strength beer is prevalent.

The applicants also argue that ‘sly grogging’ and the consumption of illegal full-strength beer has given rise to binge drinking, family breakdown, increases in unreported domestic violence, decreased attendance at school, children roaming the streets late at night as they do not feel safe at home; and a shift in drinking patterns – whereas previously liquor was predominantly consumed in the open, now it is being consumed within homes in the communities.

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<sup>48</sup> Commissioner for Children and Young People 2016, *Regional Visit Report: Broome and Fitzroy Crossing*.

By allowing mid-strength liquor takeaway sales, the applicants claim that there will be a resultant decrease in illegal full-strength liquor consumed and consequently both the issues of the black market sale of full-strength liquor and sly grogging would be addressed.

However, at the most basic level, amending the current restrictions in this way will increase alcohol availability in these communities. There is no evidence to suggest that this will decrease alcohol-related harm to children and young people, or will benefit anyone in the communities apart from those selling the alcohol. Commercial operators should be able to pursue commercial opportunities, but this is not an unlimited right. The commercial benefits accruing to the applicant must be balanced against the societal costs. This is widely supported by the existing research that increasing the availability and strength of alcohol also increases alcohol-related harm<sup>49,50</sup>. Research also suggests that enforcement and evidence-based localised initiatives targeted at reducing alcohol consumption are more effective in reducing alcohol related harm than changes to any existing restrictions<sup>51</sup>.

Community safety is affected by levels of drink-driving in and by communities. The issue of increased drink-driving and the subsequent road traffic accidents was raised by the applicants as a consequence of the restrictions. The applicants suggest that increased driving to and from Derby and Broome has resulted in more road accidents as people drive increased distances under the influence of alcohol. This is not borne out by road crash statistics which indicate that for the entire Kimberley region the number of serious crashes has been trending downwards overall since 2006<sup>52</sup>. Similarly the number of fatalities has remained fairly low and stable (around 9 fatalities per year), with the Kimberley having the second lowest fatality rate in regional WA in 2015. Rates do not appear to have been affected by the alcohol restrictions. This matter was also raised before the WA Parliament's Education and Health Standing Committee Inquiry into Alcohol Restrictions in the Kimberley, where it was noted that:

'This situation [where only some communities had restrictions] had created a perception that some community members had been killed or injured in car accidents while driving long distances to purchase full-strength alcohol. Police data from the Halls Creek and Fitzroy Valley reviews show that this is not the case<sup>53</sup> ,

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<sup>49</sup> National Drug Research Institute 2007, *Restrictions on the Sale and Supply of Alcohol: Evidence and Outcomes*, p xviii.

<sup>50</sup> Babor T, 2010. *Alcohol: No Ordinary Commodity – a summary of the second edition*. Alcohol and Public Policy Group.

<sup>51</sup> National Drug Research Institute 2007, *Restrictions on the Sale and Supply of Alcohol: Evidence and Outcomes*, p xvii.

<sup>52</sup> Road Safety Commission, *Annual Crash Reports 2006 to 2015*.

<sup>53</sup> Education and Health Standing Committee 2011, *Alcohol Restrictions in the Kimberley: A Window of Opportunity' for improved health, education, housing and employment*, p28.

## Will sale of mid-strength beer discourage 'sly-grogging'?

One of the main points of the applicants arguments to allow the sale of mid-strength takeaway liquor is that this 'may well' discourage members of the community from participating in the black market and engaging in 'grog-runs'<sup>54</sup>. This presumes that those who currently seek out to sub-vert the restrictions with 'sly-grog runs' will be satisfied by the level of intoxication offered by mid-strength beer instead and will consume the mid-strength beer in moderation, thereby reducing the harms in the community when 'sly-grog' is bought to town. In my view, this is highly unlikely to be the case.

A holistic approach to reduce alcohol-related harm, which incorporates a combination of supply, demand and harm reduction initiatives and which maintains the necessary flexibility to deal with adverse consequences is best placed to ensure long-term change<sup>55</sup>. At present, the restrictions implemented come under supply control. However, the application to allow sale of takeaway mid-strength beer to address a demand issue (the demand for full strength beer), with a reduction in supply control (allow mid-strength beer) has no basis in evidence for success, and as stated before, it is likely that the mid-strength beer will just increase the availability of alcohol generally, with those who seek to satisfy their need for high levels of intoxication still undertaking 'grog-runs' and buying full strength beer on the black market. If it was the case that mid-strength beer could satisfy this need for intoxication then this would be evidenced in the 'grog-runs' and black market – that people would already be drinking mid-strength beer through these avenues but this is not the case.

'Sly-grogging' and the black market sale of full-strength alcohol are about people's desire for a specific high level of intoxication. Mid-strength beer will not satisfy those who seek this level of intoxication and it will not address these issues.

These are not new side-effects of the alcohol restrictions. Both have been reported since early restrictions were imposed as far back as 1998, and they are unlikely to be fixed quickly or easily unless drastic measures are implemented<sup>56</sup>. Effective strategies for combatting 'sly-grogging' and the black market in full-strength beer would be significant investment in enforcement of the restrictions and even an extension of the alcohol restrictions to include the entire Kimberley region. This would mean that 'grog-runs' would be redundant as distances to purchase liquor would be too significant and impractical for a viable return on investment for those undertaking them. Further investment in healing programs, alcohol and other drug treatment, and continued support for preventative initiatives and cultural change will also reduce the demand for high-strength alcohol to achieve intoxication.

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<sup>54</sup> Dwyer Durack Lawyers 2015, *Public Interest Assessment for joint licence applications A000192548, A000192547& A000192549*, p2.

<sup>55</sup> National Drug Research Institute 2007, *Restrictions on the Sale and Supply of Alcohol: Evidence and Outcomes*, pxvi.

<sup>56</sup> National Drug Research Institute 2007, *Restrictions on the Sale and Supply of Alcohol: Evidence and Outcomes*, p144.

## **Conclusion**

As Commissioner for Children and young people in Western Australia, I have a statutory obligation to advise government and raise awareness in the broader community about the best interests of children and young people. My role is also to articulate the views and to give voice to the children and young people about issues that affect them. Children and young people's best interests, their safety and their futures should all be at the forefront of considerations. As such, I strongly object to the proposed amendments to the liquor restriction in the Fitzroy Valley. Simply put, we should not risk more harm by increasing the availability of alcohol in any way.

Having spoken with children and young people in these communities as well as those active in the community supporting children and young people - community workers, education and health workers and the police, I believe that the current restrictions should remain in place for the foreseeable future, and I am convinced that it is in the best interests of children and young people to continue operation of the alcohol restrictions as they are.

Alcohol has had a devastating effect on the children and young people of the Fitzroy Valley. It is clear that the current restrictions have not addressed every instance of alcohol-related harm; and that the issues affecting communities under the current restrictions are considerable. I am not persuaded that allowing the takeaway sale of mid-strength alcohol in these communities will address 'sly-grogging' or the black market in full strength beer, or that it will result in less harm for children and young people in these towns. There is ample research to evidence the contrary view.

We should ensure that no further harm comes from changes to the existing alcohol restrictions. This should be our benchmark – it should be high because the protection and interests of children and young people should be of paramount importance, and until this benchmark can be confidently and justifiably met, then, in my opinion, the restrictions should remain unchanged.

Key strategies which should be considered to address the issues of 'sly-grogging and the black market in full strength alcohol are the effective enforcement of the current restrictions, consideration of the imposition of Kimberley-wide alcohol restrictions, and long term resourcing of community-led initiatives aimed at reducing alcohol consumption in the community, not the introduction of mid-strength beer.



**Colin Pettit**

**Commissioner for Children and Young People**

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