

NORTHERN TERRITORY LICENSING COMMISSION

Reasons for Decision

Application:	Variation of Public Restricted Area – Katherine Low Level Nature Reserve
Applicant:	Director of Licensing
Legislation:	Section 86B-G of the Liquor Act
Heard Before:	Mr Richard O’Sullivan (Chairman) Mr Paul Fitzsimons Ms Helen Kilgariff
Date of Hearing:	6 June 2014
Date of Decision:	19 June 2014

BACKGROUND

- 1) In early 2007 the Katherine Town Council made application for a Public Restricted Area to be declared over the Katherine Town boundary area. On 19 October 2007 the Northern Territory Licensing Commission (“the Commission”) declared the township of Katherine to be a Public Restricted Area, with the following exclusion:
 - a) *private premises, and*
 - b) *the Katherine Low Level Crossing Reserve between the hours of 7:00am to 7:00pm.*
- 2) Paragraph 16 of that Decision stated:
 - “16) *At the hearing submissions were also made in relation to the effect that the declaration may have on social gatherings such as picnics and other recreational activities. In consideration of those concerns the Commission is minded to exclude the Katherine Low Level Crossing Reserve from the Public Restricted Area between the hours of 7:00am and 7:00pm. It is hoped that this would allow such social activities to continue, but would prohibit drinking at night. However, the Reserve will be monitored and should it become a place for problem drinkers during the day its status as part of the Public Restricted Area will be reviewed.*”
- 3) The Decision in relation to the status of the entire area of the Katherine Low Level Reserve was subsequently reviewed. In a Decision of the Commission handed down on 4 December 2007, the area excluded from the Public Restricted Area between the revised hours of 7:30am to 7:30pm was reduced to a small two hectare parcel of land commonly referred to as “the barbeque area”, rather than the entire Reserve. Reasons for the declaration of the amended and smaller area are outlined in paragraphs 23-25 of that Decision:

- “23) Subsequent to the Commission determining the Katherine Municipal Boundary a Public Restricted Area, with the Low Level Cross Reserve exempted from the hours of 7:00am to 7:00pm, there has been further discussion of its impact. The decision of the Federal Minister to declare all Town Camps in Katherine restricted has apparently added pressures on any excluded area in terms of likelihood of anti-social drinking and behaviour. Advice had been provided to the effect that some Town Camp residents including from Kalano, had commenced drinking at the Low Level Crossing.
- 24) Based on Police Information and lack of support by Katherine Town Council for the exclusion of the area, the Commission has conducted a review of the exclusion. A smaller defined area of around two (2) hectares has been deemed more suitable than the declaration of the entire Reserve.
- 25) It is a containable area with considerable recreation values provided by barbecues, public toilets and maintained lawns. The area in recent times has transferred to the Northern Territory Government, under the care and maintenance of the Department of Planning & Infrastructure (DPI). The Commission was advised that DPI supported the area being excluded from the “Dry” Town.”
- 4) Since the revised declaration over “the barbeque area” of the Reserve there has been a steady increase in the usage of this area for the sole purpose of drinking alcohol i.e. people have become aware of and responded to the availability of an area, legally available for public drinking.
- 5) In November 2013 NT Police submitted a “Current Intelligence Report” into drinking problems and incident levels at “the barbeque area” of the Reserve. Police reported occasions when up to one hundred people would be drinking in the excluded area including young children. The Report outlines risks involved with anti-social behaviour and violence.
- 6) A complaint at 31 October 2013 over usage of the area for drinking purposes has been received from Mr Lachlan Kelsall, Director, Land Services and Development of the Department of Planning and the Environment. Various problems arising from excessive drinking are detailed, including the negative impact on tourists visiting the area. The Reserve, including the exempt barbeque area is the responsibility of the Department, with the complaint concluding:
- “It is for this reasons that the Department would like to see the exemption removed and the whole park be subject to the alcohol restriction.”*
- 7) Mr Jeffrey and Mrs Julie Smith, owners and operators of the Big4 Katherine Holiday Park, which adjoins the Reserve have also complained of the current misuse of the area by problem drinkers and associated violence, rubbish, destruction of landscape and family and tourism avoidance of the area.
- 8) There is a significant body of opinion which seeks removal of “the barbeque area” of the Reserve as an area excluded from the Public Restricted Area declaration. The inclusion of this area into the “Dry Town” status allows for the issue of permits for

bona fide use of the area, for events and special occasions, with alcohol consumption allowed. Section 86G of the Act provides for the revocation or amendment of an existing declaration and it is the use of this power that is being sought by the complainants.

PROPOSAL

- 9) In response to the misuse of “the barbeque area” of the Reserve by a cohort of the Katherine community through drunkenness, anti-social behaviour, littering and general deterrence of recreating and picnicking usage of the area, the Director of Licensing has applied to remove the exclusion of the area and its incorporation into the overall Katherine Public Restricted Area. The Katherine Town Council has supported the public consultation on the Director’s application.
- 10) The Commission on 12 December 2013 authorised inquiries to be undertaken pursuant to s.86C of the Act on its behalf through the placement of advertisements and community consultations on the proposal.

“86C Inquiry by Commission

- (1) *The Commission must conduct an inquiry to inform itself about the application.*
 - (2) *The inquiry:*
 - (a) *must be conducted in or near the relevant area; and*
 - (b) *may be conducted in any way the Commission considers appropriate.*
 - (3) *The Commission must give notice about the inquiry:*
 - (a) *to each local government council mentioned in section 76(2)(c) in relation to the area; and*
 - (b) *in a newspaper circulating in the area.*
 - (4) *The notice must:*
 - (a) *specify the area; and*
 - (b) *invite individuals and bodies to make submissions about the application by a specified time; and*
 - (c) *include any other information the Commission considers appropriate.*
 - (5) *For subsection (4)(b), the submissions may be in writing or made in any other way the Commission considers appropriate.*
 - (6) *In conjunction with the inquiry, the Commission may also inform itself about the application by conducting investigations and consultations as it considers appropriate.”*
- 11) In response to advertisements 9 written submissions received were supportive of the proposal to remove the excision of “the barbeque area” of the Reserve from being exempt from the Public Restricted Area, or “dry town” declaration. All cited

similar reasons, namely high incidences of anti-social behaviour, violence, degradation of the area and rubbish pollution.

- 12) Before the Commission is an application which has undergone due process and which seeks the revocation of a determination made in a Decision of 4 December 2007, as outlined in paragraph 29) of that Decision:

“29) The Commission determined to reduce the excluded area for the Katherine Low Level Reserve to a small portion defined as the barbecue area immediately above the Katherine River. This area is open to use by the public from 07:30am to 07:30pm and the Commission grants exclusion of this recreation area from the “Dry” Town and for consistency this is to apply from 07:30am to 07:30pm. The area has been identified as being around two (2) hectares of NT Portion 1302 and part of Lot 502 Town of Katherine. For gazettal purposes the area is defined as:

All the area within the Town of Katherine containing an area of approximately 2 ha being NT Portion 1302 and part of Lot 502 Town of Katherine and bounded by lines commencing at the northern most corner of NT Portion 1302 thence southerly by the eastern boundaries of the said portion to a northern corner of Lot 502 thence southwesterly by a southeastern boundary of Lot 502 to the high bank of the Katherine River thence generally southwesterly by the high bank of the Katherine River to its intersection with the westernmost boundary of Lot 502 thence northerly by the westernmost boundary of Lot 502 to the most southern corner of NT Portion 1302 thence northerly and northeasterly by the western and northwestern boundaries of NT Portion 1302 to the point of commencement.”

CONSIDERATION OF THE ISSUES

- 13) The Katherine Town Council has not expressed a view on the proposal, other than to endorse that public consultation and advertising of the proposal be undertaken. All other submissions received have been supportive of removing the excision area and aligning it with the Public Restricted Area status of the remainder of the township. Importantly Police and the “owner”/manager of the Reserve, the Department of Lands, Planning and the Environment have highlighted current problems associated with the use of the area solely for drinking purposes. It has resulted in the degradation and violation of the area intended for swimming, recreation and picnicking. Few visitors now use this area for such pleasant pursuits.
- 14) The Commission anticipated, in its earlier Decisions in relation to the status of the Reserve and the smaller barbeque area, that impacts would need to be monitored and amended if necessary. Consuming alcohol at the barbeque area of the Reserve will in future only be permissible where a Permit has been applied for and issued. It is hoped that following this Decision the area will revert to a public recreational space enjoyed by residents and tourist alike. Where events or special occasions are to be celebrated, the ability to enjoy the ambience of the area in association with consuming alcoholic drinks will be enabled through the issue of a Permit.

DECISION

15) The area defined as

All the area within the Town of Katherine containing an area of approximately 2 ha being NT Portion 1302 and part of Lot 502 Town of Katherine and bounded by lines commencing at the northern most corner of NT Portion 1302 thence southerly by the eastern boundaries of the said portion to a northern corner of Lot 502 thence southwesterly by a southeastern boundary of Lot 502 to the high bank of the Katherine River thence generally southwesterly by the high bank of the Katherine River to its intersection with the westernmost boundary of Lot 502 thence northerly by the westernmost boundary of Lot 502 to the most southern corner of NT Portion 1302 thence northerly and northeasterly by the western and northwestern boundaries of NT Portion 1302 to the point of commencement

is to be incorporated into the Public Restricted Area of the Katherine Township. The exclusion of this area to allow consumption of alcohol from 7:30am to 7:30pm is removed.

16) The Director of Licensing is to advise the public that Permits may be issued for the area to allow the consumption of liquor in association with events and special occasions.



Richard O'Sullivan
CHAIRMAN

19 June 2014