

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Dugong Beach Resort 1 Bougainvillia Drive Alyangula Groote Eylandt NT 0885
Date of Hearing:	20 December 2007
Proceeding:	Application for Revocations and Re-declaration of Groote Eylandt Restricted Area removing Dugong Beach Resort from Restricted Area Application for a Liquor Licence for Dugong Beach Resort, and Clarification of Conditions Determination of whether the Proposes Nominee is a Fit and Proper Person to hold a Liquor Licence.
Applicant:	Dugong Beach Resort Pty Ltd
Proposed Nominee:	Mr John Robinson
Appearances:	Mr Peter McQueen for the Applicant
Members:	Ms Merran Short (Presiding Member) Mr Doug Phillips Mr Ian O'Reilly

Background

1. Dugong Beach Resort ("the Resort") has been purpose-built this year on virtually the north-western tip of Groote Eylandt ("Groote"), abutting Alyangula township. Costing about \$20 million to build, it is owned by Groote Eylandt and Bickerton Island Enterprises, the business arm of the Anindilyakwa Land Council, which represents the traditional owners of the island. The project is intended to provide a long term income and source of employment to local Indigenous people beyond the life of the manganese mining undertaken on Groote. The Resort includes a restaurant, a shop, lounge and pool bars, an observation deck, conference rooms, twenty (20) individual bungalows, forty (40) motel rooms, a fishing lodge comprised of twelve (12) permanent 'tents' and a jetty, a cultural building, staff accommodation and various other constructions such as workshops and car parks. Guest accommodation is linked to the conference/restaurant/bar complex by raised walkways.
2. Mr Robinson and Mr McQueen are two of the five Directors of the project. The other Directors include two traditional owners.
3. Mr Robinson applied for a Liquor Licence on 7 August 2007. The Licensing Commission could not consider granting a licence at that time because the Resort is located in a Prescribed Area pursuant to the *Northern Territory Emergency Response Act*.
4. The Australian Government confirmed on 5 November 2007 that the Resort (total land area of approximately 22.27 hectares) had been removed from the Prescribed Area, following application from McQueens Solicitors on instruction from the Resort owners. This meant that the Resort area was now located in the Groote Eylandt / Bickerton Island General Restricted Area ("the GRA"), and as such could be considered by the Commission in accordance with Section 84 of the *Liquor Act* ("the Act"). The procedure requires the relevant Restricted Area to be revoked and then immediately re-declared excising the

agreed land area. In this case this has to include re-declaring currently existing excisions at the other licensed premises within the GRA (the Alyangula Recreation Club, the Alyangula Golf Club and the Alyangula Police Social Club).

5. The original application attracted two Objections, from the Groote Eylandt Liquor Permit Committee (“the Permit Committee”) and the Police.
6. The Permit Committee has been operating successfully for more than two years, following three years of community consultation regarding the development of the Groote Eylandt Liquor Management Plan (“LMP”). The Commission considers the Groote LMP a very successful example of this approach to managing the use of alcohol in remote areas. The Permit Committee comprises representatives of all key Indigenous and non-Indigenous stakeholders in the region, including Police, Health, traditional owners, local government, licensed premises and the mine.
7. The receipt of these Objections signalled to the Resort stakeholders the importance of improving communication between themselves and the Permit Committee. Correspondence and meetings were held which led to the application being changed and the objections being withdrawn. The outcome of this process is detailed below.
8. The Commission was also informed prior to the Hearing that an event had taken place on 8 December 2007 which was being investigated by Police as a possible breach of the Act. The Hearing therefore considered evidence regarding this event in relation to the question of whether the proposed Nominee was a ‘fit and proper’ person to be granted a Licence.
9. The Commission was therefore considering three matters at the Hearing:
 - The revocation and re-declaration of Groote Eylandt GRA removing Dugong Beach Resort from the Restricted Area.
 - The granting of a Liquor Licence for Dugong Beach Resort, and clarification of conditions.
 - Determination of whether the proposed Nominee is a fit and proper person to hold a liquor licence.

Consideration of the Application

10. For the Commission to approve this application it was critical to the Commission that the Permit Committee was satisfied that the proposal was workable and congruent with the Groote Eylandt LMP. The outcomes of the discussion between the proposed Nominee and the Permit Committee had gone a long way to satisfying the Commission in this regard.
11. The points of agreement emanating from their discussions were:
 - Groote Eylandt residents attending the restaurant can only consume alcohol with a meal if they are a current permit holder.
 - No takeaway alcohol is to be served.
 - No alcohol to be provided in guest accommodation mini-bars.
 - Resort guests are not permitted to bring alcohol onto Groote Eylandt. International guests carrying duty free alcohol will be instructed to give this into the care of Police for the duration of their stay.
 - Resort guests are subject to controls approved as part of the Liquor Management Plan, such as not being allowed to consume, purchase or supply alcohol outside the Resort exempt area, and not being allowed to apply for a permit.

- Limiting the amount of alcohol to be sold per customer (considered in more detail at the Hearing).
 - The proposed hours of the licence – 11.00am to 11.00pm was agreed upon.
12. The areas of the Resort to be included and excluded from the proposed licence were also considered in their discussions.
 13. At the Hearing Mr McQueen presented maps of the Resort, Exhibits 1, 2 and 3, which included the co-ordinates of the area removed from the Prescribed Area by the Federal Government and the co-ordinates of the area recommended to be excised. The latter excluded the fishing lodge, the jetty, staff accommodation including manager's residences, the cultural building and Resort car parks.
 14. However the discussions with the Permit Committee had led to an understanding that it was unwise to grant a permit over the whole excised area, because guests had to be seen to be complying with the LMP. Also some bush sites within the Resort could potentially be used as drinking areas by residents. It became clear to the Commission that the licensed areas had to be clearly defined in the Licence, if granted.

Consideration of the Nominee

15. The Commission was informed by Police, in a document tendered in the Hearing Brief, that on the afternoon of Saturday 8 December last, the Groote Manager of LJ Hooker, a permit holder, "purchased a large quantity of alcohol from the Alyangula Golf Club." He took it to the Resort. That evening the company's Christmas party was held at the Resort, attended by "25 persons... of whom 4 were children." Resort staff "served this alcohol to the guests" at the party.
16. These facts were not disputed at the Hearing. It appears that all concerned (the LJ Hooker Manager, his guests, Resort staff and management) were not aware this constituted a possible breach of the law.
17. At the Hearing Mr Robinson admitted that he was responsible for this event. There was confusion as to the effect of the Federal Government's excision in this situation. He stated he had sought advice from members of the Permit Committee prior to the event. They had indicated that if those that bought the alcohol held permits, they could drink it at the Resort. Both Resort staff and the purchaser of the alcohol are permit holders, therefore Mr Robinson understood it was permitted for them to provide alcohol at a party where they were present. Mr Robinson said the conditions of the LMP in this regard were not clear. The Commission recommends that if Mr Robinson is unclear as to any aspect of the Resort Licence or Permit requirements he contact Licensing and Regulation before embarking on a course of action.
18. Mr Robinson said he instructed staff that it was allowable to serve the previously-purchased alcohol at the event, and that any left over had to be removed as soon as the event was concluded. Staff followed his instructions.
19. Mr Robinson was obviously embarrassed by the matter. The Commission was informed Police were investigating.

Reasons for Decision

20. The Commission is impressed by the rationale for the Resort, and by reports of the quality of the infrastructure. It is an exciting project that deserves to be supported by the authorities to enable it to achieve its stated goal of providing an industry on Groote Eylandt to benefit the local people in the long term.
21. The Commission therefore agrees to remove Dugong Beach Resort from the Groote Eylandt General Restricted Area.

22. For the same reason, the Commission has decided to grant a Liquor Licence for the Dugong Beach Resort. The conditions of the Licence are as agreed by the proposed Nominee and the Groote Eylandt Liquor Permit Committee. The area to be licensed will be all the man-made structures within the excised area except the substation and the asphalt outside the reception area. Following discussion at the Hearing, the Commission has decided to limit alcohol sales to guests as follows: guests will only be able to purchase either two (2) open alcoholic cans / bottles or one (1) bottle of wine at a time to take back to their accommodation.
23. Regarding the proposed Nominee, the Commission has taken into account the vast experience in this industry of Mr Robinson, his good reputation, his openness regarding his responsibility and his contrition regarding the events of 8 December. Without wishing to prejudice any Police findings regarding these events, the Commission has decided to accept the Nominee's application, to enable the Resort to begin to operate as it is intended, for the long term benefit of Groote Eylandt people.

Decision

24. Pursuant to Section 84 of the Act, the Groote Eylandt Restricted Area (notice of which was published in Gazette Number 21 dated 25 May 2005) shall be revoked with effect on and from the date on which the declaration notified under paragraph 24 takes effect.
25. Pursuant to Section 82 of the Act and with reference to Section 83 of the Act, the Commission has in accordance with Part VIII of the Act declared the area of land described in Schedule 1, Part 1 at Attachment "A" to be a Restricted Area with effect from the date of publication of this Notice in the Gazette or in a newspaper whichever is the latest.
26. Areas excluded from the Restricted Area are those areas as described in Schedule 2, Part 1 at Attachment "A".
27. The Commission grants a Liquor Licence to the operators of Dugong Beach Resort. Conditions to be included in the Licence are to be congruent with the Groote Eylandt Liquor Management Plan as follows:
- Residents attending the restaurant can only consume alcohol with a meal if they are a current permit holder.
 - Permit holders may not consume alcohol without a meal.
 - No takeaway alcohol is to be served.
 - No alcohol to be provided in guest accommodation mini-bars.
 - Resort guests are not permitted to bring alcohol onto Groote Eylandt. International guests carrying duty free alcohol will be instructed to give this into the care of Police for the duration of their stay.
 - Resort guests are subject to controls approved as part of the Liquor Management Plan, such as not being allowed to consume, purchase or supply alcohol outside the Resort exempt area, and not being allowed to apply for a permit.
 - Guests will only be able to purchase either two (2) open drinks or one (1) bottle of wine at a time to take back to their accommodation.
 - The hours of the licence will be 11.00am to 11.00pm seven (7) days per week.
28. The Commission determines that Mr John Robinson is a fit and proper person to be recognised as the Nominee for the Dugong Beach Resort Licensed Premises.

Merran Short
Legal Member

22 January 2008