

Northern Territory Licensing Commission

Reasons for Decision

Application by Katherine Town Council for a Public Restricted Area and the Katherine Liquor Supply Plan Submitted by the Department of Justice

Applicant:	Katherine Town Council
Date of Decision:	19 October 2007
Legislation:	Part V111 Divisions 1B, and 2 of the <i>Liquor Act</i>
Members:	Richard O'Sullivan (Chairman) Veronica McClintic John Brears
Appearances:	Mr Craig Smyth, Counsel Assisting the Commission

Application for Public Restricted Area

- 1) This is an application by the Katherine Town Council for a declaration of a Public Restricted Area pursuant to Section 76 of the *Liquor Act*.
- 2) The application was originally made on 1 March 2007 by the Mayor of Katherine, Ms Anne Shepherd, seeking to have the Central Business District (CBD) of Katherine declared a Public Restricted Area. The required notices were posted and public and interested party submissions were received by the Commission in relation to that application. The Council's proposal incorporated a document entitled "Draft Katherine Alcohol Management Plan".
- 3) The Draft Katherine Alcohol Management Plan was a document prepared by the Katherine Region Harmony Group. The Key initiatives outlined in the Draft Alcohol Management Plan comprise: Supply Reduction, Harm Reduction and Demand Reduction. In the view of the Commission the need for a holistic approach to alcohol abuse is illustrated by the integrated nature of these initiatives and due to their importance, they are summarised below:
 - The Supply Reduction initiative requires the establishment of "dry zone" over a limited portion of the central business district of Katherine, development of a liquor accord amongst Licensees and improved police, community patrol and other programs crucial to support the "dry zone" initiative.
 - The Harm Reduction initiative requires the development of options to accommodate short terms needs of regional visitors from outlying communities and to find culturally appropriate alternatives to alleviate camping in public areas. Such options would necessarily include utilisation of the sobering up shelter as a key intervention point and greater court intervention in addressing individual's alcohol issues.
 - The Demand Reduction initiative included the development of a "healing pathway" to establish the linkages necessary for case management between services provided for people afflicted with alcohol addiction. That would necessarily include linking early intervention with access to withdrawal and rehabilitation services. Demand reduction also encompasses the introduction of a responsible drinking campaign.

- 4) It is clear that the Council's application for the declaration of a Public Restricted Area is an integral part of a much larger plan to address alcohol related problems in the Katherine region.
- 5) To gauge public opinion of the application, a Public Consultation Forum was convened by the Commission on 7 June 2007.
- 6) On 12 July 2007 the Chief Executive Officer of the Katherine Town Council, Mr Geoff Brookes, wrote to the Commission following a Special Meeting of the Katherine Town Council. Mr Brookes informed the Commission that the Council had resolved to expand the proposed Public Restricted Area to include the entire township of Katherine and that the Council wanted the Commission to conduct an inquiry into the declaration of that larger area. Relevant notices were posted in relation to the amended application and submissions were sought. Following this, the Commission consulted with the various stakeholders in Katherine on 17 and 18 July 2007. The proposed boundary of the application was also inspected.
- 7) The Katherine Town Council put forward a number of reasons in support of their amended application. Those reasons were:
 - A larger dry zone is preferable for Katherine as there is a fear the problems associated with public drunkenness would be pushed into the residential areas;
 - The Katherine community now has a commitment from the Northern Territory Government that there will be sufficient resources to police the areas;
 - There is a commitment from the Northern Territory Government for improvements in rehabilitation, the Sobering Up Shelter and a return to home policy;
 - Katherine residents are hopeful Katherine, through the co-operation of the agencies involved, can address the problems with transient accommodation;
 - Katherine Town Council has written to property owners of vacant blocks of land to apply for Private Restricted premises to ensure their land does not become a "hot spot";
 - Other Northern Territory initiatives including the proposed ID card system for alcohol purchases and working with Katherine Licensees over limitations on alcohol supply and demand issues; and
 - Katherine Town Council believes the dry zone is an integral part of stopping the "rivers of alcohol".
- 8) On 28 August 2007 the Commission agreed to hold a public inquiry, and on 5 September 2007 a public hearing was held at the Katherine Court House.
- 9) At the hearing, the Commission was presented with a "brief" containing a number of written submissions. Written submissions were received from North Australian Justice Agency Limited, the Northern Territory Legal Aid Commission, the Katherine Chamber of Commerce, the Katherine Liquor Accord, Northern Territory Police, Department of Health and Community Services – Alcohol and Other Drugs, Venndale Rehabilitation and Withdrawal Centre, Kalano Community Association and a number of individual letters of support from the Katherine Community.
- 10) At the hearing oral evidence was given by a number of witnesses who included: Mr Henry Higgins - Deputy Mayor of Katherine Town Council, Commander Greg Dowd - Officer in Charge, Northern Territory Police – Katherine, Malcolm Richardson – Deputy Director North, Licensing and Regulation, Department of Justice, Kate Halliday - Office of Alcohol Policy, Department of Justice, Glen Dooley – North Australian Justice Agency Limited, Danelle Batchelor – Katherine Aboriginal Family Violence Prevention Service, a number of Licensees and residents of the Katherine community.

- 11) The expansion of the Public Restricted Area to cover the entire town had been supported by a number of submissions received by the Commission in relation to the original application relating to only the central business district. Further, support for the inclusion of a larger area was also communicated to Chairman Richard O'Sullivan and Commissioner Brenda Monaghan during prior public consultations in Katherine. At the public hearing there was also a strong degree of public support for a Public Restricted Area over the entire town boundary area.
- 12) During the hearing a number of submissions were made in respect to the effectiveness of what is generally known as the "2km law" (ie breach of s 45D of the Summary Offences Act) and whether enforcement of the Public Restricted Area would achieve any more than the law which was already in place. The Commission is of the view that the proposed dry town application would be more effective than the 2km law for a number of reasons.
- 13) First, the 2km law does not cover the entire town area, but rather operates via a number of circular areas with a 2km radius centred at each licensed premises. The uncertainty as to what areas are within and not within a 2km radius leads to uncertainty in policing and potentially leaves pockets of areas that may fall outside the 2km limits. The Commission is of the view that a properly defined area, such as the proposed town boundary, would allow for more consistent policing. In that respect the Commission was comforted by comments made by Commander Dowd at the hearing, to the effect that there are moves afoot to equip Katherine Police with trail motorbikes to allow for policing and access to the Katherine River corridor and other difficult access areas within the town boundary. The Commission is of the view that if the NT Police are provided with a better means of mobility that will assist in surveillance, detection and prevention of illegal drinking.
- 14) Secondly the 2km law only provides for forfeiture of the liquor. The declaration of a Public Restricted Area would provide not only for forfeiture of liquor but would allow for the issue of Infringement Notices and Court Prosecutions. It is also envisaged that repeat offenders would be referred to the Alcohol Court.
- 15) Thirdly, the Commission is encouraged by the positive results seen in Alice Springs where a Public Restricted Area has been in place since August 2007.
- 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.
- 17) On completion of the hearing, and in consideration of the written and oral material presented, the Commission is satisfied that it has been presented with material sufficient to satisfy Section 87D of the *Liquor Act*.
- 18) Mindful that any declaration, assuming its policing and enforcement, will result in habitual and problem drinkers being picked up and brought to the attention of authorities, the Commission is of the view that there will be added pressure on the social, justice and rehabilitation services in Katherine. It is the Commission's view that alcohol treatment and rehabilitation capability are therefore at the core of the successful implementation of a dry town.
- 19) The Commission, in making any decision to approve the application for a Public Restricted Area, is doing so on the understanding (based on assurances or intentions of agencies made at the hearing) that services will be provided in concert with the declaration.

20) Initiatives which helped the Commission reach its decision include:

- Government approval for annual funding of \$350,000 to support the intervention and case management service in Katherine, incorporating Return to Country, transport services for homeless and itinerant people and arrangements for referrals to short term accommodation, health and welfare services.
- Continuity and improvements to patrols including night patrols.
- An upgraded sobering up shelter facility. The Commission was advised that land in Giles Street, Katherine had been quarantined as a site for a new purpose built sobering up shelter and that funding is to be negotiated with the Commonwealth Government. The advancement of this program is critical to the success of the Dry Town. Adequacy of detoxification capacity at Katherine Hospital is also of importance.
- The extension of the Alcohol Court to the Katherine area enabling court interventions for alcohol dependent offenders.
- Venndale Drug and Alcohol Rehabilitation Centre is an excellent facility south of the Katherine Township, however the Commission was advised that limited operational funding is currently restricting the number of clients able to be treated. The Commission was advised that the Department of Health and Community Services is aware of the need to enhance resourcing to improve the capacity of Venndale – this needs to be addressed as a priority. The Commission anticipates an improvement in resourcing to this Centre to enable it to take up the full twenty-four (24) bed capacity of the purpose-built facility.
- Visitors to the township from outlying communities clearly need transient/short term accommodation when visiting Katherine for shopping, medical and other reasons. Geyulkgan (Walpiri Camp) has been identified in conjunction with Kalano Community Association as a potential site for such a facility. Based on the experience of Port Augusta, such a transient camp has potential to have an enormous impact in providing appropriate accommodation for visitors rather than having them on the streets and in public areas of the township with the resultant temptation to join “long grassers” and itinerants, who are frequently alcohol dependent.
- An awareness and education program, to inform the residents of Katherine and members of the communities in the region of the “dry” town restrictions, is required. An adequate lead time of around three (3) months is anticipated to be required for the organisation and delivery of such a campaign – based on the experience with declaring a major part of the municipal boundary of Alice Springs Public Restricted Areas.

Decision

- 21) On the understanding that the above services and initiatives will be introduced and taking into account the widespread public support, the Commission approves the Katherine Town Council’s application to have the Katherine Town Area declared a Public Restricted Area. The Commission is of the opinion that such a declaration is in the public interest and is consistent with the objects of the *Liquor Act*.
- 22) The effect of the declaration means that it will be an offence against Section 75 of the *Liquor Act* to consume liquor in the Public Restricted Area without a permit. The Public Restricted Area does not include private premises. The penalties for consuming liquor in the Public Restricted Area without a permit will range from forfeiture of the liquor, to the issue of a \$100 infringement notice up to a maximum fine of \$500 if the matter proceeds to

Court. Repeat offenders appearing before the Court of Summary Jurisdiction may also be referred to the Alcohol Court.

- 23) The Commission will take measures to formalise this decision in accordance with Sections 86E and 86F of the *Liquor Act*. Taking into account the need for public education, awareness and information programs leading up to the formal introduction of the Public Restricted Area, the Commission has drawn on the experience of the Alice Springs "Dry" Area and has set aside three (3) months for the implementation of these programs. The Katherine "Dry" Town introduction will therefore commence on 21 January 2008.
- 24) In order to ensure the decision has the intended impact, the Commission will informally review the operation of the declaration after six (6) months from the date of implementation, with a formal review after twelve (12) months from the date of implementation.
- 25) The Public Restricted Area will formally be defined as the area comprising the Katherine Town boundary, but excluding:
 - a) private premises; and
 - b) The Katherine Low Level Crossing Reserve, between the hours of 7:00am and 7:00pm only.

Katherine Liquor Supply Plan Proposal

- 26) In conjunction with the Public Restricted Area application heard on 4 September 2007, the Commission also conducted a public consultation forum in relation to a proposed draft liquor supply plan for the Katherine Region submitted by the Department of Justice. The Katherine Region is defined to include Katherine, Mataranka, Larrimah, Daly Waters, Highway Inn, Victoria River, Top Springs, Timber Creek, Pine Creek and Hayes Creek. A document entitled "A Supply Plan for Katherine Region" had been distributed prior to the hearing date and attracted a great deal of interest from the Katherine community.
- 27) Sixty four (64) written submissions were received by the Commission in relation to the proposed liquor supply plan. They included submissions from: the Department of Justice - Community and Justice Policy, Northern Territory Police, Department of Health and Community Services – Alcohol and Other Drugs, Katherine Country Club, The Australian Hotels Association, the Redgum Tourist Park, the Riverview Caravan Park, Katherine Hotel, Crossways Hotel/Motel, Venndale Rehabilitation and Withdrawal Centre, the Pine Creek Aboriginal Advancement Association, Timber Creek Gunamu Tourist Park, Fay Miller MLA and Woolworths Ltd. Of the sixty four (64) written submissions, fifty (50) were received from the residents of the Katherine community. At the forum, seventeen (17) witnesses gave oral submissions to the Commission.
- 28) In summary, a number of submissions were in favour of the supply plan or parts of it. However, the vast majority of the submissions, particularly those from the residents of Katherine, objected to the entire Draft Supply Plan.
- 29) All submissions were taken into consideration by the Commission.
- 30) The Commission is of the view that any supply measures which are introduced should not stand alone, but should be seen as an integral part of an overall supply reduction plan, to be implemented in conjunction with the establishment of a Public Restricted Area, and the implementation of other harm minimisation initiatives.
- 31) In considering the Draft Supply Plan submitted by the Department of Justice the Commission has taken an approach of focusing on high risk products, that is, those products which are the least expensive yet have the highest alcohol content, products which in the Commission's broad experience are abused by those with severe alcohol problems. It is the Commission's view that a reduction in the supply of high risk products should produce a corresponding reduction in the abuse of such products, along with a

reduction in social problems associated with such abuse. The Commission notes that the supply measures are subject to ongoing monitoring and review and foreshadows that if the supply measures do not have the intended effect of reducing alcohol consumption and abuse, then further consideration will be given to revisiting other alternatives considered in the Draft Supply Plan.

Decision

32) On a thorough consideration of all of the submissions, the relevant issues and in accordance with the objects of the *Liquor Act*, the Commission supports the following supply plan measures:

- The trading hours for on premises sales and the current “light beer” restriction before 12.00 for the Katherine township remain the same.
- Takeaway sales to be permitted between 2:00pm to 8:00pm only. There is no takeaway trading in all licensed premises on Christmas Day and Good Friday and no takeaway trading in stores on Sundays.
- No cask wine or fortified wine sales in containers larger than two (2) litres.
- Takeaway sales of cask wine and fortified wine (including Stones Green Ginger Wine) is to be limited to the hours of 2pm to 6pm only.
- Takeaway purchase of cask wine and fortified wine to be limited to one (1) two (2) litre cask or one (1) bottle fortified wine per person per day.
- No drive through takeaway sales to taxi drivers on duty.
- No purchased takeaway products to be kept on premises within an on licence for later collection.
- All Licensees are required to provide liquor product sales figures as directed by the Commission.
- Licensees who are licensed to sell liquor for consumption both on and off premises are required to provide liquor figures clearly identifying “on and off premises” sales.
- Camera surveillance to be installed and operated in the alcohol service areas of all store licences and off-licences.
- All staff serving alcohol must hold a Responsible Service of Alcohol Certificate within one month of commencing employment or as soon as practicable thereafter. The Commission notes that the unavailability of courses makes it difficult to impose an absolute requirement as a condition and encourages the government to assist in sponsoring relevant courses.
- Takeaway conditions to apply to all relevant premises in Katherine, Mataranka, Victoria River and Pine Creek. Without the inclusion of these nearby townships in the Katherine Supply Restrictions Decision, problem drinkers could travel to these nearby locations for the purchase of restricted alcohol products or for purchase outside the restricted hours, negating the impact intended with these Supply Restrictions.

33) In relation to takeaway cask wine and fortified wine sales, the Commission took note of the takeaway alcohol restrictions operating in Alice Springs, particularly cask wine which has restricted takeaway hours between 6.00pm until 9.00pm. The pushing back of takeaway cask wine sales has resulted in a product substitution towards takeaway beer sales (allowable from 2.00pm), an overall lower alcohol product. This substitution from cask wine to beer consumption is attributed to have caused, or contributed to, a decline in overall

alcohol consumption in Alice Springs of 8% - 12% since being introduced on 1 October 2006.

- 34) Based on operation and safety reasons Katherine Police (Commander Greg Dowd) advised the Commission that they would prefer any cask wine sales to occur earlier in the day (ie from 12.00 midday until 4.00pm) to enable the affects of consumption to be discernible in daylight hours to better enable surveillance and harm prevention. Police advised they were keen to minimise night time dangerous drinking situations along the Katherine River verge, which due to heavy vegetation, darkness and deep and often fast flowing water, posed a serious risk to problem drinkers and people with them. Three (3) recent deaths along the river verge were likely caused through such dangerous drinking situations.
- 35) Taking into account the Alice Springs experience and on careful consideration of Police advice, the Commission determined to strike a compromise and provide a restriction on takeaway cask and fortified wine sales from 2.00pm until 6.00pm with the impact of this decision to be subject to review.
- 36) It is envisaged that Licensees in the Katherine Region will be notified of the Commission's views, and will be requested to voluntarily agree to amendments to their licences in accordance with Section 33 of the *Liquor Act*. If such conditions are not agreed to, the Commission will undertake such processes and convene a Hearing (in accordance with Section 33 of the *Liquor Act*) to determine such liquor trading conditions.

Richard O'Sullivan
Chairman

19 October 2007