

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Heartbreak Hotel Malandari Store
Licensees:	Kabe Junction Pty Ltd (Heartbreak Hotel) Malandari Partnership (Malandari Store)
Nominees:	Ms Kerry Ralph (Heartbreak Hotel) Mr Frazer Baker (Malandari Store)
Proceedings:	Hearing to Consider an Application for a Review of Previous Decision of the Northern Territory Licensing Commission Pursuant to Section 27 of the <i>Northern Territory Licensing Commission Act</i>
Heard Before:	Mr Richard O'Sullivan (Chairman) Mr Wally Grimshaw Mr Paul Fitzsimons
Appearances:	Mr Tom Anderson for Heartbreak Hotel Mr Graeme Buckley for Malandari Store Inspector Mark Wood for the Director of Licensing
Witnesses:	Mr Brian Kimmings, Malandari Store Partnership Ms Kerry Ralph, Nominee, Heartbreak Hotel Constable Joshua Donovan, Northern Territory Police Senior Constable Bryan Atkinson, Northern Territory Police Sergeant Ian Young, Northern Territory Police Superintendent Daniel Bacon, Northern Territory Police Ms Veronica Thorpe, Alcohol Policy, Department of Health Mr Graeme Matthews, Principal Borroloola School Ms Michelle Smith, Manager, Borroloola Health Clinic Ms Deborah Young, Alcohol and Drug Nurse Mr Bruce Hansen, Mara Camp Resident Mr Brian O'Shannessy, Nominee, Malandari Store
Dates of Hearing:	21 and 22 May 2013 (Borroloola) 13 August 2013 (Summary Submissions, Darwin)
Date of Decision:	18 March 2014

BACKGROUND

- 1) On 4 August 2011 the Northern Territory Licensing Commission ("the Commission") handed down a Decision which applied takeaway alcohol restrictions to residents of Borroloola Township and Mara Town Camp ("Mara") through applying licence conditions to Heartbreak Hotel, Cape Crawford and Malandari Store, Borroloola. Both Licensees under this Decision were required to restrict the sale of takeaway alcohol to Borroloola and Mara residents to a maximum of eighteen cans per day of either mid

strength or light beer, that is beer below 3.5% alcohol by volume. In that Decision the Commission included the possibility for review.

- 2) On 5 October 2012 Superintendent Daniel Bacon of the Northern Territory Police Force ("the Police") lodged an application for a review of this Decision under Section 33(2) of the *Liquor Act* ("the Act"). While Section 33(2) is not grounds for a review, Section 27 of the *Licensing Commission Act* enables the Commission to conduct a review of a decision and the Commission determined to exercise this power with respect to the conduct of a review. The core issues identified by Superintendent Bacon relate to policing burden on resources and ongoing adverse social outcomes of takeaway alcohol sales which had not improved to any significant degree following the Commission Decision of 4 August 2011. Police also advised that the community was considering revising the current draft Alcohol Management Plan ("AMP") for the Borroloola area to further restrict liquor sales and to introduce alcohol free days.
- 3) A major reason for the failure of the 4 August 2011 Decision to have the desired effect, in the Police application for review, was that many of the residents of Borroloola and Mara had obtained identity documents giving their place of residence as outside the described areas of Borroloola and Mara, to enable them to purchase the maximum amount of beer able to be sold to anyone per day at Malandari Store, i.e. thirty cans of mid strength or light and to have unfettered access to takeaway alcohol from Heartbreak Hotel.
- 4) Currently, under the store liquor licence issued to Malandari Store, the maximum takeaway sale is restricted to thirty cans of light or mid-strength beer per person per day. Special Conditions which apply to the Malandari Store are:

Restricted Sales

Liquor sold for consumption away from the licensed premises is restricted to canned beer only with an alcohol content of NOT more than 3.5%.

Liquor sold for consumption away from the licensed premises is restricted to a maximum of thirty cans per person per day.

Takeaway Restriction to Borroloola and Mara Camp Residents

The sale of takeaway alcohol to Borroloola residents inclusive of Mara Camp residents will be restricted to canned beer only with an alcohol content of not more than 3.5%, and limited to eighteen cans per person per day.

- 5) Special conditions applying to Heartbreak Hotel Roadside Inn Liquor Licence are:

Takeaway Restriction to Borroloola and Mara Camp Residents

The sale of takeaway alcohol to Borroloola residents inclusive of Mara Camp residents will be restricted to canned beer only with an alcohol content of not more than 3.5%, and limited to eighteen cans per person per day.

Takeaway sales to non Borroloola and Mara residents are unrestricted.

- 6) At a Commission meeting in October 2012 the following decision was taken:

"Commission determined to conduct a review of the original decision dated 4 August 2011 and provided for in paragraph 61) of that decision".

- 7) The application by Superintendent Bacon seeks the immediate reduction in alcohol sales until the finalisation of the Borroloola AMP. Outlined in the Superintendent's submission is that alcohol supply reduction would reduce alcohol fuelled antisocial behavior, alcohol health harm and alcohol related violence and harm, including suicides in Borroloola and wider region. Attached to the application is a document titled "*Current Intelligence Report 24 September 2012*", prepared by Constable Ramsay which provides data and analysis evidencing alcohol related incidents and harm in the Borroloola area.
- 8) Superintendent Bacon's application posits that the objects of the Act are not being met through the current alcohol sale restrictions and the loophole where bona fide Borroloola and Mara residents are obtaining forms of ID which establishes their residency as elsewhere, outside the specified geographic boundaries, to circumvent the takeaway restrictions applying to them.
- 9) His application states:

"Evidence provided by Police and supported by key stakeholders indicates that the objects of the Act are not being met within the Region of the licensed premises pursuant to Section 3 and 32 of the Act respectively".

"We believe the takeaway alcohol conditions of both Liquor Licences contribute to alcohol related harm in the Region. We believe that these reductions sought will improve the management of alcohol consumption within the Region ..."

*"The NTP request to change the special condition restricting alcohol takeaway sales from Borroloola and Marla to include **all persons** is attributed to the problems facing licensees, Police and the general community when it comes to identifying these residents. Anecdotal evidence exists that this restriction is being circumvented by these residents changing their residential address to fall outside these areas to increase the volume of takeaway that can be purchased. The removal of this provision and reducing takeaway for all persons also removes the perception of discrimination of individuals or groups of individuals, which often leads to frustration and conflict."*

- 10) Under the Act primacy of objective in regulating the sale of liquor is to minimise harm. The Act states:

3 Objects

(1) *The primary object of this Act is to regulate the sale, provision, promotion and consumption of liquor:*

- (a) *so as to minimise the harm associated with the consumption of liquor; and*
- (b) *in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor.*

(2) *The further objects of this Act are:*

- (a) *to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor;*

- (3) *When the Commission exercises a power or performs a function under this Act, the Commission must have regard to the objects of this Act and must exercise the power and perform the function in a way that is consistent with those objects.*

6 Public interest criteria in respect of licence or licensed premises

- (1) *When the Commission has regard to the objects of this Act in:*

- (a) *considering or determining an application under this Act in respect of a licence or licensed premises; or*
 (b) *determining the conditions of a licence,*

the Commission must, when taking into account the public interest in the sale, provision, promotion and consumption of liquor, consider any of the criteria specified in subsection (2) that are relevant to the application or conditions.

- (2) *For subsection (1), the criteria are the following:*

- (a) *harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;*
 (b) *liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;*
 (c) *public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;*
 (d) *the safety, health and welfare of persons who use licensed premises must not be put at risk;*
 (k) *it may be necessary or desirable to limit any of the following:*
 (i) *the kinds of liquor that may be sold;*
 (ii) *the manner in which liquor may be sold;*
 (iii) *the containers, or number or types of containers, in which liquor may be sold;*
 (iv) *the days on which and the times at which liquor may be sold;*

32 Objects etc. to be considered in determining conditions

In determining the conditions of a licence, the Commission:

- (a) *must have regard to the objects of this Act; and*
 (b) *may conduct or cause to be conducted any further investigations it considers necessary to enable it to make a proper determination.*

- 11) In seeking a review of the Commission Decision of 4 August 2011 Superintendent Bacon has advised of Police support for the following conditions relating to alcohol supply measures and has submitted that these measures are in line with those proposed by stakeholders who are reviewing the draft Borroloola AMP:

- Further reduce the eighteen can per day limit to twelve cans of light or mid strength beer, or six cans of UDL per person per day;

- Provide two additional alcohol free days per month, being every second Friday to coincide with CDEP pay days;
 - Remove the residential restrictions, currently applied to Borrooloola town and Mara Camp residents, and apply uniform takeaway restrictions to all persons in the region (the Commission notes that the geographic area is not defined).
- 12) On 20 December 2012 the Commission wrote to Licensees and relevant organisations seeking comment on Superintendent's application. Responses were received from:
- Malandari Store
 - Heartbreak Hotel
 - FaHCSIA
 - Borrooloola Clinic (provided separately to the Commission)
 - Borrooloola School (initially a letter of support for the Police application)
- 13) The Commission determined to accept the Borrooloola School and Borrooloola Clinic correspondence as submissions for the purposes of its consideration of the application by Superintendent Bacon.

Malandari Store Submission

- 14) The submission refers to the failure of the Commission Decision of 4 August 2011 to result in the outcome sought, due to people changing their residential identification to enable purchase of the maximum thirty cans per day limit at Malandari Store and unlimited takeaway from Heartbreak Hotel. It supports the proposal to remove the discrimination applied to Mara and Borrooloola residents and the application of a uniform approach on liquor takeaway sales to all customers, regardless of where they reside.
- 15) The submission supports allowing other takeaway product such as 350ml bottles of spirits and UDL in the mix of alcohol products able to be sold, rather than retaining the exclusivity of alcohol sales to cans of beer.
- 16) Malandari Store claims that the problem of large scale sale of "hot stuff" (spirits) by Borrooloola residents and visitors would be reduced if both Malandari Store and Heartbreak Hotel were allowed to sell small quantities of takeaway spirits as an alternative to beer or UDL cans.
- 17) The Malandari submission also does not support the banning of takeaway liquor sales on CDEP pay days (as proposed in the review of draft AMP) which, in its view, would result in people travelling to outlying localities such as Barkly Homestead, Larrimah etc to purchase alcohol. It also does not support the restriction on takeaway of eighteen / thirty cans to twelve.

Heartbreak Hotel Submission

- 18) The Heartbreak Hotel submission opposes varying takeaway sales to a maximum of twelve cans of mid strength or six cans of UDL per person per day. The Hotel submission also advises that to have the restrictions apply to all persons would devastate their business viability. It states staff are able to identify Borrooloola and Mara residents and predicts that residents gaining false residency ID may be an initial

but not long term response as such residents would become ineligible for housing in Borroloola.

19) The submission advises of the importance of sales of alcohol to miners and tourists who also purchase other supplies as well as alcohol, which would be severely affected by the proposal put forwarded by Superintendent Bacon. It predicts tighter restrictions would result in:

- Grog runs to Katherine;
- Alcohol coming in by order on trucks;
- Grog runs to Mt Isa;
- Unlicensed sales in Borroloola; and
- Increased home brew.

FaHCSIA Submission

20) The FaHCSIA submission supports Superintendent Bacon's proposal for the introduction of alcohol free days, limitation of takeaway alcohol of twelve cans of mid strength or six cans of UDL per person per day and the application of these restrictions to all persons, not just residents of Borroloola and Mara.

21) The FaHCSIA submission also supports the incorporation of these proposals in a further refined AMP, as measures to reduce alcohol harm in the community

Principal Borroloola and Gulf Group Schools

22) Mr Graeme Matthews, Principal of Borroloola and Gulf Group Schools has provided a letter of support for further alcohol restrictions in Borroloola in concert with amendments to the draft AMP. The submission refers to alcohol abuse and the need to curb escalating alcohol crime in the community.

Borroloola Clinic

23) Mr Alan Thompson, Health Centre Manager (Acting), has provided a letter expressing concern "*with regard to the amount of presentations out of hours and those associated with intoxication / domestic violence*". His letter attributes the level of presentation of intoxicated persons at the Clinic to the ability of people to purchase thirty cans of beer on a daily basis.

HEARING

24) Hearings were convened in Borroloola on 21 and 22 May 2013 to hear evidence from Police Officers, Health Workers, Licensees and other organisations and individuals. A further Hearing was held in Darwin on 13 August 2013 for the presentation of final submissions.

Borroloola 12 and 22 May 2013

25) Superintendent Bacon outlined his submission and the reasons for his application for the Commission to review its Decision of 4 August 2011. He referred to the draft AMP for the Borroloola area which still has not been ratified by the Federal Minister for FaHCSIA.

- 26) He advised the Hearing of the unique social and demographic circumstance of the community, including its makeup of around 80% indigenous membership. He outlined the problems of the community with respect to violence, alcohol abuse and alcohol related offences.
- 27) Superintendent Bacon tabled a number of Statutory Declarations from Police Officers stationed at Borroloola and also provided a number of Police Précis of offences, including deaths, where alcohol was a contributing factor.
- 28) Under cross examination from Mr Anderson about the application of severe and blanket takeaway sale restrictions to all residents and visitors being “*a pretty blunt instrument*”, the Superintendent advised that where one group is restricted and another not, humbugging frequently results. Mr Anderson further queried why non problem groups such as miners and tourists who attend Heartbreak Hotel are to be restricted under the Superintendent’s application.
- 29) Superintendent Bacon advised the Hearing that Police were aware of where alcohol was purchased as people when questioned were generally honest about where the alcohol was sourced and that Heartbreak Hotel featured regularly as the source of supply when alcohol related incidents were being dealt with by Police. He stated that this included where large volumes of spirits had contributed to antisocial behavior and harms.
- 30) Superintendent Bacon referred the Commission to Police Officer Statutory Declarations and Précis of Incidents where alcohol had been a contributing factor. These included violent incidents, road accidents, deaths and suicides. He outlined the devastating impact alcohol has on the community and its impact on Police resourcing.
- 31) He advised that where circumstances so required, Police sought to lessen the amount of alcohol available to the community through requests to Licensees for the voluntary and temporary alcohol sale reduction, beyond that already required under prevailing licence conditions. Such restrictions and at times temporary bans on sales gave the community and Police personnel some respite with the results being immediate and a welcome circuit breaker to the continuance of alcohol fuelled violence.
- 32) He referred the Commission to a Statutory Declaration of Sergeant Young which stated:
- “As a result of Community Unrest/Disturbances on occasion we have had to ask for takeaway sales to be suspended for short periods of time. During this time the drop in offending and calls to police have been almost instant. I liken it to turning a light switch off. Light on – problems, Light off – No problems.”*
- 33) In relation to the two Licensees impacted on by current and further proposed restrictions, the Superintendent advised that the volume of sales from Malandari Store would be ten times the volume of sales from Heartbreak Hotel although Malandari Store takeaway sales are restricted to cans of light and mid-strength beer only while the sales from Heartbreak Hotel included a large volume of spirit sales.
- 34) Under cross examination from Mr Buckley who asked that if the restrictions imposed by the Commission in its Decision of 4 August 2011 had failed, why would further restrictions work. The Superintendent responded that he had sought “*across the board*” restrictions to avoid the current loophole with people claiming false residency status.

- 35) Mr Buckley then referred the Superintendent to a Media Release from Minister David Tollner on 10 May 2013 where new Protection Orders were to be introduced to support mandatory treatment in targeting problem drinkers and queried why a blanket approach was being proposed for Borrooloola instead of targeting the causes of the problems.
- 36) In relation to queries as to why the Borrooloola AMP had been delayed the Superintendent agreed that the AMP had been languishing for a myriad of reasons, including the composition of the Board and the goal posts changing.
- 37) He advised that while the AMP was of undetermined status and had not been implemented, further suicides and other personal traumas had occurred due to alcohol abuse. He conceded that these suicides could not be sheeted home to the two Licensees directly.
- 38) Sergeant Young gave evidence in support of his Statutory Declaration. Mr Anderson queried material contained in the Declaration over vehicle rollovers which occurred on 8 July 2012 and 8 November 2012 and put to the Commission that neither were alcohol related offences.
- 39) In the first matter Mr Anderson submitted the car was on the way to Heartbreak Hotel and therefore could not have purchased alcohol from that establishment and for the other incident CCTV footage had been produced showing the group in the car purchasing supplies from Heartbreak Hotel which did not contain alcohol. In relation to further questions from Mr Anderson over temporary restrictions requested by Police, Sergeant Young advised the Hearing that the Hotel had always complied with restrictions sought.
- 40) Sergeant Young submitted that the measures applied by the Commission in its 2011 Decision set the cap too high. In his opinion the violence in the Borrooloola region was now worse than ever.
- 41) Constable Donovan advised, in relation to questioning over Licensee cooperation with Police requests for temporary alcohol takeaway restrictions, that his Statutory Declaration of 20 May 2013 included:
- “In my time I have personally found that the Heartbreak Hotel which is located at Cape Crawford being 110km from Borrooloola has been incredibly supportive / understanding of any request I have made in order to give local residents some reprieve from their alcoholic fuelled behavior. However I see that Malandari is more concerned with the practice of Heartbreak Hotel and their dealings rather than that of their own.”*
- 42) Mr Buckley put it to the Hearing that any delays or questioning of Police proposed temporary restrictions by Malandari Store would be due to the necessity to confer with the Store Committee and meet its needs for further information.
- 43) Ms Veronica Thorpe, Senior Alcohol Policy Officer of the Department of Health, advised that one of the reasons for the delay in implementing the Borrooloola AMP was that the Federal Minister objected to the eighteen can limit per person per day of mid/light beer as excessive. She stated that in principle the Minister supported the introduction of the Permit System which would be enabled through the declaration of a General Restricted Area. Such a permit system requires individuals to meet specified behavioural requirements and gives incentive and responsibility to those consuming alcohol in homes.

- 44) Mr Graeme Matthews, Principal of Borroloola School, advised of children being drunk, stealing and breaking into property and submitted that they were copying their parents in such behavior. He put to the Commission the seriousness of the problem of parents abandoning the children when binge drinking and graphically outlined the plight of these children who, at night, would be looking for a safe place to sleep.
- 45) Ms Michelle Smith, Manager Borroloola Clinic, advised the Hearing that 95% of all callouts are alcohol related.
- 46) Ms Deborah Young, an alcohol and drugs nurse, advised that the current situation with alcohol abuse and harms was not as bad as existed some years ago when the pub was open and trading irresponsibly. She advised that none of her 179 patients treated had referred to drinking spirits and nearly all indicated they consumed beer.
- 47) Mr Bruce Hansen, a resident of Mara Camp who had lived in the township for twenty-six years, gave evidence that "hot stuff", described as Rum and Wild Turkey appeared to create the greatest problems, particularly when consumed by younger members of the community. The ability of people to purchase alcohol, but not be able to drink it in their homes, caused harm as people drank out of sight in gravel pits and similar locations.
- 48) Mr Brian Kimmings, a Management Consultant to the Malandari Store Partnership, gave evidence on the history and trading conditions at Malandari Store. He informed the Commission that the average weekly sales at the store had decreased in recent times. He also advised of measures put in place to ensure intoxicants were not served. He referred to the Store Management resolve to conduct alcohol sales responsibly, including a policy of stopping sales the day before a community member funeral and the use of a store beer card system to control sales.
- 49) In relation to earlier evidence over the questioning or slow response to Police requests for alcohol sales restrictions, Mr Kimmings stated further information and rationale was often required to justify such restrictions to the Store Committee. Mr Kimmings referred to a tabled document; "Malandari Store Beer Sales Policies" which states that in the eight month period from 1 July 2012 to 28 February 2013, the Store on what would have been normal trading days was closed for beer sales on twenty-five days and for a further three days had restricted sales to six cans per person.
- 50) He submitted support for a permit system as guidelines for permits that banned problem drinkers from purchasing alcohol would be able to be effectively put in place.
- 51) Following the restriction for Borroloola and Mara residents to the purchase of eighteen cans of mid/light beer per person per day, he advised that many of their clients had obtained new ID falsely stating they resided outside the township, enabling them to purchase the maximum allowable of thirty cans of mid/light beer per day.
- 52) He advised that 28% of alcohol sales were to those restricted to an eighteen pack and the sale of thirty can packs had increased to 72% of sales. He reiterated the Store's wish to sell small 350ml containers of spirits which he submitted could lessen the demand for the larger bottle purchase of spirits from Heartbreak Hotel and elsewhere.
- 53) Ms Kerry Ralph, Nominee, Heartbreak Hotel, advised of the demanding operating conditions at the Hotel, including the need to generate their own power which added a cost of \$250,000 - \$280,000 per year to the Hotel's operations. She advised that as

the Hotel has no surrounding township population it was heavily reliant on tourists and sales to the nearby mining camp.

- 54) Ms Ralph advised that the Hotel provided visitor accommodation and was marketing the services to the tourism industry with fishing and helicopter tours. Alcohol sales were comprised of 75% takeaway and 25% over the bar. Most takeaway sales were XXXX Gold (mid-strength) and bottles of Rum. Most heavy beer sales were over the bar.
- 55) Sergeant Young addressed the Commission on the issue of the rampant increase in the use of fraudulent driving licences and other ID providing incorrect residential addresses. Sergeant Young referred to people going as far as Katherine and Darwin to get new driver's licences and the increasing lodgement of on line applications for new licences, and thus residential status was hard to verify.
- 56) In addressing Sergeant Young's comments, Mr Kimmings advised that the Mabunji Association provides housing and should therefore know the real place of residence of Town Camp residents who claimed they live elsewhere.
- 57) Mr Kimmings referred to a beer card system employed at Malandari Store and stated that the ID on such cards could be cross checked against the residency records of Mabunji. Mr Kimmings provided samples of recent MVR ID issued at the Borrooloola Police Station which were submitted by persons applying for a new beer card and which had falsely claimed residency outside the township.

Change of Police Application

- 58) Northern Territory Police Commissioner John McRoberts made telephone contact with the Chairman on 21 May 2013 to advise that following a meeting of the Police High Command, the application by Superintendent Bacon over licence restrictions sought was to be varied. Commissioner McRoberts advised the Chairman that the measures sought by Police were to target those causing the problem. The application did not seek to impose further sales restrictions on tourists, pastoralists or persons working on nearby mining and road construction camps.
- 59) The Chairman advised the Hearing of this change to the application. Following this the Chairman received an email from Commissioner McRoberts on 23 May 2013 formally confirming the revised application. This email was circulated to all parties. It states:

Thank you for the opportunity to provide comment to the NT Licensing Commission for consideration as part of the hearing into alcohol restrictions at Borrooloola.

NT Police seeks an application to restrict the supply of alcohol in Borrooloola as a harm reduction strategy.

A significant amount of police work in Borrooloola, and surrounding communities, is the result of alcohol fuelled violence, associated crime and disorder. The limited number of police officers in Borrooloola are constantly dealing with the undesired effects of excessive consumption which has an adverse effect on the amenity of the town and those who live there. For this reason I ask that the Commission give favourable consideration to our application to reduce the amount of liquor that can be purchased by residents of Borrooloola and surrounding communities.

NT Police does not seek any further restriction on the sale or supply of liquor to bona fide travellers, pastoralists or personnel living in temporary mining or

construction camps in the region. However, we are mindful of the capacity of some individuals to engage in the secondary supply of liquor, or those who attempt to circumvent restrictions by sourcing identification that lists places other than Borroloola as their residence. I submit it would be appropriate that the Commission take this into account when making a determination on the application before it.

- 60) 13 August 2013 was determined as the Hearing date for the presentation of Final Submissions by parties. Due to inability to attend on that date Superintendent Bacon provided a written submission, titled "Summary Notice of Objection", which was circulated to parties and considered at the Hearing of 13 August 2013.
- 61) This submission confirms the instructions of Commissioner McRoberts:
- "I can advise that my original submission has been revised to now only include the restrictions to be applicable to Borroloola and Borroloola Outstation residents only which are to also include Robinson River. This revised request being in line with the conversation provided by the Commissioner of Police to the Chairman of the Commission, during the 1st day of the Hearing in Borroloola on 21 May 2013. The Police and Civilian evidence provided at the 2 day Hearing of 21 – 22 May is relied upon for the Commission to make a decision of this review,"*
- 62) Attached to the submission was a table of incidents by category and reportable alcohol related deaths for the twelve months before and after the introduction of the eighteen mid/light beer can sales restrictions for Borroloola and Mara Camp residents.
- 63) Mr Anderson commenced submissions by bringing to the Commission's attention a decision of the High Court handed down on 13 June 2013, *Maloney v The Queen* (2013) 87 ALTR 755 ("Maloney").
- 64) Mr Anderson submitted that in essence the effect of the Maloney Decision was that the restrictions sought by Police and the licence conditions imposed in the Commission Decision of 4 August 2011 were in breach of Section 10 of the *Commonwealth Racial Discrimination Act* 1975. He then outlined key aspects of the High Court Decision based on separate findings of the six Judges.
- 65) He outlined that Section 10 of the *Commonwealth Racial Discrimination Act* requires that all persons, regardless of race, have equal, or rights to the same extent. He referred to Section 10 not applying where the law is a "special measure" and submitted that the restrictions applying (and those sought to apply) to Heartbreak Hotel and Malandari Store would not meet the "special measure" test, which requires that the measure or law is made for the sole purpose of securing advancement of Indigenous people.
- 66) Mr Anderson put to the Hearing that a "special measure" needed to pass a "reasonable necessity" test. He argued that the restrictions sought in the Police application would not pass the "reasonable necessity" test as to do so they would have to be effective. "Reasonable necessity" implied a likelihood of success and this had not occurred to date. He submitted that grog running was occurring and would occur with further sales restrictions as restrictions generally resulted in supply being obtained from other sources, with the void being filled.
- 67) Mr Buckley advised of support for Mr Anderson's submissions on Maloney. He submitted that the Police application in seeking tougher alcohol sales restrictions and

the supporting data provided, indicated the measures introduced in 2011 have failed. They were not “special measures” meeting the “reasonable necessity” test.

- 68) Inspector Mark Wood, appearing for the Director of Licensing, drew the Commission’s attention to the findings of the Gageler J in paragraph 342 of the Maloney Decision. This stated, he submitted, that proportionality must apply in the measure or law which seeks to secure racial equality in the enjoyment of human rights, and that it must be applied in the pursuit of a legitimate aim and must be reasonably necessary to achieve that aim. Inspector Wood submitted that the restrictions imposed by the Commission meet the “reasonable necessity” test.
- 69) The Chairman advised the Hearing that as the three members sitting as the Commission were not lawyers and were not familiar with the Maloney High Court Decision, the Chairman would seek independent legal advice on the implications of the Maloney Decision for the review currently being conducted and the earlier 4 August 2011 Decision. The Commission also advised that if that legal advice ran counter to Mr Anderson’s argument, it would be forwarded to Mr Anderson and Mr Buckley and their responses would be taken into account by the Commission in determining its position.
- 70) Mr Anderson then returned to providing final submissions on the evidence, that had been received by the Commission during the Hearing of 21 and 22 May 2013 in Borroloola.
- 71) He submitted that incident data provided by Police to the Hearing did not indicate the measures applied by the Commission in 2011 resulted in any improvements to alcohol related problems in the community. He referred to people getting around restrictions and cited the fraudulent obtaining of ID, containing addresses outside Borroloola and Mara. Unless restrictions were applied to all NT licences, Mr Anderson submitted, the use of residency data contained on ID would not work.
- 72) Mr Anderson referred the Commission to the period 23 – 25 July 2013 where Police sought and obtained Licensee cooperation over reduced takeaway alcohol sales. He advised that during this period people were travelling through Heartbreak Hotel to other destinations to purchase alcohol. Grog running was evidenced through Police seizing seventy litres of alcohol at around this time.
- 73) In relation to evidence put to the Hearing over the alcohol problems resulting from the consumption of “hot stuff” or spirits, Mr Anderson referred the Commission to the evidence of Ms Young, an alcohol and drug nurse in Borroloola, who gave evidence that she had never had a client, out of the 179 she had treated, who had been drinking spirits, or told her they had been drinking spirits.
- 74) Mr Anderson discounted the evidence provided by Mr Hansen, a local resident called as a witness by Mr Buckley, representing Malandari Store. He stated that Mr Hansen saw no problems originating from Malandari Store despite the large volume of alcohol sold from that source and perceived problems were due to “hot stuff” coming into the Borroloola community.
- 75) He submitted that the evidence given by Police, through Statutory Declarations, Police Précis of Incidents, PROMIS records and oral evidence at Hearing did not prove a link of sales from Heartbreak Hotel to large volumes of alcohol, including spirits, being imported into Borroloola. Mr Anderson referred the Commission to the Statutory Declaration of Sergeant Young in which he praised the understanding and supportive

position by Heartbreak Hotel to any Police requests to restrict sales and provide reprieve to alcohol problems.

76) Mr Anderson referred the Commission to two separate incidents contained in Sergeant Young's Declaration, that of a fatal single car rollover on 8 July 2012 and another rollover where a passenger received permanent disability injuries on 8 November 2012. He submitted that while reference to these incidents was an attempt to link serious incidents to alcohol sales from Heartbreak Hotel, neither had involved or resulted from the purchase of alcohol at Heartbreak, as Sergeant Young had conceded under cross examination.

77) Mr Anderson submitted that the Commission should remove the restrictions on his client's licence that target people geographically, which by proxy is the Indigenous drinking problem in Borrooloola. The Commission needed to justify current or future restrictions Mr Anderson submitted,

"in terms of the Commonwealth Racial Discrimination Act, in terms of them being appropriate and adapted, or reasonably necessary to meet what can only be a valid sole purpose of restoring the Aboriginal community to a state on a par with the broader community in terms of the effect of alcohol-related violence, in particular, on that community. What the current restrictions do is cast a very wide net; there's a huge by-catch in this net as it applies to Heartbreak Hotel."

78) Mr Buckley drew attention to the concept and use of AMP's in the NT and that the Borrooloola AMP has been under development since 2007. He also referred to evidence provided that no AMP's had been approved. He submitted that these plans therefore had no legal validity in the sense of developing special measures to comply with the *Racial Discrimination Act*. The measures applied in 2011 have not proven effective and should therefore not be maintained. He queried the logic of Police going further down the path of restrictions when "unlawful ingenuity" and grog running circumvented such measures.

79) Mr Buckley addressed the conflict of evidence between that of nurse Deborah Young and resident Mr Bruce Hansen. He submitted that Mr Hansen's evidence *"is quite probative for a number of reasons"*, namely that:

- He had lived in the town for twenty-six years, currently residing in a town camp;
- He had been instrumental in establishing the Borrooloola Action Group;
- He personally saw youths with the "hot stuff", prior to their self-harming.

80) However in establishing the credibility of Mr Hansen and the veracity of his evidence, Mr Buckley conceded he could not pinpoint the source of supply of the "hot stuff" Mr Hansen had seen in the community.

81) He submitted that the evidence of Nurse Young, where she stated that none of her 179 clients had indicated their condition was due to the consumption of spirits, was *"at odds with the overwhelming weight of other evidence"*, including that from Police and Mr Hansen.

82) In reference to Police evidence and how much reliance should be attached to statements and evidence provided at Hearing, Mr Buckley stated that Police had not made out an evidentiary case that all or the majority spirits consumed in Borrooloola originated from Heartbreak Hotel.

- 83) Mr Buckley defended the practices of Malandari Store and drew attention to the restrictions on alcohol sales to mid/light strength beer which had been voluntarily imposed by the former Licensee, although since embedded in the Store's licence conditions.
- 84) He advised that the Store Committee considered the current restrictions to be discriminating with people living in one area able to purchase eighteen cans while friends can purchase thirty cans of beer. *"It unsettles these people for these measures to be applied in the way that they have"*.
- 85) Mr Buckley had tabled a document "Malandari Store Proposals to the Licensing Review Hearing" which in effect removed support for the sale of spirits in 350ml volume, as submitted at the Hearing in Borrooloola. This document sought that takeaway alcohol sales at Malandari and Heartbreak be restricted to twenty-four cans of mid strength beer or twelve cans of UDL every two days, with a system applying this alternative day purchase to even out sales on each day. However he advised that if the argument proposed by Mr Anderson over the Maloney case, invalidating the imposition of the restrictions is accepted, he seeks to withdraw that proposal.

CONSIDERATION OF THE ISSUES

- 86) Essentially the Commission has two matters before it to determine, the pivotal one being the validity of imposing restrictions which have primary impact on Indigenous people following the Maloney Decision and if not swayed by the argument put by Counsel for the Licensees, to then determine the Police application for further alcohol restrictions.
- 87) The initial application by Police for a review of the alcohol sales restrictions imposed in the Commission Decision of 4 August 2011 has been complicated by:
- a) The handing down of the Maloney High Court Decision and submissions by Counsel for Licensees that the decision invalidated the alcohol sale restrictions already in place and those applied for by Police.
 - b) The withdrawal of the Police application to have additional alcohol sales limits applicable to all customers of Malandari store and Heartbreak Hotel; replaced with an application to have the restrictions apply to Borrooloola, Mara Camp and outstations residents only, inclusive of residents at Robinson River.
 - c) The replacement of the original submission by Malandari Store for a uniform restriction of twelve cans of mid/light beer, or six cans of UDL, or 350ml of spirits, per day, to apply to Malandari Store and Heartbreak Hotel, these being equivalent to a sales limit of twelve standard drinks per day or less; and its replacement with a twelve month trial of a restriction to twenty-four cans of mid/light beer or twelve UDL cans, every second day.
- 88) To give logic and some coherence to the matters the Commission will deal with these in sequence.

Maloney v The Queen

- 89) Following the Final Submissions Hearing of 13 August 2013, the Commission obtained independent legal advice on the implications of the Maloney Decision from Mr Richard Bruxner, Crown Counsel, Solicitor-General's Chambers dated 1 October 2013.

Written submissions in response to Mr Bruxner's advice were then received from Mr Buckley and Mr Anderson on 8 November 2013. All submissions and advice have been taken into account in determining the Commission Decision in relation to Maloney.

90) Section 10 of the *Racial Discrimination Act* provides:

10 Rights to equality before the law

(1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin

- 91) The Maloney case involved the rights of an Indigenous Palm Island resident to possess a type of liquor banned on the Island, but which is allowed to be possessed elsewhere in Queensland where the vast majority are non-Indigenous. The Court found that the alcohol restrictions applying to Palm Island did not invoke Section 10 of the *Racial Discrimination Act* as the alcohol restrictions constituted a "special measure", applied for the purpose of securing the advancement of an affected racial or ethnic group. The appeal by Maloney was dismissed.
- 92) The Commission must turn its mind to whether Section 10 of the *Racial Discrimination Act* is offended by the licence conditions which affects certain residents ability to purchase alcohol products, the volume of products and the alcohol strength of such products. Restrictions applied by the Commission in August 2011 were founded on evidence submitted, primarily by Police and Health workers, of the damage being caused by the excessive consumption of alcohol and the resultant harms, to the residents of Borroloola and Mara. The vast majority of the residents of this community are Indigenous and the alcohol harm identified was largely affecting Indigenous members of the community. Indeed in giving evidence Sergeant Young referred to apprehending only one non-Indigenous person in his time in Borroloola for an alcohol related incident.
- 93) Licence conditions imposed by the Commission with regard to this matter particularly target a specified geographic area but operate equally for Indigenous and non-Indigenous residents. That is as it may be but the problem being targeted, i.e. drunken violent and harmful alcohol affected behavior, is most evident amongst the Indigenous population. Those reasons and indeed the draft AMP for Borroloola and the current Police application, all refer to geographic areas largely populated by Indigenous people. Police reference to, "... *Borroloola and Borroloola Outstations residents only which are also to include Robinson River*", in their application targets a largely Indigenous population.
- 94) Section 10 of the *Racial Discrimination Act* is enlivened under the present restrictions and those advocated by Police applying to largely Indigenous residential areas and population. However Section 10 does not apply if the restrictions are a "special measure" taken for the sole purpose of securing the adequate advancement of a racial group requiring such protection as may be necessary to ensure that group's equal enjoyment or exercise of human rights and fundamental freedom.

- 95) Following consideration of legal advice from Mr Richard Bruxner and submissions from Mr Anderson and Mr Buckley, the Commission concludes that the restrictions it has applied and those it is currently considering, are a “special measure” designed to protect Indigenous people, and to a degree a wider affected community, from the effects of prevailing alcohol abuse and harm.
- 96) In reaching this view the Commission has satisfied itself that if it was not for the purpose of securing advancement or lessening disadvantage of the affected Indigenous community, that such restrictions would not have been introduced or further contemplated. It relied on evidence that such restrictions would lessen harm and evidence that there had been widespread consultation over the impact of alcohol generated problems and the need for alcohol supply reduction. Meetings and discussion of community groups leading to the development of a draft AMP were recognised as part of such consultations.
- 97) The High Court decision has also a “reasonable necessity” test to affirm the applicability of a “special measure”. In determining whether the restrictions imposed, and those under consideration, meet the test of “reasonable necessity”, the Commission in its mind must address whether there are alternate measures available to meet the objectives that are less restrictive than those adopted or proposed. Nothing comprehensive or evidence based has been put to the Commission by way of an alternative to the measures already in place and further measures or supply restrictions applied for by Police. Malandari Store has submitted a proposal for a day on, day off, restriction of twenty-four cans of mid/light strength beer, but has not addressed in any detail the practicality of how this would operate.
- 98) Mr Anderson has put to the Commission that the current licence conditions have not been effective in reducing alcohol harm and therefore they cannot constitute a “special measure”. The Commission is not convinced that the High Court related outcomes, or success, as a requirement or criterion for a “special measure”. It is acknowledged that the current restrictions have not had the desired level of effectiveness, but had they not been put in place would the level of alcohol related harm been greater? There is no verifiable answer to this question. What is known is the impact of the restrictions has been lessened through fraudulent obtaining and use of ID claiming false place of residency.
- 99) In summary the Commission response to implications raised in the Maloney High Court decision are:
- (i) The existing and proposed alcohol restrictions impact on persons of a particular race so as to enliven Section 10 of the *Racial Discrimination Act*.
 - (ii) The existing and proposed alcohol restrictions are a “special measure” for the purposes of Section 8 of the *Racial Discrimination Act* as they are solely directed towards securing the advancement of Indigenous people residing in Borroloola and nominated communities by lessening alcohol harm.
 - (iii) There are no identified reasonably practical alternative measures available to the Commission to achieve the aim of the restrictions and hence they meet the “reasonable necessity” test applicable.
- 100) Therefore the Commission determines that it has lawful authority to determine supply restrictions currently in place and those under consideration.

Application by Police

- 101) The initial application by Police in seeking a review of the 4 August 2011 takeaway alcohol restrictions sought more severe takeaway restrictions than those currently in place and for these to apply to all people presenting for takeaway alcohol purchase at the two licensed premises. The rationale for this application was that the existing restrictions enabled the consumption of excessive levels of consumption. Moreover, Police had submitted that restrictions were being thwarted by the fraudulent securing of driver's licences or other forms of ID to circumvent residency based purchase limitations and so to remove the "loop hole" their original submission sought that restrictions apply to all persons, regardless of place of residency.
- 102) What is now sought is the extension of residency based purchase limitations through an extension of the geographic areas for which the most restrictive takeaway restrictions apply. If, as Police and Counsel for the Licensees have submitted, existing measures are ineffective due to the ease with which affected communities or geographic areas are able to circumvent geographically targeted restrictions, how will widening the targeted areas succeed? In now applying to have the number of communities subject to the tightest restrictions increased, Police are tacitly agreeing that location based restrictions are capable of working effectively.
- 103) Following consideration of evidence presented at Hearing, including Police incident data, the Commission concludes that is at best unclear whether the supply measures it has imposed through its Decision of 11 August 2011 have had a discernable impact. The Commission attributes the, at best, marginal impact of the measures, to people overcoming the eighteen mid/light strength beer daily limit by obtaining false residency ID.
- 104) Police officers at Hearing have acknowledged in evidence that most drinkers in the Borroloola vicinity are known to them. Also submitted at Hearing was that the local Mabunji Association allocated and controlled Indigenous housing. During the Hearing Mr Kimmings, a witness for Malandari Store, advised that as Mabunji provide local housing they should know the real place of residence of people with false residency ID. He produced two recently obtained Motor Vehicle Registry ("MVR") ID's which had been processed at the Borroloola Police Station and which evidently included a false place of address. These ID cards were provided to Malandari Store to enable the holders to be issued with new store beer cards, allowing the purchase of thirty cans of beer instead of the eighteen cans the holder was previously entitled to.
- 105) With cooperative effort and the application of vigilance when issuing new MVR ID by Police or other forms of ID by other issuing authorities, the loophole enabling false addresses or residency would be tightened. Raised during Hearing was the possibility that Malandari Store could verify residency when issuing beer cards through their referral to Mabunji. Similarly when issuing MVR ID Police could check with Mabunji the validity of non Borroloola / Mara residency status claimed by local residents.
- 106) Given the importance of limiting alcohol harm and controlling consumption, authorities should routinely check when ID and driver's licences are provided, that the person lives where they claim on their ID. Mabunji is urged to be responsive to any requests to verify place of residency. In order to thwart claims of false address being accepted, all parties are urged to increase oversight of ID provided to ensure legitimacy and greater integrity.

- 107) Police have sought a reduction in permissible sales in Borroloola, Mala, Robinson River and outstations. They have advised the Commission that the application for a reduction of per day sales to those communities is in line with what the group or committee reviewing the draft AMP propose. Police have sought (as outlined in paragraph 11 of this Decision):
- Sales restrictions of twelve cans or mid/light strength beer, or six cans of UDL per person per day;
 - Two additional alcohol free days a month, being every second Friday to coincide with CDEP pay days.
- 108) A countervailing view was put by Counsel for the Licensees who argued that further restrictions would foster increased incidents of grog running, including people travelling to other licensed premises to purchase unrestricted volumes and types of alcohol.
- 109) The Commission has given careful consideration to the Police application for the lessening of permissible sales volumes to the described area residents. While Police have stated these measures are tied to those contemplated by those reviewing of the draft AMP, the Commission is unable to validate what alcohol supply limits or measures will eventuate in any such document. Mindful that an AMP has been under preparation since 2007, and that supply measures contained in the various proposals or drafts have changed over time, the Commission is not convinced that further changes could not eventuate as consultations progress.
- 110) Paragraph 61 of the Commission Decision of 4 August 2011 states:
- "Noting that the draft Borroloola AMP will be subject to ongoing monitoring and possible amendment, the Commission advises it is willing to review this decision in line with any variation to what is currently contained in the Draft AMP.:"*
- 111) In terms of the status of the current draft AMP the Commission has been advised that it, along with many other regional draft AMPs, have not been endorsed by the Federal Minister responsible. Moreover, to the Commission's understanding, a revised draft Borroloola AMP is still a "work in progress". Given this uncertainty over supply issues to be contained in a further draft AMP and therefore the uncertain status of the proposal as put to the Commission, the Commission is not inclined at this stage to determine further restrictions, being a limit of 12 cans of mid/light strength beer or 6 cans of UDL, to the described areas.
- 112) In considering the revised Police application for restrictions to be extended to apply to outstations and the Robinson River, the Commission has turned its mind to the integrity of the means to secure locality targeted restrictions. It has already indicated that greater surveillance of place of residency information contained in MVR and other issued ID would lessen ID abuse. Police and organisations providing or maintaining housing in the affected communities should be able to assist in validating address information to render greater effectiveness where restrictions target specific localities or communities.
- 113) On this basis the Commission is persuaded to include Robinson River in the localities specified for existing maximum restrictions, i.e. 18 cans of mid/light beer per person per day. The area affected is defined as the Robinson River General Restricted Area. Robinson River was also originally proposed for inclusion in the areas for the alcohol

supply in various earlier draft AMPs and evidence of alcohol harm in that community has been put before the Commission.

- 114) The Police application to also include outstations as specified area for the existing maximum restrictions is more problematic. The Commission has been advised that there are numerous outstations in the Gulf area of the Northern Territory, of which Borroloola is a hub. Police awareness of the place of residency of people they encounter in the discharge of their duties may apply to Borroloola, but there was less assurance given for people residing in the more remote localities or outstations. Not enough evidence was given over the need to incorporate outstations and their distinction from pastoral properties which are often located near and around these outstations, to engender confidence in determining that these outstations should, and could in practicality, be subject to maximum restrictions.
- 115) The Commission has accordingly determined not to include outstations in localities to be subject to the existing maximum restrictions.

Malandari Store Submission

- 116) Malandari Store, in a revised submission tendered to the Commission at the Hearing in Darwin of 13 August 2013, proposed limiting takeaway sales from both licensed venues to twenty-four cans of mid/light beer every second day. This proposal was based on the use of a digit on persons ID, with an odds or even number to determine the alternate day on which the holder could purchase takeaway alcohol. There has been no widespread discussion or indeed evaluation of such a system and the Commission is not able to determine the detail of how such system would operate and its likelihood of being effective. The Commission therefore discounts this proposal.

SUMMARY

- 117) In summary the Commission accepts the revised application by Police in respect of seeking that increased restrictions not apply to bona fide travellers, pastoralists, miners and those engaged in the area in road construction. No evidence was given that this cohort is a major cause for Police attention due to alcohol.
- 118) The Commission holds the view that locality based restrictions are “special measures” and therefore do not offend Section 10 of the *Racial Discrimination Act* and therefore it is able to lawfully determine licence restrictions which impact on specified communities or localities.
- 119) The use of ID to verify a person’s place of residence can be improved with greater vigilance and scrutiny to overcome the use of fraudulent ID with false addresses. Involvement of organisations such as the Mabunji Association, who can verify occupiers of housing under their management, can verify a person’s real place of residence. To posit that ID usage is incapable of controlling alcohol supply to specified localities would undermine the Police application to extend the localities to which the tighter supply restrictions apply.
- 120) The current measures in place have had little impact, or not been able to work as successfully as contemplated, due to widespread abuse of ID and the provision of false information on that ID. The Commission seeks that Police and other authorities apply themselves to ensuring false ID is not issued, or where issued over the internet or areas beyond their control, that such ID is checked for accuracy when presented to them.

- 121) Sufficient justification has been provided to the Commission to extend the area over which existing maximum restrictions apply to include the Robinson River General Restricted Area.
- 122) The Commission is not convinced of the need to implement tighter takeaway restrictions to both licensed venues as sought by Police, whose submission is based on the currently prevailing view of persons working on a new draft AMP. Restrictions of 18 cans of mid/light beer, per person, per day for described areas are to remain. This position of the Commission is particularly due to the evolving status of a future Borroloola AMP, noting that various such plans which have been under development since 2007. The indeterminate status of the existing draft AMP which has been before the Federal Minister, without approval, for approximately three years, gives added reason for this position.
- 123) Therefore the Commission determination does not impose licence conditions that provide two alcohol free days a month or provide an alternative to mid/light strength beer to residents of the affected area. On the evidence before it the Commission also does not lift the existing restrictions, due to the evidentiary link between alcohol sales and harms in the community.

DECISION

- 124) Following consideration of submissions by Counsel for the Licensees and consideration of independent legal advice with regard to the implication of the High Court Decision with respect to *Maloney v the Queen*, the Commission has determined that it is able to lawfully determine licence restrictions which affect described communities as such restrictions are “special measures” and hence do not offend Section 10 of the *Racial Discrimination Act*.
- 125) The application by Police to have licence conditions of Malandari Store and Heartbreak Hotel varied to reduce alcohol able to be sold to residents of Borroloola township, Mara Camp, Robinson River and outstations in the region is not approved
- 126) That application sought that takeaway alcohol be restricted to twelve cans of mid/light strength beer or six cans of UDL per person per day. Existing licence restrictions imposed on Malandari Store and Heartbreak Hotel under Special Conditions;

Takeaway Restriction to Borroloola and Mara Camp Residents

The sale of takeaway alcohol to Borroloola residents inclusive of Mara Camp residents will be restricted to canned beer only with an alcohol content of not more than 3.5%, and limited to eighteen (18) cans per person per day.

are to be varied to include the Robinson River General Restricted Area. Robinson River was specifically included in the Police application following withdrawal of the application to have restrictions apply to all persons seeking to purchase takeaway alcohol.

- 127) The application by Police for a variation of licence conditions applicable to Malandari Store and Heartbreak Hotel to provide for two additional alcohol free days a month, those days being every second Friday to coincide with CDEP pay days, is not approved.

- 128) Sufficient evidence was submitted during the Hearing over the incidence of grog running when premises were not trading or were severely restricting sales, to incline the Commission to not impose this measure, which was also based on not yet fully formatted revision of the draft Borroloola Alcohol Management Plan, which in itself has no status as it has not been approved by the Federal Minister responsible.
- 129) In relation to the current restrictions to residents of Borroloola township and Mara Camp, now extended to Robinson River, the Commission is strongly of the view that these measures are capable of reducing levels of alcohol abuse and harm. It entreats Police and other authorities to ensure residents of these nominated communities are not readily able to obtain driver's licences or other forms of recognised ID which contains false information on the holder's addresses or residency. It urges vigilance in ensuring such fraudulent ID is not issued, or where already existing, is checked and verified. Otherwise the objectives of Police, Health workers and others in the community seeking a reduction in alcohol consumption and harm are able to be thwarted by what has been described to this Commission as "unlawful ingenuity".

Richard O'Sullivan

CHAIRMAN

18 March 2014