

Northern Territory Licensing Commission

Reasons for Decision

Date of Decision: 24 February 2010

Members: Mr Richard O'Sullivan (Chairman)
Mr Wally Grimshaw (Member)
Mrs Jane Large (Member)

Review of the Declaration of Bicentennial Park, The Rapid Creek and Nightcliff Foreshores and Areas of Coconut Grove as Public Restricted Areas

Background

- 1) Following community consultation and an advertised Hearing open to the public, the Commission on 2 April 2008, handed down a decision approving an application by the Darwin City Council ("the DCC") for Public Restricted areas within the municipal boundary.
- 2) The Public Restricted approval came into effect on 19 May 2008 and included Bicentennial Park, Rapid Creek and Nightcliff Foreshores and areas of Coconut Grove.
- 3) The Decision taken was:
 31. *Noting the recently announced Government strategies and initiatives to be introduced (refer paragraph 23) and taking into account the widespread public support, the Commission approves the DCC's application to have Bicentennial Park, Rapid Creek and Nightcliff Foreshores and Areas of Coconut Grove declared Public Restricted as outlined in the Application. 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.*
 32. *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 and 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.*
 33. *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 and Katherine "Dry" Area and has been advised that 19 May 2008 is a suitable commencement date. The area the subject of the Application will therefore become a Public Restricted Area commencing on 19 May 2008.*
 34. *In order to ensure the decision has the intended impact, the Commission will review the operation of the declaration after six (6) months from the date of implementation.*
- 4) As per that Decision a Review has been undertaken into the Public Restricted Declaration and its impacts to determine if the restricted status of the areas should be varied, maintained or abolished.

Consideration of Issues

- 5) The Commission has met and held discussions with the Local Member for Nightcliff, Ms Jane Aagaard, NT Police and Darwin City Council (the original applicant). In general the view put to the Commission by these parties, who were integral in the process leading to declaration of the areas was that of "to leave well alone". Information provided to the Commission was largely applicable to the Nightcliff, Rapid Creek and Coconut Grove declared areas.
- 6) Evidence was provided by Police indicating a reduction in anti-social behaviour in the Nightcliff/Rapid Creek and Coconut Grove areas. While it is apparent that the declaration may have resulted in some problem drinkers moving to other locations, this impact did not outweigh the benefits achieved in the designated areas.
- 7) The Member for Nightcliff expressed the view that the restricted status was providing a benefit to the community in and around the declared areas. In her view there had been significant improvement in public amenity and safety to justify the maintenance of the Public Restricted Areas. Greater responsiveness of the Licensee of the Breachfront Hotel to social orderliness within and around the premises had also assisted in reducing alcohol generated anti-social conduct.
- 8) Darwin City Council has submitted *"That the current public restricted area strategy in the locales previously defined in the decision of April 2008 continues in the medium term until a comprehensive, municipality wide alcohol Management Plan is developed and implemented"*.
- 9) From discussions conducted in the Review of the declaration it is apparent the "dry" areas declaration has resulted in or contributed a definite and discernible improvement to the community of the areas subject to the alcohol restrictions. Information provided to the Commission evidenced residents and businesses in the area being subject to less anti-social activity, public drunkenness, break-ins and property damage.
- 10) It is also evident to the Commission that a significant contributor to the improved neighbourhood wellbeing is due to the increased police patrols and quick response to public trouble in the declared areas. However the Commission is unable to determine or estimate how much this increase of police response is underpinned by the wider powers provided through Public Restricted Area status verse the limited tip out powers provided under the 2 kilometre alcohol restrictions. Also not able to be determined is the extent to which problem drinkers are moved away from the "Dry" areas to other locations; in effect moving the problem elsewhere.
- 11) Adequacy and maintenance of the "Dry" area signage was raised in relation to the Nightcliff and Rapid Creek Foreshores. A major reason for the need for clear and prominent signage is that there is an area of foreshore between Chapman Road and Aralia Street where consumption of alcohol is allowed for prescribed hours under exemption granted to the "2 kilometre law" i.e. this area is not declared Public restricted. This defined area is equipped with picnic and barbeque furniture to take advantage of the sunset views (drinking is permitted in this area from 4 – 10:30 Monday to Friday and 12 noon – 10:30 pm weekends and Public Holidays).
- 12) The declaration of Bicentennial Park drew less comment. It appears the "dry" status of this Park, with permits by the DCC for social events, has ongoing support.
- 13) Based on information provided to the Commission the removal of the Public Restricted Status of all the declared areas is not supported. Additionally there has been no submission or evidence to warrant variation to the boundaries or variation to the conditions attached to these areas. The Public Restricted status of these localities therefore continues unaltered.

14) The DCC submission raised the need for a “comprehensive municipality wide Alcohol Management Plan” and it is the Commission view that this proposal has validity. In its original decision of 2 April 2008 the Commission stated:

(29) In making this decision the Commission is aware that the area the subject of the Application covers a small area of Darwin and in approving the Application and assuming effective enforcement, this declaration is likely to cause problem drinkers to move on to other areas, which could give rise to further and consequential applications for “dry” areas. The Commission is therefore concerned over the potential for rolling applications in response to ongoing displacement.

(30) The Commission agrees with the Police submission that a holistic and more coherent approach is needed over the whole of Darwin and urges Government, the DCC and the Police to work towards such an approach.

15) The development and implementation of wider Darwin Alcohol Management Plan could give rise to the need to change the areas under declaration.

Decision

16) The Public Restricted Areas determined in the Commission Decision of 2 April 2008 are maintained. The development of a holistic Alcohol Management Plan, if undertaken, could generate a need to revise or change the nature or scope of the areas currently declared “dry”.

Richard O’Sullivan
Chairman

24 February 2009