

# Northern Territory Licensing Commission

## Reasons for Decision

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<b>Date of Decision:</b>	12 August 2009
<b>Legislation:</b>	Part VIII of the <i>Liquor Act</i> Section 33 of the <i>Liquor Act</i>
<b>Member:</b>	Richard O'Sullivan (Chairman)

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### **Review of the Declaration of Alice Springs Township as Public Restricted and Review of Alcohol Supply Measures Introduced in Alice Springs**

#### **Background**

- 1) On 1 August 2007 the Alice Springs Township was declared Public Restricted, or "Dry Town", in terms of drinking alcohol in public. This declaration was in response to the application made by the Alice Springs Town Council.
- 2) At the time the Commission made the "Dry Town" Declaration it also confirmed a positive impact of the previously introduced alcohol sales restrictions (Supply Plan) in reducing overall alcohol consumption in Alice Springs. This Supply Plan came into effect on 1 October 2006 and its impact was to reduce takeaway sales hours, and restrict the sale of cask and fortified wine. The sale of cask wine of greater than two (2) litres was prohibited.
- 3) The Commission decision on the Declaration of the "Dry Town" status for Alice Springs was based in part on assurances given over the introduction of "complementary" measures outlined further in paragraph 23.
- 4) When handing down the "Dry Town" decision the Commission advised that it would review the outcome of this decision after twelve (12) months operation of the "Dry Town".
- 5) As a result of the Department of Justice commissioning the Menzies School of Health to undertake an evaluation of Alice Springs alcohol issues, incorporating an evaluation of supply restrictions and the "Dry Town", the Commission deferred its review until the completion of the work being done by the Menzies School of Health. It also determined to review the alcohol supply restrictions put in place by the Commission on 1 October 2006.
- 6) The Menzies School of Health report "*Moving Beyond the Restrictions: The Evaluation of the Alice Springs Alcohol Management Plan*" has now been released. This report deals with the related issues of alcohol harm minimisation, demand reduction and supply. Unfortunately it does not address in any detail the "Dry Town" Declaration.
- 7) The powers vested with the Commission largely relate to the issue of control over liquor supply through licensing powers, including the powers to regulate sales hours. Supporting this is also the power of the Commission to declare areas General Restricted, Public Restricted and Private Restricted.
- 8) In its consideration of the Menzies School of Health report, the Commission has accordingly taken greatest account of the comments and findings in relation to the impact of its use of alcohol supply measures.
- 9) While the prime focus for its review has been on the Menzies School of Health report, the Commission also consulted with the following organisations and individuals in reaching its decision.
  - Northern Territory Police – Superintendent Sean Parnell

- People's Alcohol Action Coalition (PAAC) - Jonathon Pilbrow
  - Drug and Alcohol Services Association (DASA) – Paul Finlay
  - Lhere Artepe Aboriginal Corporation – Darryl Pearce
  - Alice Springs Town Council – Mayor Damien Ryan
  - Tangentyere Council Inc - Margaret Riley
  - Reporting of the significant issues raised during these consultations is contained in Attachment A.
- 10) Of relevance to this review is that in mid 2008 a photographic ID system was introduced in Alice Springs. This requires a person to produce ID such as a driver's licence for the purchase of alcohol. Persons without valid ID or ID which registers a restriction on alcohol purchase (through Alcohol Court, Sentencing, Bail or Parole conditions) are unable to make alcohol purchases. The ID system is able to track alcohol purchased daily by its holder and prevent more than one (1) cask of wine or bottle of fortified wine being purchased per person per day – in effect enforcing the supply restrictions put in place on 1 October 2006.

### **Matters taken into consideration**

- 11) The Commission in reviewing the "Dry Town" decision and the alcohol supply restrictions in place in Alice Springs is guided by three (3) major considerations:
- i. the findings of the Menzies report;
  - ii. the implementation of the "complementary" measures undertaken by government leading up to the "Dry Town" declaration; and
  - iii. Other factors of relevance, including those arising from Commission consultation as part of this review.

### **Menzies Report**

- 12) The Menzies School of Health has reported an 18% decline in apparent alcohol consumption in the Alice Springs community since the introduction of alcohol sales restrictions on 1 October 2006. This is the most telling statistic in the report. It is even more telling when considered in conjunction with the population increase over this period. From 30 June 2006 to 30 June 2008, Alice Springs had a population increase from 26,194 to 27,481, an increase of 4.9% over the two year period. The fifteen (15) or older population increased by 5.3% over this time. With this increasing population, an 18% decrease in overall alcohol consumption is indicative of an even higher reduction in per capita alcohol consumption.
- 13) Data in the report refers to per capita consumption of alcohol declining from 27.1 litres of pure alcohol per person over 1987 / 89 to 23.8 litres in 1999 and further reducing to 20.4 litres in 2005 / 06.
- 14) Despite denial and misgivings in some quarters, the supply restriction measures applied have, according to available data, had a degree of discernible success. Interpretation of data on Police incident reports, emergency health treatment and hospital admissions and crime statistics generally although not all consistent, overall indicate an improved health and safety outcome. The 18% reduction in apparent consumption of alcohol since 1 October 2006 is further evidence supporting the positive impact of alcohol supply restrictions measures.
- 15) While the report is an evaluation of the Alice Springs Alcohol Management Plan, the Commission has, as a focus, an evaluation on the success of supply restrictions. Alcohol

Management Plans are normally projected approaches containing harm minimisation, demand reduction and supply reduction. In Alice Springs the population largely equates the Alcohol Management Plan with the restrictions on takeaway hours and products, including the use of the ID system. It does not directly associate programs of harm minimisation (e.g. drink / drive campaigns, Day and Night Patrols, sobering up shelters) and demand reduction (anti drinking, not cool to drink, rehabilitation programs etc) campaigns with the overall Alcohol Management Plan.

- 16) Notwithstanding the holistic approach to alcohol problems envisaged in the Alcohol Management Plan, a core finding of the Menzies report is the importance of the current liquor supply measures.

*“Restricting the supply and availability of alcohol is a universal approach, which can be unpopular with people who do not consider that they warrant such intervention. Such strategies, however, remain the most effective.” Page 44.*

- 17) Excessive and harmful levels of alcohol consumption, while perpetuated by a minority, is a whole of community problem. The community directly shares in the cost of the results of excessive consumption and experiences directly the resultant anti social behaviour in its midst.

- 18) The perception that the problem is not theirs, together with a perception that alcohol restrictions have been imposed without adequate consultation, have led the Menzies report to the following key finding:

*“We recommend that the current alcohol restrictions be maintained in their current form and that extensive community consultation, education and social marketing be conducted before implementing any stronger measures. The current set of restrictions provides a good platform for the implementation of the broader range of measures associated with the Alcohol Management Plan.” Page 12.*

- 19) The report refers to *“the inability to drink in public or in Town Camps has created a culture of resistance” Page 16.* The Menzies report raises the need for a more comprehensive approach, including the need for the Northern Territory Government to engage with the Federal Government over the issue of “Dry Town” camps. In this context it also raises the possibility of establishing wet canteens or clubs in communities. The report refers to the need for an analysis of alternative models for community liquor outlets.

- 20) In assessing the effectiveness of the alcohol supply restrictions consideration needs to be given to the impact of the introduction of an ID system for the purchase of alcohol in Alice Springs. Figures supplied by the Department of Justice show that in the last six months (1 January to 30 June 2009):

- On 378 occasions persons on Court Orders or other imposed alcohol restrictions were denied purchase of alcohol.
- On 3685 occasions people attempted to purchase a second cask (or fortified wine) on the day and were denied.

- 21) These figures indicate that the requirement to produce ID for the purchase of alcohol is having a positive impact of supporting takeaway restrictions.

- 22) The issue of community based wet canteens or clubs was also raised by a number of the organisations consulted in this Commission review and is further commented on in paragraphs 33 to 37.

### **Complementary Measures**

- 23) The Commission was given assurances over the implementation of a number of initiatives to underpin the creation of Public Restricted areas throughout Alice Springs. A basis for

the declaration of the “Dry Town” therefore included the “complementary” measures detailed from the Commission decision of 9 May 2007 below:

*In order to explore the ways in which Town Camp and some public housing residents can be supported if a “Dry Town” is declared, the Commission, following formal hearings on 8 and 9 March 2007 and consideration of written submissions, has spoken further with Police, Health and Racing, Gaming and Licensing. At those meetings, the Commission has received assurances from those agencies that complementary measures will be in place to support the Public Restricted Area. The complementary measures advised include:*

- a) *An effective communication strategy and a community education programme to ensure that the details of the “Dry Town” are known. These measures will consist of radio and television advertisements, including some media releases in language targeting outlying communities;*
- b) *Adequate policing of the Town Camps and appropriate procedures put in place to ensure that any request for assistance is attended to within an acceptable response time;*
- c) *Sufficient Community Night Patrols to properly service Town Camps and/or similar complementary measures to assist residents in dealing with liquor related issues;*
- d) *Adequate access to phones by camp residents to ensure they can seek immediate Police assistance if required and/or other complementary measures to ensure an acceptable level of communication between police and camp residents is available;*
- e) *Practical assistance to residents in public housing to enable them to apply for their houses or units to be declared private restricted premises (ie Dry);*
- f) *Practical assistance to various Town Camps should they wish to consider becoming “Dry” camps;*
- g) *The assistance of a dedicated officer from the Department of Justice to coordinate the provision and implementation of supporting complementary measures for Town Camps and public housing including the measures referred to above.*

24) In relation to the above measures;

- a) The Commission is satisfied that *“an effective communication strategy”* was carried out into consequences and responsibilities arising from the “Dry Town” declaration.
- b) Advice from Northern Territory Police is they have increased resourcing and focus on Town Camp safety issues.
- c) Day and Night patrols have been maintained and their continued operation appears reasonably assured.
- d) *“Access to phones by Town Camp residents”* has not been guaranteed but the Commission understands all reasonable efforts were made through the Department of Justice to supply phone services to Town Camps but the offers were not all taken up by Town Camp Management.
- e) *“Practical assistance to residents in public housing to enable them to apply for their houses or units to be declared Private Restricted Premises (ie Dry)”* has been forthcoming with 117 private premises declared “Dry” in the last two (2) years.
- f) The need for assistance to Town Camps to become “Dry” has been negated with all being prescribed by the former Federal Minister.
- g) *“The assistance of a dedicated officer from the Department of Justice”* to assist with measures in support of the above initiatives has largely been delivered.

- 25) Further, the Commission was advised of additional initiatives likely to lessen the link between itinerancy or homelessness and the lure of uncontrolled takeaway drinking, through the provision of better Town Camp infrastructure and the development of two (2) transit accommodation camps for temporary visitors from outlying communities to Alice Springs.
- 26) The decision of the Commission refers to these initiatives in the following terms:
- “The Commission has been advised of the proposed plan for improvements to Town Camps in terms of infrastructure and services and for the development of two (2) transit camps to accommodate residents of outlying communities who come to town to access facilities or to visit family and friends. There is currently no guarantee however that all of the proposed improvements to Town Camps will occur – nor is there a stipulated or guaranteed timeframe for implementation of any of the improvements, including the creation of the transit camps. In these circumstances, the Commission has considered the impact of a “Dry Town” Declaration on Town Camps on the assumption that these improvements will occur over time.”*
- 27) As referenced in the “Dry Town” decision, alcohol problems in and around Alice Springs are symptoms of wider social contributory (if not causal) factors, including poor education, housing and health and low levels of employment and self esteem. The importance of delivering, operating and maintaining improved Town Camp infrastructures, together with policing and adequate emergency telephone connection for resident safety, were significant considerations at the time. Despite all Town Camps being declared Restricted Areas by the Federal Minister, it appears that little has changed for those living in these Town Camps. Anecdotal evidence supports a view that drinking in Town Camps continues and the health and safety of those who live there is still compromised. It is hoped that the recent announcement of an agreement reached over the Government leasing of most Town Camps will secure the start of a refurbishment of Town Camp infrastructure that is sorely needed.
- 28) Also recognised in the “Dry Town” decision was the need for transit accommodation in a town which provides a wide range of services to remote communities throughout central Australia, including northern areas of South Australia and eastern areas of Western Australia. The provision of well managed alcohol free transit accommodation, would contribute significantly to the welfare and safety of visiting families. It can be strongly argued that the orderly provision of accommodation and amenities would lessen the lure of alcohol.
- 29) Most of the “complementary” measures associated with the “Dry Town” are in place and given the prescribed status of the Town Camps, their attraction as one of the only legal places for drinking has been removed. Advice that most Town Camps will be subject to a major infrastructure funding initiative of around \$100 million is encouraging. The delivering of this “normalised” service and infrastructure will improve the lives and safety of residents and visitors to the Town Camps.
- 30) The People’s Alcohol Action Coalition (PAAC) called for more stringent alcohol supply restrictions, including an alcohol free day. The Commission notes that the Menzies report does not canvass this option in any detail. It is a measure which was not raised in other consultations.
- 31) The Commission has not been presented with authoritative data either supporting or relating the benefit of such a measure which was applied and discontinued in Tennant Creek some years ago. However, the Commission has been advised that the Menzies School of Health will be undertaking research into the success of alcohol supply measures in Tennant Creek, including the “Thirsty Thursday” ban on takeaway alcohol sales.
- 32) Noting the caution recommended in the Menzies report over introducing tougher supply measures, the Commission is not inclined to pursue this restriction in the current review.

## Other Relevant Factors

- 33) Consultations revealed a degree of frustration over the ready availability of take away alcohol without the availability of places to legally consume the alcohol purchased. Town Camps residents, visitors from outlying communities, and residents of houses declared “Dry” are all marginalised with their drinking practices and drinking locations. With tougher takeaway restrictions and the declaration of the “Dry Town” it was the hope, if not expectation, of the Commission that there would be an increase in the use of licensed premises for the consumption of alcohol. This has apparently not occurred to any discernable level, and the illogical situation, where many residents and town visitors can purchase but not legally consume alcohol, is perpetuated and even furthered.
- 34) In the longer term there will need to be a focus on developing more cogent and appropriate policies in relation to safer, more orderly and supervised alcohol consumption for many of the Alice Springs residents and visitors. While it is recognised that alcohol is a very harmful and even dangerous product for some, it is not a prohibited or illegal product. It is unrealistic to ban the sale and consumption of alcohol. Greater efforts therefore need to be made to improve drinking practices of those whose consumption and exposure to the use of alcohol is “at the margin”, ie due to it being unlawful to drink in public, in town camps and in prescribed residences, alcohol is consumed by many clandestinely and surreptitiously in the absence of even the basest of amenities. Better drinking habits will occur with regulation combined with harm minimisation education, with the key aim of reducing binge drinking and fostering socialised and more temperate consumption.
- 35) Mr Darryl Pearce, Executive Officer of Lhere Artepe referred to the convergence of drinkers in Alice Springs “drinking outside family and skin groups causing added friction and violence”. A more appropriate response to this issue in his view was that *“management structures and operational guidelines be assessed for wet canteens or clubs with the ultimate aim of establishing such canteens in the outlying communities”*.
- 36) In the Commission’s view the added impetus for such an investigation is bound to the Northern Territory Government’s desire to promote around twenty (20) more economically independent communities over the coming years. If such communities are to be characterised as possessing normal commercial enterprises and activities, the issue of licensed restaurants or clubs needs to be entertained and undergo careful evaluation.
- 37) Further, in recent hearings conducted by the Commission, there has been a call to commence evaluating appropriate models for wet canteens or social clubs on communities as an alternative to community based drinkers relying on roadhouses, town liquor outlets or grog runners for their alcohol. The issues of drunk driving and calamitous road deaths arise in part as a consequence of people travelling long distances to purchase alcohol.
- 38) The Commission has also been advised of increased levels of grog running since the Federal Intervention despite heightened awareness of the “dry” status of communities in Prescribed Areas. This has added to the need for engagement over the issue of providing communities with access to limited and controlled purchases and a safe place for its consumption.
- 39) The Commission is supportive of the widespread Top End use of permits to act as a control measure allowing some limited access to alcohol to those who do not have a history of abuse of the right to purchase and consume alcohol. Any consideration or investigation of wet canteens or social clubs on communities would need to include a permit system or club membership as a control measure.

## Decision

- 40) There has been no major call for the “Dry Town” status to be removed. Therefore, as disappointing the lack of progress on Town Camp infrastructure (noting a programme of \$100 million of infrastructure development is now likely to proceed) and transit

accommodation is, the undoing of the Commission's declaration is not justified. Alice Springs will remain a "Dry Town".

- 41) There is strong evidence to conclude that the alcohol supply restrictions currently in place are working, with the prime indicator being the 18% reduction in apparent alcohol consumption. The Commission also notes the Menzies Report recommends that the current measures be maintained and that a process of extensive community consultation and education would need to be undertaken before implementation of any stronger restrictions. The measures put in place by the Commission on 1 October 2006 remain.
- 42) On the issue of there being nowhere to legally drink for many who purchase takeaway alcohol, the Commission urges public policy engagement to evaluate the development of safe, well managed and licensed outlets in Alice Springs as an alternative to marginalised, unsafe and unlawful drinking practices.
- 43) To many outlying community visitors to Alice Springs the Township is a needed central service centre, but due to various circumstances the township is also their sole source of alcohol. The lure of alcohol has unfortunate consequences for the township. An alternative which needs to be cautiously and carefully evaluated is that of the limited regulated sale and consumption of alcohol on communities themselves. This is not to suggest that communities should have the prospect of licensed clubs thrust on them, but the issue does need to be considered, including the development of best practice models.

Richard O'Sullivan  
Chairman

12 August 2009