

Northern Territory Licensing Commission

Reasons for Decision Review of Alcohol Supply Measures in the Elliott Region

Date of Decision: 10 August 2009

Members: Richard O'Sullivan (Chairman)
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Background

- 1) In 2008, a report was commissioned by the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) regarding alcohol issues in Elliott. In July 2008, the report entitled "Community Feedback Report on Managing Alcohol Problems at Elliott" was published by the Centre for Aboriginal Economic Policy Research at the Australian National University. The authors, Maggie Brady and Carol Watson consulted widely with the Elliott community and their report considers issues and problems relating to the supply and consumption of alcohol in the community and some practical steps and solutions for dealing with these issues and problems.
- 2) Noting its responsibility for liquor supply management in the Territory, the Licensing Commission has conducted its own enquiries in the wake of this report and intends to make some relatively discreet changes to the liquor supply system that currently operates in the Elliott Region. It is the Commission's view that any more comprehensive changes to the current liquor supply plan should await the preparation and implementation of a wider Alcohol Management Plan for the area. Such a plan, with Government and community support, will be able to take a more holistic view including harm reduction and demand reduction strategies.
- 3) The Licensing Commission has taken into account information from a number of sources when making its decision on an interim alcohol supply plan for Elliott. The Commission received many written submissions and has also read with interest the report prepared by Maggie Brady and Carol Watson referred to above. The Commission spent time in Elliott in March 2009 and spoke to various stakeholders including separate meetings with the men and women of North Camp and South Camp, Licensees, the police, the school principal, the Commonwealth Government Business manager, Health Clinic and Family Violence unit staff and some long term residents of Elliott.

Consideration of Issues

- 4) As a result of our considerations and consultations, some comments can be made about alcohol supply issues in Elliott as follows:
 - a) Liquor restrictions have been in force in Elliott for over two (2) decades. As a result of a Commission decision, there have been restrictions on the sale of takeaway alcohol in Elliott for some years now, such that most community members can currently only purchase a six (6) pack of beer per day from either of the two (2) outlets in the town. If they purchase from both outlets, then that means that they can obtain a maximum of twelve (12) cans of beer for a sum in excess of \$40. A lack of clarity in the wording of the Mobil Elliott licence has meant that a small amount of takeaway sales of bottled wine and perhaps spirits are being made to selected customers and this practice has caused some discontent with other residents. This matter will be addressed by the proposed reforms.

- b) There are regular 'grog runs' occurring - and that is acknowledged openly by community members and Police. A number of vehicles routinely travel to licensed premises outside of Elliott - including nearby roadhouses and takeaway outlets as far afield as Tennant Creek and Katherine - and bulk purchases are made on behalf of others. No offence has been committed by such purchases so long as the alcohol is not delivered to or consumed in one of the prescribed Town Camps in Elliott or publicly consumed within the 2km area.
- c) The reforms being proposed by the Commission will hopefully address concerns about the impact of supply from the closest roadhouses to Elliott without preventing bona fide travellers, tourists and cattle stations from buying takeaway alcohol from these outlets. Any more severe limits on alcohol availability in the wider Elliott region will run the risk of increasing long distance grog running, thus defeating the purpose of the exercise and perhaps causing a greater problem. Once again, the proposed restrictions on the two (2) nearest roadhouses will be reviewed once the community has had the time to consider a more holistic approach to liquor supply through an alcohol management planning process.
- d) Prior to the Commonwealth intervention in 2006, the local community had found a workable solution for managing public drinking and inter-family issues in Elliott. The policy was to encourage residents to drink responsibly at home both within the town camps and in other residential areas in Elliott. The premise was that if a small amount of beer was able to be purchased locally and consumed at home, then there was more chance that inter-family disputes would be avoided, children would be fed and supervised and the drinking would take place in a secure environment where there were family members present to exert some control and to manage any issues arising. Whilst such a solution would not be effective in all communities, the feedback from all involved is that it was working in Elliott and that it had the support of police, health and community members.
- e) The Commonwealth Intervention led to the dismantling of this initiative when the decision was made to include the Elliott town camps in the reform package and to declare them as "prescribed". This has meant that residents of the town camps can no longer drink in their own homes. Regrettably, apart from a house or two within the township where the residents are inundated with guests who want to drink, there is nowhere else for town camp residents to drink safely as the township is subject to the 2km rule (and this appears to be respected) meaning that people cannot drink in any public places in the town area. The reality is that town camp residents now drink in informal drinking areas on the side of the Stuart Highway just outside the 2km boundaries. These are not safe places to congregate and the current situation does not assist the community in protecting the welfare and safety of their children-particularly as they sometimes cross the Highway to reach their parents.
- f) The Commission in its community consultations received mixed messages about the extent of the alcohol-related problems in Elliott and this has not made its task any easier. Safe to say that even within institutions such as the health clinic, there are a range of views on how Elliott is faring as compared with other similarly sized remote communities and whether further changes to the current liquor supply measures are needed or are likely to be effective. The Commission, when visiting Elliott were advised that the employment rate is reasonably high and property crime is low and this is commendable. There are however many social problems that various community members advised need addressing. Whilst it is noted from published school enrolment and attendance statistics that attendance is low, the school principal spoke positively about the strength of the school community and the willingness and interest of the pupils who attended. Finally, some weight has ultimately been placed on submissions from the police that suggest that Elliott has a serious and increasing alcohol-related crime problem that needs to be addressed and the statistics they provided to us support their submission.

- g) In meetings held with over fifty (50) town camp residents (in separate meetings of the men and women), and in other stakeholder meetings, the question of whether a permit system is workable and feasible was frequently raised and discussed. Any such permit system allowing responsible adults to drink in town camps is not currently an available option as the Federal Government has made it clear publicly that there will be no drinking whatsoever in town camps. There is however some qualified support for such a system within the Elliott community as it would allow people to drink in their own homes - an option that is preferred by most of the residents we spoke to. Any such initiative if it were to be trialled in the future would need to be well supported by government and the community to ensure that an informed, confident permit committee could make sound decisions on behalf of town camp residents.
- h) All residents and stakeholders that the Commission spoke to agreed that changes need to be made to the takeaway licences of the two (2) licensed premises in Elliott, namely Mobil Elliott and the Elliott Hotel. There are inconsistencies between the two (2) outlets as regards licence conditions for takeaway that currently cause confusion for both Licensees and the public and inadvertently foster discriminatory practices as follows:
- (i) The Licensee of Mobil Elliott has been selling bottled wine and perhaps some spirits to a few community members but not to the majority. This preferential treatment was not specifically prohibited by licence conditions but it now will be.
 - (ii) The Licensee of the Elliott Hotel was under the mistaken belief that he could only sell beer to Indigenous residents who were drinking on the premises but that he could sell other alcohol products to non Indigenous customers. This is not the case and the Licensee has been advised of this fact. As a result, the Hotel has recently changed its practice and is now offering the same choice of products to everyone who comes for a drink at the hotel. Police have confirmed that they have not experienced any issues as a result of the changes and they will now be incorporated into licence conditions.
- i) The Commission also heard of many concerns by community members that the Indigenous population feel unwelcome at the local hotel and are at times dealt with in a manner they find offensive and discriminatory. Both the Licensee and some residents have commented that it is in fact the Licensee's intolerance of bad behaviour that makes some patrons uncomfortable socialising there. It is noted that Police have no antisocial behaviour or violence issues emanating from the sale of alcohol at the hotel.
- j) The Licensing Commission fully supports Licensees who refuse to tolerate unruly or drunken behaviour from their patrons and who put people "off tap" well before they become intoxicated. What it cannot support however, are discriminatory practices that have the potential to divide a community. The changes the Commission intends to make to the Hotel's licence conditions should clarify any of these outstanding issues.
- k) The reluctance of many town camp residents to drink and socialise at the Hotel is regrettable. Apart from this venue and a few residences within the town, there is nowhere within the community that they can actually drink alcohol. 'On premises' drinking in the Hotel beer garden or in the currently closed Hawks Bar, for example, would be far preferable to an isolated spot in the bush bordering the main highway.
- l) The Commission also received submissions concerning the standard of the hotel in terms of appearance, cleanliness, maintenance and the lack of meals and other facilities generally – particularly for Indigenous residents. Being the only hotel in town, the role it can play within the community for better or for worse is a powerful one. The maintenance issues will be taken up with the Licensee directly but the wider issue of the lack of facilities at the hotel for town residents is a matter for the community to discuss with the Licensee when an alcohol management plan is being prepared.
- m) The Commission heard from residents that the Hawks Bar was once a place where town camp residents felt comfortable and accepted. This bar is now closed and many

would like to see it reopened. Whilst some of these issues are decisions for the Licensee to make, it is safe to say that town camp residents would like some sort of a facility where they can meet, socialise and watch sport on TV. If the hotel is not to be that location, then some other well managed community club facility would be welcomed and the Commission would support the creation of such a facility. These are all matters for the community to consider when it is preparing its alcohol management plan.

- n) The initial consideration of the Commission was limited to liquor supply issues in Elliott itself. More recently, the Commission has extended its consideration to those roadhouses that are nearest to Elliott on the basis that any liquor reforms in Elliott will necessarily place pressure on those premises. The affected Licensees have now been contacted and their views sought and considered. Whilst the Licensees disagree, anecdotal evidence suggests that a lot of alcohol is currently being purchased by residents of Elliott and Marlinja (located 20km north of Elliott) from nearby roadhouses. Once again, these sales are completely legitimate, but if the Commission is trying to find the right balance of liquor supply into the Elliott region, then it must take the liquor coming from nearby roadhouses into account. The Marlinja residents have been included in this plan because of their proximity to Elliott and also because there has been conflict in recent times between families from Marlinja and Elliott which required temporary liquor restrictions to be imposed.
- o) The Licensees of Renner Springs and Dunmarra Roadhouses do not see Elliott residents as a substantial part of their trade at all. Assuming that is the case, a restriction on the amount they can legitimately supply to Elliott and Marlinja residents should not be a big issue for them. If others are correct and these residents are purchasing regularly from one or both of these outlets, then the Commission is sensible to consider them in any revised liquor supply plan. To this end, the Commission intends to place some restrictions on the supply of alcohol from these roadhouses to Elliott and Marlinja residents whilst ensuring that it does not impact on bona fide travellers, tourists and bush orders from stations.
- p) There was also a request made that the Commission allow the option of mixed spirits as takeaway as well as beer as many residents do not drink beer. Whilst mid-strength mixed-spirit sales are an attractive option that the Commission is seriously considering, it is reluctant to take that step at this stage. On the positive side, the introduction of mid strength spirits will encourage a lower alcohol choice for consumers. The negative consideration is that the number of adults purchasing liquor is likely to increase. Safe to say that this issue will be considered further by the Commission when a more cohesive alcohol management plan is in place with the community more involved in controlling its own liquor problems and when safer options are available for drinking other than the side of the Highway.
- q) Supply reduction strategies are only one part of the solution when it comes to tackling alcohol related harm. In the Commission's consultations with the community, there were repeated requests for more resident Police, for better alcohol and other drugs services and for more capacity building in the area of community development. Whilst the Commission is aware of a number of programs that are either now being offered in Elliott or soon will be, the reality is that a remote community such as Elliott must always rely principally on its own residents to support local initiatives and foster change.
- r) There is a definite need for government support to assist the community in developing an alcohol management plan for the Elliott Region. That plan needs to include consideration of safe places to drink for town camp residents. In time, should the Federal Government reconsider their position on permits in town camps, then a permit system may be an option. In the interim, other alternatives must be considered. The Commission hopes that community members will take on the challenge of working with government, other agencies and each other to create an alcohol management plan for

the region that gives structure, guidance and a way forward where regional liquor issues are concerned.

- s) The Commission notes the success of the electronic identification system in Alice Springs and Katherine in preventing persons from purchasing greater quantities of takeaway alcohol than they are entitled to under the liquor supply plan. It is suggested that the extension of an electronic identification system to the Elliott region is a matter worthy of consideration as part of an Alcohol Management Plan. Such a system would support the Commission's liquor supply measures and assist the Licensees as they would no longer need to maintain a paper register.

Decision

- 5) The Commission intends to make the following changes to liquor supply into the Elliott Region by issuing Section 33 notices to Elliott Hotel, Elliott Mobil, Dunmarra Roadhouse and Renner Springs Roadhouse. Those premises then have the option to seek a hearing on the changes to their licence conditions or to simply accept the changes and allow them to come into force after twenty-eight (28) days of service of the Section 33 notice on them.

The Section 33 notices will address the following:

- a) Takeaway alcohol sales from Elliott Mobil and Elliott Hotel shall be limited to six (6) cans of 375ml beer per person per day from each outlet. The purchaser must personally request the purchase and be assessed by the Licensee as to his or her age (ie 18 years and over) and sobriety. No other alcohol products shall be sold as takeaway. Each Licensee must retain a register of these sales in a form approved by the Director. The register shall include the date and time of purchase and the name of the customer to inform the Commission on buying patterns. This requirement (to maintain a register) shall be reviewed once an alcohol management plan for the region has been prepared and is in force.
- b) The liquor licence of the Elliott Hotel shall be varied to clarify that on-premises sales of both beer and mixed spirits are able to be purchased by all.
- c) Restrictions are to be placed on the liquor licences of Dunmarra Roadhouse and Renner Springs Roadhouse as follows:
 - (i) No more than six (6) cans (375ml) of beer per person per day to be sold to Elliott and Marlinja residents.
 - (ii) The Licensee is to maintain a register of takeaway sales to Elliott and Marlinja residents in a form approved by the Director.
 - (iii) The purchaser must personally request the purchase and be assessed by the Licensee as to his or her age (ie 18 years and over) and sobriety.
- 6) These changes to licence conditions are considered as an interim measure and will be reviewed once an alcohol management plan for the Elliott region is prepared and in force.

Richard O'Sullivan
Chairman

10 August 2009