

Northern Territory Licensing Commission

Applicant for Declaration of a Restricted Area Decision

Applicant(s): Anindilyakwa Land Council being principal among the following parties to the application
Angurugu Community Government Council
Umbakumba Council Inc
Milyakburra Council Inc
BHP Billiton (GEMCO)
NT Police (Alyangula Station)
Alyangula Recreation Club
Alyangula Golf Club Inc
Racing and Gaming and Licensing Division, NT Treasury

Heard Before: Dr Alan Clough
Ms Annette Smith
Mr Paul Costigan

Opinions, Written Submissions and Presentations Received: Umbakumba Community Council (Exhibits 1 and 2)
Snr Sgt Tony Fuller OIC Nhulunbuy Police (formerly OIC Alyangula Police)(Exhibit 5)
Mr Des Crow, Morgan Buckley Lawyers for the Alyangula Recreation Club, 23rd December 2004 (Exhibit 6)
Angurugu Community Government Council (Exhibit 7)
Rev Alan Parker (Exhibit 11)
Mr Des Crow, Morgan Buckley lawyers for the Alyangula Recreation Club, 8th March 2005 (Exhibit 12)
Mr Tracey Mitchell (be e-mail)

Hearing Dates: Umbakumba and Alyangula: 6th December 2004
Angurugu: 7th December 2004
Angurugu Health Centre, Milyakburra: 8th December 2004
Alyangula: 9th December 2004
Angurugu Council and Alyangula: 1st March 2005
Angurugu Health Centre, Alyangula: 2nd March 2005

Date of Decision: 11th of May 2005

Summary of Decision

The Licensing Commission was asked to revoke exempt areas in the Groote Eylandt Restricted Area and, simultaneously, to declare these areas restricted but with appropriate exemptions for established liquor licenses. The Commission was also asked to implement a system of liquor permits to enable possession and consumption of liquor in selected localities within the Groote Eylandt Restricted Area.

Consistent with a previous amendment to the declaration of the Groote Eylandt Restricted Area and also consistent with the objectives, substance and sentiment of the application, the Commission decided that it should approach the matter by considering whether to revoke the restricted area surrounding Umbakumba and to amend the existing declaration of the restricted area around Groote Eylandt so that the townships of Alyangula and the area surrounding Umbakumba, both currently exempt from the restricted area, are included. Given this approach, the Commission must also determine appropriate exemptions for liquor licences that would operate

within an amended restricted area. Consistent with the approach, the Commission also considered whether liquor permits to possess and consume liquor should be available to residents of an amended restricted area and in this regard it considered the minimum conditions to which a permit should be subject.

The Commission's decision is that:

1. Pursuant to s.74(1) of Part VIII – Restricted Areas of the *Northern Territory Liquor Act*, in force at the 1st of September 2004, (the *Act*), the Commission has determined that all land at Groote Eylandt and Bickerton Island shall be declared a restricted area.
2. At the same time, it is determined that the restricted area surrounding Umbakumba is revoked pursuant to s.84 of the *Act*.
3. This declaration will take effect from the 1st of July 2005 and shall be implemented by causing to be published a notice, pursuant to s.82 of the *Act*, to amend the existing declaration of the restricted area surrounding Groote Eylandt, in effect since the 1st of July 1980, subsequently amended on the 27th of October 1993, to now include the township of Alyangula and the area surrounding Umbakumba but with the following exceptions.
 - a. It is determined that the declaration of the amended Groote Eylandt restricted area does not apply at the licensed premises of the Alyangula Recreation Club and the Alyangula Golf Club whose licences were issued by the Commission pursuant to Part III – Licences of the *Act*.
 - b. It is also determined that this declaration does not apply at the licensed premises of the Alyangula Police Social Club whose licence was issued by the Commission pursuant to Part VI - Special Licences of the *Act*.
4. The possession and consumption of liquor within the Groote Eylandt restricted area will be, from the 1st of July 2005, strictly subject to conditions of a permit issued by the Licensing Commission. Upon consideration of an application, a permit may be issued by the Commission pursuant to s.87(3), subject to the condition that liquor may be possessed and consumed in those areas delineated in the Schedule to this decision being generally in the Alyangula township and in an area surrounding the Umbakumba community. Other essential conditions to which a liquor permit will be subject are delineated in the body of the decision.

Recommendations arising as a consequence of this decision

5. It is recommended that the Commission informs itself, pursuant to s.91(1)(b) of the *Act*, when considering each and every application for a liquor permit by first seeking the formal advice of a Groote Eylandt restricted area liquor permit application and assessment committee as described in the body of this decision.
6. It is also recommended that the Commission informs itself, pursuant to s.91(1)(b) of the *Act*, regarding those areas within the restricted area where liquor may be possessed and consumed in accordance with a permit by first seeking the formal advice of the Groote Eylandt restricted area permit application and assessment committee.
7. Upon receipt of an application by the Alyangula Recreation Club or the Alyangula Golf Club to vary their licence conditions, as permitted by s.32A(1) of the *Act*, it is recommended that the Commission considers issuing notices to vary the conditions of the licence of the Alyangula Recreation Club or the conditions of the licence of the Alyangula Golf Club, pursuant to s.32A(7)(a) of the *Act*, permitting them to sell takeaway liquor to holders of a valid liquor permit and for associated requirements detailed in the body of the decision.

Signed by the Commission members constituting the hearing panel:

A handwritten signature in black ink, appearing to read "Alan Clough". The signature is written in a cursive style with a prominent initial 'A'.

Alan Clough
Commission Member Presiding

Annette Smith
Commission Member

Paul Costigan
Commission Member

11th of May 2005

Background: Groote Eylandt and Bickerton Island

Groote Eylandt and Bickerton Island and associated smaller islands in the Groote Eylandt archipelago are situated off the mainland in the Gulf of Carpentaria and are home to three Aboriginal communities, as well as a mining town. In the 2001 census 2426 people were counted in Groote Eylandt and Bickerton Island, and 1510 (62%) of these identified themselves as of Indigenous origin.¹ The Aboriginal communities range in size from 200 to 750 people. The Aboriginal residents are comprised predominantly of Anindilyakwa speakers.

Currently, the largest of the three Aboriginal Communities, Angurugu, has a population of around 750 Aboriginal people. According to census data, another 33 Australians live and work in Angurugu. Umbakumba is the second largest community with a population of around 380 Aboriginal people and a small number of other Australians who are resident staff. Milyakburra, is more isolated, sited on nearby Bickerton Island, and is home to around 200 Aboriginal people and a small number of resident staff. According to census statistics, a further 220 Indigenous people are residents of Alyangula. Angurugu is a Community Government Council incorporated under the Northern Territory *Local Government Act* (2004). Umbakumba Council and Milyakburra Council are incorporated associations providing local government services to their residents. The township of Alyangula is managed by GEMCO and does not have local government status.

Alyangula was established in the early 1960s to house and service GEMCO's employees and their families, and has a fluctuating population of from 800-900 excluding the Aboriginal residents. GEMCO is a subsidiary of BHP Billiton and is involved in manganese extraction. The town's population has expanded in recent times as the company strives to increase output and to maintain plant service regimes. The Aboriginal residents of Alyangula are largely comprised of GEMCO employees or employees of government service providers, together with their families.

In 1991, the Anindilyakwa Land Council (ALC) was established under the *Aboriginal Land Rights (Northern Territory) Act* (1976). The ALC is the body primarily responsible for all matters pertaining to land and the ownership of the land held in trust for the traditional landowners of the Groote Eylandt archipelago.

Preamble

1. On the 20th of June 1980 by notice in the NT Government Gazette, the Chairman of the then Liquor Commission declared a restricted area around Groote Eylandt.²

"The effect of this determination is that the whole of Groote Eylandt and nearby islands will be a restricted area after 1 July, and liquor may not be taken or consumed there without a permit."

Three parcels of land were excepted from this declaration, one at the prawn processing depot at Bartalumba Bay, one at Alyangula and one at Umbakumba. The area at Umbakumba was simultaneously declared a restricted area other than for beer which could be possessed and consumed with no restrictions. The declaration intended that

"Alyangula township and the prawn processing depot at Bartalumba Bay are excluded, and liquor may be consumed there without restrictions subject to the normal laws of the land. With regard to Umbakumba, beer may be consumed in the area without restrictions, but permits will be required for wines and spirits."

2. Subsequently the exemption of Bartalumba Bay was removed on the 27th of October 1993 by amending the declaration of the restricted area around Groote Eylandt to include the prawn processing depot at Bartalumba Bay.³

¹ Australian Bureau of Statistics. Regional Statistics, Northern Territory. Canberra: Commonwealth of Australia, 2004.

² The Northern Territory Government Gazette No. G25, 20 June 1980, pp 2-3

³ The Northern Territory Government Gazette No. G43, 27 October 1993, pp 2-3

3. On the 23rd of June 2004, a letter was received by the Director of Licensing (the Director) on the letterhead of the Anindilyakwa Land Council (ALC) signed by Mr Tony Wurramarra (Chairman) requesting a 'Groote Eylandt Hearing'. The stated reason for requesting the hearing was to ascertain the opinions of residents regarding recommendation one of a document attached to the application and entitled the Groote Eylandt Liquor Management Plan,⁴

"i.e. concerning abolition of the Restricted Areas existing exempt areas, establishment of a permit system and other related matters as detailed in the Groote Eylandt Liquor Management Plan."

4. At its meeting of the 10th/11th of August 2004, in its consideration of the formalities of the application, the Commission heard a report from its Chairman (Mr John Withnall) on the abovementioned historical changes to the land not currently included in the Groote Eylandt restricted area. Based on this report, the Commission determined that the request from the ALC for the abolition of existing exempt areas be accepted as an application for the declaration of those areas as restricted. The Commission also determined that the Chairman would request the Director to conduct such appropriate investigations as will assist the Chairman in relation to the requirements of s.79 of the *Act*.
5. By this time the Groote Eylandt Liquor Management Plan (GELMP) was presented to the Commission as 'draft 10' dated the 18th of July 2004. A subsequent 'draft 11', dated the 9th of September 2004, seemed unchanged from draft 10 except for elaboration of the background reasons for the plan and for the inclusion of a map of the restricted area indicating the exempt areas.
6. The GELMP's stated aim is to reduce the number of liquor-related incidents and resultant harm involving all residents of Groote Eylandt and Bickerton Island. Its focus is on takeaway liquor available from the two premises licensed to sell it in Alyangula and also on liquor brought into the restricted area from outside the area. The GELMP provides, at page three, a list of 'stakeholders' to the plan including those described at p.1 of these reasons for decision as 'parties to the application'. The GELMP provides some history and background reasons for developing the plan and for making the application. It asserts the need to clarify arrangements for the provision of takeaway liquor to assist with enforcing restricted area provisions, to assist to quell informal trading in liquor, to clarify arrangements for access to takeaway liquor during times of community tension and to formalise voluntary rationing systems presently in place. The plan recommends 'abolition of the Restricted Areas exempt areas', the establishment of several categories of liquor permit as well as appropriate changes in the licence conditions of the licensed premises regulating the sale of takeaway liquor to permit holders. It recommends the establishment of a local permit application and assessment committee which would make recommendations to the Licensing Commission for the grant of permits to applicants and for their revocation. It also recommends that the ALC and the other parties to the application consider locations within the Groote Eylandt restricted area where liquor may be consumed in accordance with a permit.
7. On the 14th of September 2004, pursuant to s.51(2A)(b) of the *Act*, the Chairman selected three Commission members to constitute the Commission to hear and determine the application for currently exempt areas within the Groote Eylandt restricted area to be declared restricted. Simultaneously, pursuant to s.15(2) of the *Licensing Commission Act* as in force at the 29th of June 2001, the Chairman selected the same three members to constitute the Commission to hear and determine the application for revocation of the currently restricted area in one of the exempt areas within the Groote Eylandt restricted area and to hear and determine the request to establish the minimum requirements of a suitable system of liquor permits to be implemented in the Groote Eylandt restricted area.

⁴ <http://www.nt.gov.au/ntt/licensing/liquor/TheGrooteEylandtLiquorManagementPlan.pdf>

8. With respect to revoking a declaration of an area as a restricted area, the Commission's statutory power is delineated by s.84 of the Act which states:

"A declaration of an area of land to be a restricted area may be revoked by the Commission at its discretion".

9. With respect to declaring an area a restricted area, the Commission's power is delineated by s.74(1) of the Act which reads as follows:

Subject to this Act, the Commission may declare that a specified area of land shall be a restricted area.

10. In deciding whether to grant an application for an area of land to be declared a restricted area, the Commission is obliged by s.80 of the Act to

(a) consider the opinions regarding that application expressed or ascertained pursuant to sections 78, 79(1)(c) and (2); and

(b) where the relevant area forms the whole or part of a municipality or a community government area – consider any advice regarding the application ascertained pursuant to section 79(1)(d) or (e), as the case may be.

11. The Commission's options for a decision after hearing are set out in s.81(1) and s.81(2) of the Act. Under s.81(1), and subject to the objects of the Act, the Commission must either

(a) refuse to declare the relevant area to be a restricted area and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant;

(b) declare an area of land to be a restricted area; or

(c) declare an area of land to be a restricted area in respect of liquor other than a type of liquor.

Under s.81(2)(a) and (b) the declaration may be in relation to a relevant area which is the relevant area, or land that in area is equal to, greater than or less than the relevant area but pursuant to s.81(3) shall include a part of the relevant area.

12. The Commission can determine the minimum conditions to which liquor permits may be subject by way of the following provisions. Pursuant to s.87(1) of the Act, the Commission may grant a permit to a person:

(a) who resides in; or

(b) who is temporarily living in, or intends to temporarily live in, a restricted area,

to bring liquor into the restricted area and to possess and consume it there. Moreover, pursuant to s.87(3) of the Act,

The Commission may issue a permit subject to such conditions as it thinks fit.

13. The Commission can determine the mechanism(s) it uses to inform itself regarding applications for liquor permits in the Groote Eylandt restricted area by way of the provisions of the Act which, pursuant to s.91(1), in consideration of any application for a liquor permit oblige the Commission to:

(a) conduct such investigations and cause to be conducted such investigations of the application as it thinks fit; and

(b) take all such steps as are, in its opinion, necessary to ascertain opinions regarding the application of the people who reside in the restricted area to which the application relates.

Furthermore, the Commission can revoke a permit “...at its discretion...” pursuant to s.94 or “... if the holder of a permit contravenes or fails to comply with a condition of his permit...” pursuant to s.93 of the Act.

14. When exercising these powers or functions the Commission is obliged by s.3(3) of the Act to have regard to the objects of the Act and to exercise the power or perform the function in a way that is consistent with these objects delineated in s.3(1) and s.3(2).
- (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;*
- (b) *to regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory; and*
- (c) *to facilitate a diversity of licensed premises and associated services for the benefit of the community.*
15. Given the available mechanisms for considering the application and the standing of the considerations underpinning these reasons for decision, the substance of the opinions heard and submitted in writing regarding the application are now considered pursuant to s.80 of the Act.

Summary of the substance of opinions heard and submitted in writing:

Umbakumba: 6th of December 2004 - Nesman Bara translating (approximately 30 people in attendance)

16. Mr Keith Hansen is the Coordinator for the Umbakumba Council and has worked in that role for the community for the past 11 years. Mr Hansen presented a letter titled “Submission to Groote Eylandt Liquor Management Plan” (Exhibit 1) on letterhead of the Umbakumba Community Council and signed by Claude Mamarika (President). The submission seeks a “Special Permit” for Umbakumba residents who are members of Alyangula’s licensed clubs to:

“... enable them to obtain take away liquor from the clubs to consume this liquor at their homes or at the homes of other permit holders, and all other rights of other liquor permit holders.”

The submission also seeks permits to accommodate what is known as “the beer ration” to enable persons to:

“... possess and consume beer from the Umbakumba ration...”

The submission emphasises that Umbakumba residents only are to consume from the beer ration. The submission insists that:

“The beer ration will be a maximum of 14 cartons a week only on Fridays.”

17. Mr Hansen advised the Commission that many meetings had been held with the community regarding the GELMP. The community wants Umbakumba residents only to consume beer from the beer ration since they don’t want other people coming to the community to

consume beer. The beer ration is controlled and managed by the women of the Umbakumba Council for Umbakumba residents. The Council would advise a permit application and assessment committee established according to the GELMP regarding the issue and revocation of liquor permits for its residents who use the beer ration and regarding liquor permits for its other residents. In summary the community as a whole wants access to the beer ration and for its resident staff to be able to apply for liquor permits.

18. Mr Hansen later provided further information advising the Commission that he had been asked by the young men in the room to speak on their behalf. These young men feel that they would be happy to apply for and hold a permit to obtain beer from the beer ration but that in the future it may be appropriate to increase the beer ration. This will accommodate growth in the population and will allow other young men in the future who wish to obtain beer from the ration to have the chance to do so. Mr Hansen submitted for his own part that this would be a constructive step which would reduce the temptation for people to transport liquor of any kind by plane into the community, a situation which usually leads to community disruption.
19. Mr Claude Mamarika (Umbakumba Council President) then spoke to his Council's submission. It is his wish that people can have their beer ration in Umbakumba. This way the Council and their families can watch them. It is a worry for him and other community elders that people from outside would come and drink at Umbakumba and make a lot of trouble as they have in the past. Only Umbakumba people should have access to the beer ration, Fridays only, and not more than 14 cartons each week. It is his undertaking that the Council will continue to organise the order for the ration and ensure that no more than 14 cartons are ordered each week and that a person would be nominated each week to pick it up. Visitors from Alyangula who use Six Mile Beach and Eight Mile Beach (Picnic Beach) for recreation are welcome to do so and to bring liquor if they wish. He also believes that residents of the Umbakumba outstation known as Four Mile should be included in the Umbakumba community for the purpose of the beer ration and that the Umbakumba beer ration may be consumed by Umbakumba residents at Umbakumba community, Four Mile outstation, Six Mile and Eight Mile (Picnic Beach).
20. The next person to speak was Mr Paul Bara who is a member of the Umbakumba Council and also a member of the Anindilyakwa Land Council (ALC). Mr Bara's statements reinforced and confirmed his Council's wish that its residents should continue to have access to the beer ration which recently has been just eight cartons each Friday. He too is happy for visitors from Alyangula to visit Six Mile and Eight Mile Beach and to take their liquor there provided that they remove their rubbish. It is Mr Bara's view that the beer ration should be for beer in cans only which is consistent with the established practice of the Council. Mr Bara mentioned the Marble Point area as an area where no liquor should be taken.
21. Mr Nesman Bara is a member of the Umbakumba Council and is employed by the Council as an Environmental Health Worker. Mr Bara described the general responsible behaviour of those who consume beer from the beer ration and how the Council manages its ordering and transport. He also described, in convincing detail, how the Council bans people from access to the beer ration if they cause disruption in the community, a process which is managed entirely by the Council according to local community rules. While Mr Bara sees that the beer ration should continue, he is curious as to why the ration should be a maximum of 14 cartons when only seven or eight cartons are usually ordered at the moment.
22. Mr Billy Herbert spoke next. He is a resident of Four Mile outstation which is located within his traditional homeland area. He would like a permit which would allow him to continue to have access to beer from the Umbakumba beer ration and to drink it at his outstation. He is also happy to have his visitors do the same. He is annoyed by people who visit the beach near his outstation, known as Four Mile Beach, where litter is often left behind by

those who drink there (illegally). Since Four Mile Beach is part of his homeland, he does not want people to drink there.

23. Mr Geoff Woods spoke next saying that he is the Licensee of the Alyangula Recreation Club (ARC) and has held that position for the past seven years. Mr Woods offered an example of a request to the ARC for the supply of the Umbakumba beer ration (Exhibit 2). The request, on Umbakumba Council letterhead, is authorised by a council officer, it specifies the liquor requested and nominates a person to whom it should be provided. Mr Woods advised that it is only upon such request that the ARC supplies liquor for the Umbakumba beer ration. He further advised that this process has been in place since he first took up his position at the ARC. He offered information from a book called the 'Umbakumba Ration Book' from which the Commission extracted a sample of the information it contained (Exhibit 3). The records for a week chosen in the dry season each year across the ten year period from 1995-2004, show that the ARC provided to the Umbakumba community the following number of cartons of beer in each of the weeks examined: 96, 81, 70, 81, 66, 58, 14, 10, 19 and 6 in that order. This suggests a systematic decline in the beer supplied for the Umbakumba ration especially since the year 2000 and with a consistently low level of supply (<20 cartons in a week) for the past four years. Mr Woods declared that the ARC would continue to work closely with the Umbakumba community and respond to the legitimate requests of the community in respect of the supply of their beer ration. In this regard he further declared that the ARC would agree to vary their liquor licence if necessary to accommodate the Umbakumba community's wishes.
24. Mr Rick Peters advised that he is the Manager of Public Affairs and Aboriginal Community Relations for GEMCO and that he has been in that position for the past eight years and has lived on Groote Eylandt for 11 years. GEMCO has specific obligations to the Aboriginal people of Groote Eylandt and Bickerton Island regarding liquor under its Special Purpose Lease agreements which were first negotiated in 1964. Some lease agreements will be renegotiated by 2006 and consistent with their obligations to the Aboriginal communities, GEMCO is seeking a way to better manage liquor. GEMCO sees the GELMP as a tool to assist this. Mr Peters spoke in particular of the company's efforts to encourage Aboriginal employment. However, Aboriginal employees of GEMCO are faced with enormous additional stress when they become residents of Alyangula whereby they become entitled to obtain liquor from Alyangula's licensed premises by virtue of club membership rules. The additional stress arises from the pressure applied by extended family members to obtain liquor for them and from the disruption this can cause, either when the employee refuses or when the requested liquor is provided, a dilemma which Mr Peters advised many Aboriginal employees choose to avoid by quitting their jobs. Mr Peters further advised that, on behalf of its employees, GEMCO would welcome continued access to the recognised recreation areas at Six Mile Beach and Eight Mile Beach (Picnic Beach) for liquor permit holders and would ensure that GEMCO employees comply with all liquor permit conditions especially those that do not allow permit holders to take liquor to areas where the traditional owners have denied such access. Such areas should be clearly delineated in consultations between the traditional land owners, their representative (ALC) with assistance from GEMCO where appropriate.
25. Mr Peter Glen advised the Commission that he has lived at Umbakumba for the past 25 years and is employed by the Council as a Plumber. He works with Billy Herbert. Mr Glen pointed out some unfair anomalies in the current arrangements in the restricted area. Mr Herbert is unable to take beer obtained from the beer ration to his home at Four Mile outstation since it is not in the restricted area surrounding Umbakumba where beer is available without restriction. Furthermore, at the moment Mr Herbert cannot have visitors who bring liquor there since neither Mr Herbert nor the visitors to his home are able to have liquor permits. In discussions Mr Glen expressed satisfaction with the prospect that liquor permits to obtain beer from the beer ration or liquor permits to obtain other types of liquor by other means could alleviate this unfair anomaly.

26. Mr Peter Jones (Racing, Gaming and Licensing, NT Treasury) commended Umbakumba Council and the ARC on their joint efforts to manage liquor issues at Umbakumba, efforts which he declared were consistent with the approaches suggested in the NT Alcohol Framework.

Alyangula: 6th of December 2004 (eight people attended)

27. Mr Des Crowe advised that he appeared for the ARC. He expressed his client's and his own concerns that the ARC was not made aware by the Director of the specific nature of these proceedings, as required by the legislation. Indeed, before this hearing, the ARC had formed the view that the processes now taking place were, in fact, a continuation of consultations regarding the GELMP and not a formal Commission hearing. Moreover, the ARC had no clear understanding of the nature of the proceedings until advised of these by the chair of the panel at the opening session of this hearing at Umbakumba. Furthermore, the ARC was unclear whether it was the Commission's expectation that one of the several versions of the GELMP would be 'signed off' by the ARC and by others who had participated in consultations for its development.
28. By way of response to Mr Crowe's concerns, Mr Peter Jones advised the hearing that advice to him from within Racing, Gaming and Licensing was that this was not necessary since the GELMP was developed in consultation with 'stakeholders' and that this was not a hearing into the activities of the licensees and, therefore, there was no need for such notification. Mr Jones agreed with the implication arising from having multiple versions of the GELMP that it was, in his words, a 'moveable feast'. But, he argued that this was defensible in that it permitted the Umbakumba community, for instance, to make modifications to the plan by way of further submissions at this hearing.
29. In considering these concerns raised by Mr Crowe on behalf of the ARC, the Commission advised Mr Crowe that it was his client's option to instruct him to make what he would of his client's apprehension. The Commission too had noted, along with Mr Crowe, that the apparent owner of the GELMP, viz. the applicant (the Anindilyakwa Land Council), had not yet offered the latest version of the GELMP document to the hearing. The Commission considered that, although it too was uncomfortable with their being several versions, a 'moveable feast' as it were, the Commission did not require the GELMP to be tabled since the Commission had already received a version of the document attached to the ALC's letter of application. Moreover, in the Commission's view, the GELMP formed a statement of the applicant's reasons for desiring the area to be declared a restricted area, as is required by s.76(e) of the *Act*. In any event, most of the material presented in the GELMP constitutes just one set of opinions among a range of opinions that were still to be heard regarding the application. The Commission also noted that, if the ARC did not require the Commission to make a formal determination regarding its stated concerns, while any failure to inform a licensee whose licensed premises are located within the relevant area of the time and place of the hearing pursuant to s.77(2)(a) of the *Act*, or of the options to make submissions available to them under s.78 and s.79, would be a regrettable oversight, the Director appears not to be strictly obliged by s.77(2) of the *Act* to inform a licensee of the precise nature of the proceedings, as was Mr Crowe's submission, but is specifically required to inform them of "... the location of the relevant area and the time and place of the hearing". The Director subsequently advised the Commission that he had done so by phone and e-mail. Although it may not be strictly required by the *Act*, it would be reasonable for a licensee to expect to be informed of the nature of any upcoming proceedings which may affect their legitimate operations. The Commission then welcomed Mr Crowe's advice that the ARC Committee would meet to discuss its position and would make a more formal submission in one of the latter scheduled segments of the hearing. The Commission also welcomed the ARC assurance that it remained, in principle, generally supportive of the initiatives contained in the GELMP despite its unease. The Commission suggested that it was appropriate to move on from these concerns regarding procedural matters for the moment.

30. Mr Rick Peters offered to speak about the reasons for the GELMP and to summarise how it came about. Mr Peters advised that the need for the GELMP arose in part from issues and concerns raised by Aboriginal people through their land council, the ALC. These Aboriginal people believed that the ALC should take their grievances to GEMCO regarding the difficulties they faced in managing the pressure they experienced as GEMCO employees living in Alyangula to use their privileges as residents of the township and members of the ARC to provide liquor to extended family members. Mr Peters responded to several questions from Mr Crowe which he put in order to assist the ARC and its Committee to consider their position. There are currently 35 Aboriginal employees of GEMCO and 33 of these live with their families in Alyangula in housing provided by the company. Until very recently there were 40 Aboriginal employees. Alcohol issues played a part in all but one of the seven cases where the person is no longer employed by GEMCO. There are 430 GEMCO employees plus 200-250 contractors who reside temporarily in Alyangula for varying periods. GEMCO has specific responsibilities to the Aboriginal communities regarding liquor under their lease agreements, established in 1964, to ensure that its employees do not supply alcohol to residents of those communities. Some GEMCO employees and other residents of Alyangula have done so despite company policy, often with the consequence that community disruption has occurred, and this has occurred most often in the Angurugu community. While it is possible to discipline those company employees who offend against this policy, it is more difficult to discourage such transgressions amongst the rest of the Alyangula population. Alcohol has been provided to Aboriginal people, occasionally at an inflated cost, thereby furnishing a supply of alcohol for 'bush club', the name used by the Aboriginal people of Groote Eylandt to describe their recreational drinking. Mr Peters advised that unregulated drinking and its consequences in 'bush club' settings have been problematic. A permit system in a restricted area surrounding the township of Alyangula would assist to limit the supply of liquor to 'bush club' settings where there are no controls and to encourage responsible drinking in more controlled settings. A similar issue which may be addressed by a permit system for liquor is that some Alyangula residents take liquor to a picnic area at Second Beach nearby the township but within the currently-restricted area. The ALC and the traditional owners of the area have no concerns with this area being one where liquor may be consumed within the restricted area. Since unregulated drinking in these settings, in contrast with 'bush club', has not been problematic, many Alyangula residents, says Mr Peters, look forward to being able to do this lawfully.

Angurugu: 7th of December 2004 - Joaz Wurramarra translating (approximately 60 people in attendance)

31. During the two hours of this segment of the hearing people attending were repeatedly offered the opportunity to formally record their views individually. None took this opportunity. Instead the hearing comprised much cross-discussion and argument between just a few charismatic Thespians, combined with comments from the rear ranks and from beyond the fence. The tone of the discourse became increasingly loud and tense, and its substance became less and less relevant to the hearing as it progressed.

32. In translating, Mr Wurramarra advised the Commission:

"People are saying not for Angurugu, no permit system and no alcohol here in Angurugu."

In order to confirm this, in a convenient interlude, the chair of the hearing panel put it to the group that Angurugu people did not want anyone to bring any liquor to Angurugu whatsoever. There was general agreement with this point of record.

33. Despite the din, the Commission heard moving submissions from several individuals who as persons who did not live in Angurugu and who wished to possess and consume liquor in their homeland community and not in Angurugu, they would like the opportunity to apply for a liquor permit.

34. The Commission adjourned this unruly segment of the hearing and determined, pursuant to s.51(6) of the *Act*, that it would reconvene the hearing with the Angurugu Community Government Council and the staff of the Angurugu Health Centre in separate sessions to enable those affiliated with these groups who attended this segment to have their views recorded unimpeded.

Angurugu Council meeting room: 1st of March 2005 - Mr Jabani Lalara (President) Mr Greg Arnott (Council Clerk)

35. Mr Jabani Lalara advised that he is the President of the Angurugu Community Government Council (ACGC). Mr Lalara spoke at considerable length about the strife and difficulties of managing liquor some years ago and how strong women had fought to get rid of liquor around Angurugu.

“Umbakumba is different from this place. We don’t get that ration. This is something we have wanted for a long time to protect our children and our wives. Umbakumba has its own area. Here we have many traditional owners who don’t want liquor to enter their land. Most of my way of thinking is that everyone has got responsibility. They have their own thing to look after there with their people, each community has its own business. So I think we got ways to look after. There’s a lot of people gone, not many leaders now. People have to be more respectful and talk quietly at meetings, with manners, so everything can be open. This morning we had a big community meeting and people were told strongly about their behaviour. One big thing, we like not to make decisions for people, they’ve got to make their own decisions too because they are drinkers.”

36. Mr Greg Arnott advised that he is the Council Clerk of the ACGC and that he has lived at Angurugu for 12 months. He spoke to his written submission (Exhibit 7). As the Council Clerk of the ACGC, his Council delegated him to prepare the submission tendered.

37. It is the ACGC’s preferred position that, due to the poor history of takeaway liquor on Groote Eylandt, there should be no takeaway liquor available to any residents in the archipelago. The poor history of takeaway liquor features violence, trauma, disruption and antisocial behaviour in Angurugu as well as malicious acts of destruction against Council assets costing the Council very large sums of money. Of particular concern to his Council is the domestic violence that is made worse by access to alcohol. Its level is very hard to quantify, but alcohol contributes to the level of domestic violence and to some of the more extreme kinds of harm perpetrated.

38. The ACGC accepts that the Commission may not adopt its preferred option and so submitted a second preference position which is comprised of amendments to the GELMP suggested in order to clarify responsibilities and to impose limits on what permit holders may purchase. The specific amendments are highlighted in Exhibit 7 and can be summarised as follows.

- a. Liquor in any form should not be brought into Angurugu. Mr Arnott insists this is consistent with Council by-laws.
- b. Permit holders who would share liquor should have special responsibilities to ensure that liquor is provided to other permit holders in opened containers with responsibilities for the behaviour of their guests beyond the premises where liquor is shared.
- c. Liquor should not be brought in from outside the Groote Eylandt restricted area by permit holders.
- d. The quantities available under a permit should be limited.
- e. Resident staff at Angurugu should not have liquor permits.

- f. A 'Groote Eylandt Restricted Area Liquor Management Committee' should be able to request the cessation of all takeaway trading at times of community tension.
- g. Airline companies should be informed of their obligations to ensure that their passengers who are not permit holders do not bring liquor into the restricted area. These obligations should be rigorously enforced.
- h. The composition of a 'Groote Eylandt Restricted Area Liquor Management Committee' should include one representative from each of the following:
 - i. Anindilyakwa Land Council
 - ii. Police
 - iii. Health
 - iv. Angurugu Community Government Council
 - v. Umbakumba Council
 - vi. Milyakburra Council
 - vii. GEMCO

Mr Arnott is of the view that the Police should make recommendations about cessation of access to takeaway liquor at times of community tension and that the committee needs to be a formal kind of group which works to its own rules and procedures

- 39. Mr Arnott endorsed the suggestion that sales of permit liquor from both the licensed premises could be recorded against individual permit holders and that a 'liquor management committee' may scrutinise these records.
- 40. Mr Arnott tabled the Angurugu Community Government Scheme (Exhibit 8). He advised that the ACGC's Community Government Area was an unusual shape being formally comprised of two parts and informally including 6 small outstation settlements affiliated with Angurugu. Mr Arnott explained that the ACGC's Community Government Area included the Angurugu community, plus a separate area of 2km radius around an outstation (Yembagwa) at the southern end of Groote Eylandt 20km away from Angurugu, as well as riparian areas 50m either side along the Angurugu River and the little Angurugu Creek. The Commission noted that the road to Umbakumba and the road to some localities, often visited for recreation to the south of Angurugu, passed through the ACGC Community Government Area.
- 41. Mr Lalara and Mr Arnott clarified that at the levels proposed in the GELMP, transport of liquor obtained in accordance with a permit, through the ACGC Community Government Area is not a concern for the Council. The ACGC, however, would want the opportunity to make submissions should there be any future proposed increases in the quantities being transported through its Community Government Area.

Milyakburra:8th of December 2004 - Morgan Wurramarra translating (approximately 15 people in attendance)

- 42. Mr Morgan Wurramarra advised the Commission that he spoke for the whole community on Bickerton Island and did not wish to make comment regarding any other Groote Eylandt community. There was a meeting of the Milyakburra community that morning before the hearing commenced to discuss the restricted area. He indicated other members of the Council present in the room, including the Council President, who had delegated him to speak on their behalf.
- 43. Mr Wurramarra advised the Commission that the community had agreed that resident staff should be able to apply for a liquor permit to possess and consume liquor on Bickerton

Island. It has always been his understanding that resident staff should be able to do this in the Groote Eylandt restricted area. He asserted:

“As a T/O, I believe I’m talking for my brothers, you know.”

44. Mr Wurramarra declared that Aboriginal people at Bickerton Island should not be provided with the opportunity to apply for a liquor permit.

“No permit for takeaway. When we first moved in here we decided that any balanda that came and worked with us, because they grew up that way, we don’t want to pull that away from them, it’s up to them to apply. But for us mob blackfellas, no permits to takeaway. When that ruling [Groote Eylandt restricted area] been made, I was here too for that meeting, I thought it was something to do with the land council, that boundary, that’s what I thought, because my brothers didn’t really understand what this lining was meant, thought it was Land Council boundary. When you work, you gotta get a beer or two. I’m not talking about my people, because we’ve been introduced to grog. But for you that’s your life. For blackfellas, permits for takeaway, Bickerton, two letters: ‘N’ ‘O’. It’s always been allowed for staff to have a permit. That’s been made here, before I was a young fella living in the bush.”

45. Mr Wurramarra asked whether there was some way that a permit could be issued for Bickerton Island residents visiting Alyangula. He used himself as an example and described the relevant circumstances along with his understanding of the associated processes.

“When some of us go for issues and ceremonies to town [Alyangula], ... is there some kind of a system for us to have a permit just to drink in there? I know we’re going to put certain names, and those names will come up to your office, and the policeman is going to say something too, this man alright, this man alright. This is not for every day. I’m not talking about flying out there Friday and staying til Sunday, no. But if you got a reason to be there and you’re stuck, for a day or two, have they got a right to enjoy like other residents? I’m just talking about visitors, I’m a member of the club at Gove, I can fly in there and drink, I’m talking about me as a shareholder here don’t forget, I’m part of here. I’m tryin’ to look at it blackfella way and alongside your way, you know?”

46. Mr Geoff Woods from the ARC offered the comment that the question raised by Mr Wurramarra is a question that relates to a number of other legitimate visitors to Alyangula who wish to access the services and facilities of the ARC. In this regard, Mr Woods advised that the ARC was considering examining its constitution and the requirements for membership and membership categories. Mr Woods went on to clarify that the informal arrangements in place at the moment mean that a member’s guest who is an Aboriginal person who wants to attend the ARC must seek written permission from the council of the community where they are a resident. Just a few weeks ago when these current arrangements were put in place, written permission from the ALC was required. Now only the community Council President can sign such authorisation. The approved visitor is signed into the ARC but can only stay on the premises while the member is present. Occasionally when there are functions involving larger groups, authorisation is sought from the ALC.

47. Mr Ross Hebblewhite (Manager, ALC) offered comment at this point. Mr Hebblewhite confirmed, from the point of view of the ALC, the arrangements described by Mr Woods. In doing so, Mr Hebblewhite advised the Commission that the application before it was from the ALC which took the initiative of inviting the Commission to conduct hearings into the matter. Since the initial application, however, Mr Hebblewhite asserted that other organisations became parties to the application and took up carriage of the matter now under consideration by the Commission. It is worthwhile to quote Mr Hebblewhite who puts the ALC position clearly:

“The Land Council’s prime responsibilities are for land, land management and economic development. Our advice is that as far as management and enforcement of rules or regulations that pertain to other social issues such as liquor are concerned, we are on very shaky ground. This recognition is what has caused the Land Council to seek to step back from having prime responsibility for the carriage of this application to devolve appropriate responsibilities to the community councils who have this kind of power. The land council has every right to be involved in all and any aspects of land usage in relation to the Groote archipelago. The land council’s position is that the community councils should have primary responsibility for this, and that it should not be writing letters regarding such issues. We are the agency with primary responsibility for consultation and negotiation with traditional owners. Upon request from the Licensing Commission the land council would go back to traditional owners and seek their endorsement and approval for any aspect of their decision.”

48. A question regarding representation/election to the ALC was put to Mr Hebblewhite by Mr Des Crowe for the ALC. In simple terms, Mr Hebblewhite’s response was that each and every individual in the Anindilyakwa Land Council’s region of responsibility is represented by the ALC. Traditional mechanisms along patri-lineal descent lines designate the leaders in each subgroup and the individual leaders change over time. In other words, there is no formal process of election to the ALC that is completely independent of the clan structures in the area.
49. An unidentified resident of Milyakburra urged the Commission to consider that people who would do the right thing with a permit to possess and consume liquor on Bickerton Island are unlikely to create community concerns. However, problems are likely to arise where a permit holder provides liquor to other residents who are not permit holders.
50. Another resident who did not identify herself advised the Commission that she is a member of the Milyakburra Council and declared:
- “These rules for here have been made from our grandfather, but that word still rings in my ears, and we’ve got that. No takeaway here”.
51. Another resident who did not identify herself asked whether those who went out onto the water required a liquor permit since these places were inside the Groote Eylandt restricted area.

Angurugu Health Centre: 8th of December 2004 (all present were residents of Alyangula)

52. Mr Joaz Wurramarra declared that he has a different idea about whether resident staff at Bickerton Island should be able to apply for a liquor permit. Bickerton Island is “... my father’s land and I don’t want permits for anyone on Bickerton Island.” Mr Wurramarra went on to offer to hold a meeting with his brothers to discuss the matter and that the Commission would be advised through the ALC. Mr Wurramarra went on to assert that the suspension of access to takeaway liquor has been practised in a discriminatory manner during times of community stress. He would like to see a more equitable application of any such provisions.
53. Ms Jenni Langrell (Sister in Charge, Angurugu Health Centre), a resident of Alyangula for the past six years, offered comment on a number of alcohol-related incidents on Bickerton Island occurring recently including loss of life in a dinghy mishap while en route from Alyangula to Bickerton Island. Ms Langrell also advised that her health centres do not routinely collect statistics on alcohol related traumas and similar episodes. Such presentations, while they may be dramatic and appear to be numerous at times, tend to occur sporadically with intervening periods of a month or more where few episodes are noted. Her main concern is domestic violence which does not come to clinical attention. Her best guess is that 5% of presentations to the Angurugu Health Centre are alcohol related.

54. Ms Shirleen Watson (Health Worker and resident of Alyangula for the past seven years) while declaring that she would like a permit for takeaway liquor in a restricted area in Alyangula, raised the question of whether owners of land outside Angurugu could apply for a permit to possess and consume liquor in their areas. She also inquired about the arrangements proposed for areas where the landowners have given permission for recreational visitors to take liquor.
55. Ms Helen Wurramarra (Health Worker) would like to see that a permit condition requires that all litter is removed from areas where landowners have allowed people to possess and consume liquor in accordance with a permit. Ms Wurramarra also suggested that a demonstration of respect on the occasions of funerals is needed with regard to takeaway liquor, such as suspension of access to takeaway for a day.

Alyangula: 9th of December 2004 (approximately 10 people in attendance)

56. Mr Geoff Woods was asked a series of questions by Mr Des Crowe and this was recorded as a submission from the ARC.
- a. The ARC Committee has no problems with continuing to supply the Umbakumba beer ration. It respects the views of the Umbakumba community, Milyakburra and Angurugu. The ARC's members live predominantly in Alyangula, but the ARC is prepared to work with all the Aboriginal communities in the Groote Eylandt restricted area.
 - b. At the moment the ARC has around 800 members approximately 20 of whom are Indigenous employees of GEMCO with another 40-50 members who are their spouses and family members.
 - c. ARC membership categories include
 - i. Ordinary – generally employees of GEMCO and other residents of Alyangula
 - ii. Associate – generally the ARC staff
 - iii. Country – people who reside 'off island' but visit on a regular basis
 - iv. Temporary - people residing here for a short time
 - v. Honorary life member – nominated by the general club membership.
 - d. Mr Woods advised that he too has been approached on several occasions by Indigenous employees of GEMCO to assist to reduce the pressures they experience.
 - e. Regarding suspension of sales of takeaway liquor at times of community tension and for cultural matters. Currently the ARC Committee makes the decision regarding any changes to club operations including closing the club in response to a request from the ALC and Police. The ARC would be prepared to stop sales of takeaway liquor to members of those communities upon receipt of a legitimate request to do so. The ARC has its own disciplinary procedures for members. Currently the ARC Committee relies on grievance procedures available within its constitution to deal with any abuse of takeaway liquor. If there was a permit application and assessment committee the ARC would follow its recommendations.
 - f. At times of unrest inside and outside the township or for cultural reasons, the ARC Committee is happy to comply with reasonable requests to close the licensed premises. Each decision to make these temporary arrangements needs to be made on a case by case basis using the available information. The ARC was requested recently to close the club for a period of five days, a period which the ARC Committee viewed as excessive. The Committee decided on that occasion to close for one day and to monitor liquor sales. The ARC Committee would like to continue to have a primary role in making such decisions in response to requests from Police. It is Mr Woods' view that

sometimes because of problems outside the township of Alyangula, his club's members are being unfairly denied their privileges.

- g. Regarding the impact of a permit system on existing members, the ARC submits that every effort needs to be made to minimise inconvenience to members during the transition phase. It is proposed that existing members would be issued with a permit unless there was an objection from Police. At the same time, the ARC would amend the membership application form to include an application for a liquor permit.
 - h. Regarding the ARC role in a permit application and assessment committee, the ARC is strongly of the view that both the ARC and the Alyangula Golf Club should be involved and that the membership of the permit committee should cover a broad spectrum.
 - i. Regarding the maintenance of records of sales to liquor permit holders, the ARC is considering the introduction of a swipe card system for all members. Those with a liquor permit will be able to use the card in the bottle shop. Records can be maintained which can be made available to police upon request.
 - j. The ARC does not want commercial quantities of liquor being brought onto the island by permit holders.
 - k. The ARC is examining its constitution in order to accommodate changes that may be necessary to comply with a permit system.
 - l. The ARC would conduct a survey of its members to review the operations of a permit system.
 - m. The current voluntary ration system for takeaway is one with which the ARC is cooperating.
 - n. Outside of the ARC there are fundraising events run by local sporting groups who sell liquor to raise funds.
57. Alerted by Mr Woods' information, the Commission's inquiries led to the discovery that, at the time of the hearing, Special Licences issued pursuant to s.60 – PART VI – SPECIAL LICENCES were operating in the Alyangula township held by the Groote Eylandt Touch Football Association (expiry date 6th of April 2005) and the Alyangula Police Social Club (expiry date 29th of August 2005)!
58. Sr Sgt Tony Fuller was the Officer-in-Charge of the Alyangula Police Station from January 2002 until recently. Sgt Fuller introduced the new OIC Sgt Dean McMaster also present at the hearing. Sgt Fuller made a formal presentation to the Commission (Exhibit 5). Shortly after he arrived in 2002, he was approached by Mr Walter Amagula, the then Chairman of the ALC, who requested Police to take action to prevent alcohol being taken into Angurugu community and for the Police to focus attention on the strife this was causing in Angurugu. At that time some people were legitimately purchasing up to seven cartons of beer at once and going to 'bush club'. Persons who became intoxicated from this liquor were then causing serious disruption in the Angurugu community. Occasionally liquor so obtained was also taken into Angurugu. The first response was to attempt to introduce a voluntary ration system for those able to legitimately use the ARC and Golf Club privileges. As a purely voluntary system, unfortunately, this had no legal basis but it assisted those individuals with access to the services and facilities of the licensed premises in Alyangula to resist the strong pressure to obtain liquor on behalf of extended family members who had no such privileges. Assisted by GEMCO, Police also focused efforts on evicting suppliers of alcohol. However, since the liquor was often acquired with no substantiated gain for those supplying it, a charge of 'supply alcohol' was difficult to support with adequate evidence that would lead to the charge being upheld. Police stepped up enforcement and seized vehicles taking liquor into the restricted area but found that the exemption from the restricted area in the area surrounding Umbakumba furnished a defence for those apprehended with beer within the restricted area who could invoke s.86 of the *Act* and

argue that they were transporting beer out of a restricted area into an area that is not restricted for beer. Public meetings were held to try to reach some resolution. At this time, Mr Peter Jones of RGL became involved and the processes which led to the current hearing were set in train, including the development of the GELMP and the application for amendments to the Groote Eylandt restricted area.

59. Providing further justification for these initiatives Sgt Fuller advised the Commission that, according to Police records, there had been a dramatic rise from 2002 to near the end of 2004 in the number of alcohol related incidents recorded from 378 to 481, and in the number of domestic violence incidents from 125 to 375, many of which were alcohol related. A four-year-old boy was killed by an intoxicated driver at one community! There were several major fights involving weapons including spears and machetes. On one occasion 200 people or more, many of whom were intoxicated, faced off against each other. On two occasions, additional Police assistance was called in from Darwin. Given these kinds of episodes, the prospect that residents of Alyangula could obtain liquor with no limit and have on occasions brought large quantities by barge from sources outside of Groote Eylandt raises issues for Police of security of liquor if stored in Alyangula.
60. It is Sgt Fuller's view that a permit system will reduce the prospects for these kinds of episodes but not eliminate the risk entirely. A system of controlled access to liquor would require permit holders to be responsible for those to whom they may supply liquor and there would be specific repercussions for their privileges if permit conditions were transgressed.
61. Sgt Fuller further advised the Commission that the seas inside the Groote Eylandt restricted area have always been policed from the standpoint that they are not part of the lands within the restricted area. While the definition of 'land' may not be clear, in practical terms, the position that Police have conveyed to residents is that they may possess and consume liquor in their dinghies and boats anywhere around Groote Eylandt so long as it is not brought ashore into the restricted area. The general rule of thumb used is that the liquor stays afloat.
62. Sgt Fuller advised the Commission that Police had no issues regarding the Special Licences currently permitted to operate in the Alyangula township and requested that the Commission provide for their continued operation in determining the application for a restricted area.
63. Sgt Fuller has no difficulties with resident staff at Umbakumba or on Bickerton Island having liquor permits but would like to see a more precise description of the kinds of liquor which may be taken to places such as Six-Mile Beach and Eight Mile Beach (Picnic Beach).
64. With regard to the composition of a Groote Eylandt permit application and assessment committee, Sgt Fuller would like to see broad representation with up to ten members, but considers that a quorum should be the ALC, representatives from the three Aboriginal communities, GEMCO and Police. He is pleased that Police and the committee could have access to information about liquor purchases under a permit system. He also recognises that airline and air charter companies should have the onus placed on them to ensure that their passengers who do not hold a current liquor permit do not bring liquor into the restricted area.
65. Ms Jenni Langrell has been the Clinical Nurse Manager at Angurugu for the past six years. She lives in Alyangula but at one time was the Manager for the three health centres located in the Aboriginal communities. Her clinics do not keep statistics on domestic violence or alcohol related clinic presentations. She has noticed, over six years, that women are reporting domestic violence episodes more frequently. She and her staff encourage women to report these episodes. The availability of the services of the Top End Women's Legal Service has assisted to increase the frequency of reporting. Ms Langrell does not believe that all domestic violence is alcohol related. Some of it is related to cannabis abuse or petrol sniffing, but within a context where there is much anger and poor behaviour control in the perpetrators. Some of her staff who have lived at Angurugu have suffered the

disruption caused in that community by alcohol and she has moved them all to Alyangula. Alcohol-related trauma may present more to the Police than to her clinic. There are clusters of alcohol related incidents then periods of a month or more when there are no incidents. All her staff living in Ayangula have suffered from pressure inflicted by people who are either seeking supplies of alcohol or who are seeking medical help for ailments exacerbated by the acute effects of alcohol intoxication.

“Everybody finds it difficult. It is very distressing for staff to be called out of bed to deal just with people who are drunk and are not really suffering an emergency.”

Health staff who live in other communities have informed her of resident staff not being discreet with their drinking. If staff keep alcohol in their house or are not discreet in their drinking then it increases the risks of break-ins which in turn comes with the risk that the liquor so procured would lead to community disruption and violence. People who aren't drinkers are generally in better health. People who are stressed by those who are drinking suffer poorer health.

66. Mr Peter Jones on behalf of the Director of Licensing suggested that the proposed mechanism for a system of controlled availability of takeaway liquor in accordance with a permit is consistent with the focus of the *Act* on harm minimisation and enhancing community amenity.

Alyangula : 1st of March 2005 (approximately 15 people in attendance)

67. This segment of the hearing was mostly comprised of a discussion between the residents present, representatives from the Alyangula Golf Club, the ARC and Police. Towards the end of this discussion the Commission asked the group whether there was general support for the initiative proposed, especially the proposed permit system. There was general accord with one resident's response: “It didn't make sense before, but it makes a lot more sense now.” The Commission also asked whether anyone had any serious reservations regarding the proposal. One resident commented: “I did at first, but now I think it has merit.” There was general agreement with this sentiment. This discussion illustrated to the Commission that a more comprehensive community information process would be required if a permit system was implemented. A number of noteworthy points emerged.
- a. Sgt Dean McMaster stressed that from a policing point of view the current arrangements within the restricted area include too many grey areas which make it difficult for Police to respond to community requests to control liquor. He agrees that it is a small minority creating difficulties for the majority, but a permit system will allow Groote Eylandt Police and other stakeholders to restrict those individuals who make problems for the majority. He suggests that the system should be reviewed after a period of at least six months. With regard to closure of the licensed premises or restricting access to takeaway liquor at times of community tension, Sgt McMaster advised that he can use powers under the *Police Administration Act* to do this, but that such episodes have usually been negotiated with the cooperation of the licensees. A permit system allows for restricting takeaway liquor through a permit application and assessment committee. With regard to the composition of a permit assessment committee, in order to achieve a fair, transparent, comprehensive and effective committee, Sgt McMaster offered to raise the prospect with the community safety committee that it could take on this function.
 - b. Rev Alan Parker spoke of a meeting he convened at Umbakumba that morning, a well attended meeting. He sees a liquor permit as no different to a driver's licence or a gun licence or car registration. In his view, we must have laws in our society which impart responsibility based on the principle that it is assumed that you can manage liquor unless you demonstrate otherwise. He spoke of the tremendous pressure from one relative to another in Aboriginal society.

- c. Mr Rick Peters stressed that this problem has been constant for the eight years he has worked for GEMCO.

“GEMCO has an agreement, dating back to 1964. Under this agreement, the company must ensure that its employees do not provide liquor to Groote Eylandt Aboriginal people. But now times have changed and you can't do that. So we have this plan, a draft 11, because we've gone over and over scenarios. Example of how a permit system can assist: an Aboriginal employee comes to town to live, he has pressure, so he can surrender his permit if he wishes or it can be revoked. Prior to this his access to alcohol had to be voluntarily controlled. This way he has an obligation to that permit. Many Aboriginal workers say they don't want a permit. But if you do have one, then you're agreeing to the rules. At the moment anyone can give away as much liquor as they like, and preventing this cannot be enforced.”

- d. At the end of a discussion on whether there should be any restrictions on the quantities available for permit holders, a resident who did not identify herself suggested that any limits should be considered on a 'case-by-case' basis with stringent limits imposed in problematic cases.

Alyangula : 2nd of March 2005 (approximately 8 people in attendance)

68. Mr Des Crowe put it to the Commission that the provisions of the *Summary Offences Act* regarding the consumption of liquor within two kilometres of licensed premises would require appropriate exemptions to enable some aspects of the proposals for possession and consumption of liquor within and near the Alyangula township in accordance with a permit. In Exhibit 12, Mr Crowe submits that following a Commission determination that the current exempt area at Alyangula should be declared restricted and if permit holders are permitted to possess and consume liquor in areas that may be located within two kilometres of licensed premises, then the Commission:

“... on its own motion should also exempt those areas under Section 45D of the *Summary Offences Act* (pursuant to its power under Section 45EA of the *Summary Offences Act*).”

His reasoning is that an effect of a favourable determination by the Commission on the application before it would be sufficient evidence for the Commission on its own motion to make exemptions from what is known as the 'two kilometre law'.

69. The Reverend Alan Parker offered a written submission to the Commission which resulted from a meeting he convened at Umbakumba the previous day. He provided a useful summary of the sentiment that the Commission clearly heard at the first segment of this hearing in December 2004. “People are seeking clear direction from outside.” He also offered his own view that a permit assessment committee should be a broadly-based community group. Grateful for the Reverend's written submission, the Commission advised him that it would be given appropriate weight balanced against the clear statements of intent heard at the Umbakumba segment of the hearing in 2004 and backed by written submissions from the Umbakumba Community Council.
70. Mr Tracey Mitchell advised the Commission by e-mail that he is a shift worker and that shift workers find the takeaway trading hours difficult. He is happy to see a limit on the quantity of liquor sold for permit holders since this would mean fewer risks of break-ins.
71. Mr Crowe offered a submission regarding the amount of liquor which could be regarded as a 'commercial quantity' referred to in the GELMP. It is the submission of the ARC that the following amounts of liquor or their equivalent products in different packaging should be regarded as a 'commercial quantity' if purchased in any 24 hour period:

beer and premixed alcohol sodas : 5 cartons of 24 containers each, or
 wine (not fortified): 2 cartons of 12 containers each, or
 spirits and fortified wines: 6 bottles (size to be clarified)

Mr Crowe added that it would be possible for the sales of such quantities of liquor to be monitored if the ARC and the Golf Club shared information regarding their purchases. His rationale for suggesting such quantities is that they set a benchmark which can be used to draw attention to possible on-selling of liquor obtained in accordance with a permit and which can be used to compare sales from the licensed premises for the purposes of monitoring the impacts of the Commission's decision. These quantities also allow people who choose to buy from licensed premises other than those on Groote Eylandt reasonable opportunities to access the types of liquor they require.

72. Ms Sandra Ellison Nominee and Ms Rosemary Lee President of the Alyangula Golf Club suggested that these quantities were too great, with around three cartons being a more appropriate level, and she expressed concerns regarding perceived and actual breaches of their patrons' and members' privacy.

73. Regarding what quantity of liquor should be considered a 'commercial quantity', in a further (written) submission prepared by Mr Crowe (Exhibit 12), the ARC offered a definition of this quantity of liquor as meaning alcohol per delivery in excess of:

"6 cartons of beer/UDL (375ml containers); or
2 cartons of non-fortified wine (750ml bottles); or
6 bottles of spirits/fortified wine (750ml bottles)."

Mr Crowe further submitted that the risk of supplying more than a commercial quantity of liquor would be reduced if the ARC and the Alyangula Golf Club were restricted to selling no more than half of this quantity to any permit holder on a daily basis.

74. In Mr Crowe's view, concerns about actual breaches of privacy provisions could be alleviated if an individual provides their informed consent when applying for a liquor permit. Informed consent would mean that the applicant would be asked to recognise the peculiar constraints of a restricted area determined under Part VIII – Restricted Areas of the *Act* where access to liquor in accordance with a permit is a conditional privilege. At Exhibit 12, on behalf of the ARC, Mr Crowe further submits that it would be a matter of caution and fairness to its members regarding any proposed use of information collected at the point of sale, that a permit applicant or holder should be informed of:

- "The purpose of the collection of the information: which is to assist the Police and regulators to monitor compliance of terms and conditions of individual permits.
- Who is the information likely to be disclosed to: such as Police, Licensing Commission, Office of Racing Gaming and Licensing and the Nominee and staff of the Alyangula Golf Club.
- Whether any law requires it to be collected: such as the *Liquor Act* or a term of the permit.
- What right of access the member has to their own personal information."

Consideration of the issues and determination

75. The Commission determined to revoke the restricted area surrounding Umbakumba pursuant to s.84 of the *Act*. The Commission also determined to declare restricted those parcels of land surrounding Umbakumba and Alyangula pursuant to s.74(1) and s.81(1)(b). The Commission determined to implement these declarations by causing to be published a notice, pursuant to s.82 of the *Act*, amending the Groote Eylandt restricted area to include those parcels of land surrounding Umbakumba and Alyangula. The declaration shall take effect on the 1st of July 2005.

There was ample evidence provided at every session of the hearing that a restricted area on Groote Eylandt combined with a suitable system of liquor permits, as requested by the applicant, is generally acceptable to the residents and others who provided opinions. While

there was some curiosity and speculation about the implications of an amended restricted area, no opinion was expressed in opposition to the application.

The Commission found further reasons for this determination beyond the residents' opinions in favour of the application. We became progressively disquieted during the course of this hearing by the disparities evident between the opportunities for Groote Eylandt and Bickerton Island Aboriginal people to legitimately obtain liquor for consumption away from licensed premises in contrast with the opportunities furnished to other residents of Groote Eylandt to do so. It is of particular concern to the Commission that residents of the Groote Eylandt Aboriginal communities should have, by way of this determination, the same opportunities as other residents of an amended restricted area to apply for a liquor permit as they are entitled to do by s.90 of the *Act*. Pursuant to s.3(3) of the *Act* it is incumbent upon the Commission to have regard to the objects of the *Act*. At the forefront of the Commission's thinking is the object set out in s.3.(2)(a):

“to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor.”

It is our view that the persistence of any disparity in opportunity to apply for a liquor permit in an amended restricted area would do little in the long term to enhance social harmony, protect community amenity, or to encourage the responsible sale, provision and consumption of liquor in the Groote Eylandt archipelago.

76. It is clear to the Commission, however, that strict requirements should be met by permit applicants. Not all applicants are likely to initially succeed in meeting these requirements and it seems very likely that not all applicants would be unconditionally recommended by a Groote Eylandt permit application and assessment committee since it may apprehend the applicant would breach permit conditions. It is also clear to the Commission that permits should be strictly subject to conditions which clearly delineate the locations where liquor may be possessed and consumed and which unequivocally differentiate these from places where it may not. Through the hearing process we came to better understand the historical circumstances and current exigencies within the Groote Eylandt restricted area underpinning the reasons why the disparities in access to takeaway liquor have come about and the reasons why they have endured and the reasons why different permit conditions are required in different localities within the restricted area. At the same time, we are loathe to pretend to correct almost forty years of an unfortunate history of liquor and its consequences for peoples of the Groote Eylandt archipelago in the fell swoop of this decision that we must deliver within the constraints of the available legislation, evidence and submissions. Nonetheless we feel compelled to try. We were both appalled and moved listening to the self-deprecation in the opinions provided by some Aboriginal people who, at the same time, conveyed the honourable sentiment that liquor permits should be available for other groups whom they presume to be more responsible. The Commission therefore determines that pursuant to s.87(3) of the *Act*, liquor permits issued for residents of the Groote Eylandt restricted area will be strictly subject to at least the following minimum conditions.
77. The holder of a liquor permit must have attained the age of 18 years and must not,
- a. cause substantial annoyance or disrupt community order and peace, or
 - b. assault any person or be involved in alcohol-related domestic or family violence or traffic or vehicular incidents, or
 - c. illegally bring liquor into, or possess or consume liquor in, a restricted area, or
 - d. supply liquor to another person who is not a permit holder or who is not an invited guest of the permit holder, or
 - e. bring a dangerous drug (defined in the *Misuse of Drugs Act*) into, or possess a dangerous drug in, a restricted area, or

- f. supply a dangerous drug to another person, or
- g. litter the restricted area with refuse from the liquor obtained in accordance with a permit, or
- h. breach any of the conditions of the permit (s.93).

78. The holder of a liquor permit may bring liquor into the restricted area or obtain it from premises in the restricted area that are licensed to sell liquor for removal and consumption away from the premises but not in quantities greater than, and not of types different from, those that are specified in the permit.

79. The holder of a liquor permit may obtain liquor using one, but not both, of the following ways;

Either

- a. from licensed premises permitted to sell takeaway liquor but subject to the following conditions
 - i. The holder of a permit is a resident of, or is temporarily living in, or intends to temporarily live in one of the areas described in the Schedule to this decision or an area approved by the Commission from time to time, or is authorised by the ALC and/or GEMCO to reside or temporarily live in one of these localities and,
 - ii. The holder of a permit may not, in any 24 hour period, obtain more than the quantity and type of liquor specified in the permit from a licensed premises,
 - iii. All liquor obtained in accordance with a permit is to be immediately removed from the licensed premises or the point of delivery.

Or

- b. from the Alyangula Recreation Club through the Umbakumba beer ration system subject to the following conditions
 - i. the permit holder is a resident of Umbakumba as described in the Schedule to this decision,
 - ii. beer is obtained in cans only
 - iii. beer is obtained on Fridays only
 - iv. all beer obtained is to be distributed by the Umbakumba Council,
 - v. all beer obtained is to be immediately removed from the point of delivery,
 - vi. all beer obtained is to be consumed only within Umbakumba as described in the Schedule to this decision,
 - vii. other conditions imposed from time to time by the Umbakumba Council Inc and approved by the Commission.

80. The holder of a liquor permit may possess and consume liquor in the Groote Eylandt restricted area only within those areas of land⁵ delineated in the Schedule to this decision and in those areas approved by the Commission from time to time. However, the holder of a liquor permit may possess liquor within the Groote Eylandt restricted area for the purposes of transporting it to areas delineated in the Schedule or to those areas approved by the Commission from time to time.

⁵ For the purposes of this declaration, a person is on the land within the restricted area if he or she stands on dry land or on tidal land that is partly submerged in sea water.

81. To enable the continued operation of current licences issued by the Commission under Part III - Licences of the *Act*, it is determined that the declaration of the amended Groote Eylandt restricted area does not apply at the licensed premises of the Alyangula Recreation Club and the Alyangula Golf Club as delineated on diagrams of these respective licensed premises approved by the Commission and held in the office of the Director of Licensing.
82. To enable the continued operation of a current licence issued by the Commission under Part VI - Special Licences of the *Act*, it is also determined that the declaration of the amended Groote Eylandt restricted area does not apply at the licensed premises of the Alyangula Police Social Club, as delineated on diagrams and in records approved by the Commission and held in the office of the Director of Licensing.

Recommendations arising as a consequence of this decision

83. It is recommended that the Commission inform itself, pursuant to s.91(1)(b) of the *Act*, when considering each and every application for a liquor permit by first seeking the formal advice of a Groote Eylandt restricted area liquor permit application and assessment committee comprised of one nominated representative (or the nominated proxy representative) from at least the following groups
- i. NT Police
 - ii. Anindilyakwa Land Council
 - iii. GEMCO
 - iv. Angurugu Community Government Council
 - v. Umbakumba Council Inc.
 - vi. Milyakburra Council Inc.
 - vii. Alyangula Recreation Club
 - viii. Alyangula Golf Club
 - ix. Health
 - x. Community or consumer representative.
84. A permit may be revoked by the Commission in its discretion pursuant to s.94 of the *Act*. It is our view that there would be sufficient reason to exercise its discretion to suspend any or all permits for one 24-hour period upon receipt of an application to the Commission signed by a delegate of the permit application and assessment committee or a member of the NT Police providing valid community safety or cultural reasons for doing so. There would be sufficient reason to exercise its discretion to revoke a permit upon receipt of an application to the Commission signed by a delegate of the permit application and assessment committee or a member of the NT Police if the permit holder breaches any of the conditions of a permit. Persons whose permits are revoked may apply for a new liquor permit. It is recommended that a permit expires on the 30th of June each year.
85. To inform itself regarding an application for a liquor permit pursuant to s.91(1), it is recommended that the information sought from the permit application and assessment committee by the Commission should include but not be limited to the following.
- a. On the permit application form verification of identity, age, community of residence, authorisation to reside, or temporarily live, in the restricted area and authorisation to reside, or temporarily live, in one of the areas delineated in the Schedule.
 - b. An indication of whether the application is supported or not supported by the permit application and assessment committee. Reasons for not supporting the application for

a permit shall be clearly specified in fairness to a person whose application may not be recommended or approved.

- c. An indication of any special requirements for those whose permits are recommended to be approved must also be specified including any recommended limits on liquor types, quantities or container types or on the locations where or times when the liquor can be possessed or consumed.
- d. Consideration of the National Health and Medical Research Council's Australian Alcohol Guidelines by the permit application and assessment committee in their recommendations regarding permitted liquor type and quantity.⁶
- e. An indication that the applicant acknowledges they have been informed that a liquor permit is a conditional privilege provided for by *Division 2 – Permits* of Part VIII – Restricted Areas of the *Act* and that the information they provide in their permit application and any information regarding liquor purchases made in accordance with their permit may be provided to NT Police and Licensing Inspectors of the Office of Racing, Gaming and Licensing (NT Treasury) for the purposes of enforcement and for scrutinising compliance with these provisions of the *Act*. Applicants should also indicate that they understand that they have the right to inspect any and all information so compiled.
- f. Whether supported or not, the permit application should be signed by the NT Police and the designated member of the permit application and assessment committee.

In furnishing this information the Commission could reasonably expect the following procedures would be followed.

- g. All permit applications, including those which have not been supported, should be sent to the Director of Licensing for the NT Licensing Commission's consideration.
 - h. The applications may then all be returned to the permit application and assessment committee so that
 - i. In the case of permit applications not approved, the applicants can be so advised and the reasons for their non-approval provided.
 - ii. In the case of permit applications approved, a copy of the approved application, any special requirements and the permit can be made available to them.
 - iii. Permit applicants can be formally advised of their right to seek a review of any aspect of the Commission's decision regarding their application.
 - i. The permit application and assessment committee will demonstrate that it has met regularly to consider new applications or to consider revocation and suspension of liquor permits and related administrative matters.
86. In further regard to determining the minimum conditions to which a permit will be subject, pursuant to s.87(3), and in accordance with s.91(1)(b) of the *Act*, it is recommended that the Commission inform itself regarding those areas within the restricted area where liquor may be possessed and consumed in accordance with a permit by seeking the advice of the Groote Eylandt restricted area permit application and assessment committee. With endorsement by the ALC or GEMCO and the relevant community councils, the permit application and assessment committee will regularly advise the Commission of proposed changes to the areas where liquor may be possessed and consumed in accordance with a permit so that these can be considered by the Commission for inclusion as a permit condition and so that appropriate and timely advice of this can be provided to permit holders.

⁶ <http://www.alcoholguidelines.gov.au/everyone.htm#guideline1>

87. Upon receipt of an application by the Alyangula Recreation Club or the Alyangula Golf Club to vary their licence conditions, as permitted by s.32A(1) of the *Act*, it is recommended that the Commission considers issuing notices to vary the conditions of the licence of the Alyangula Recreation Club or the conditions of the licence of the Alyangula Golf Club, pursuant to s.32A(7)(a) of the *Act*, permitting them to sell takeaway liquor to holders of a valid liquor permit for the Groote Eylandt restricted area and requiring them to
- a. maintain a register of current holders of valid liquor permits,
 - b. record each transaction against the permit holder's permit number,
 - c. provide this information to Police and/or Licensing Inspectors upon request,
 - d. sell to a permit holder no more than the permitted quantities and types of liquor as stated on the permit.
88. Upon receipt of an application by the Alyangula Recreation Club to vary its licence conditions, as permitted by s.32A(1) of the *Act*, it is recommended that the Commission considers issuing a notice, pursuant to s.32A(7)(a) of the *Act*, to vary the Special Condition of the licence of the Alyangula Recreation Club pertaining to Umbakumba Council to read as follows.

Umbakumba Council

- (a) Take away beer may be sold to holders of a valid liquor permit who reside at Umbakumba for consumption at Umbakumba. The beer is to be provided only to a person authorised to obtain the beer on behalf of permit holders by the Umbakumba Council.

As a consequence of the Licensing Commission's determination of the application for amendments to the Groote Eylandt restricted area these conditions were amended as of [insert date] to now read.

- (i) Maximum of fourteen (14) cartons of beer per week (provided in 375ml cans only);
- (ii) No other requests outside the fourteen (14) cartons per week are to be considered
- (iii) Purchases can only be made between the following hours:
Friday between the hours of 13:00 and 16:00
- (iv) A record book is to be kept by the Alyangula Recreation Club noting the following:
 - Date and time
 - Amount of beer provided for each permit holder as advised by the Umbakumba Council
 - The permit numbers of those to whom the beer is provided as advised by the Umbakumba Council
 - Signature of both Alyangula Recreation Club Inc staff and the person authorized by the Umbakumba Council to collect the beer.

End of decision.

Schedule

The Licensing Commission determined that

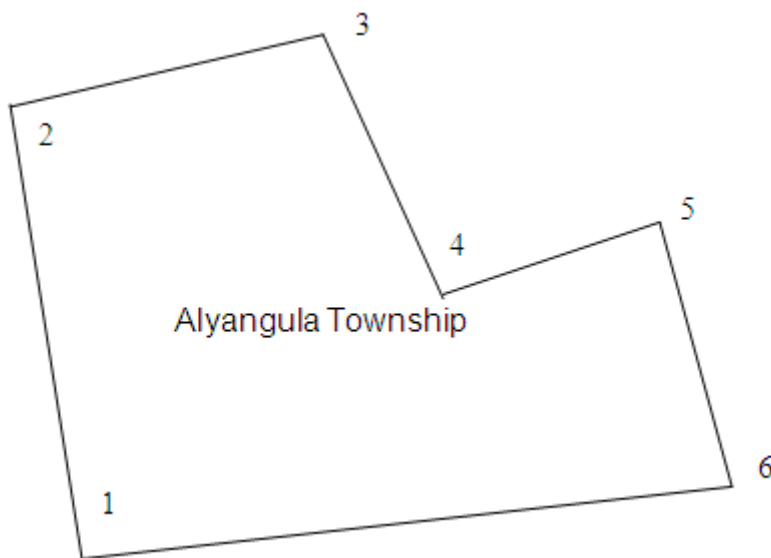
80. The holder of a liquor permit may possess and consume liquor in the Groote Eylandt restricted area only within those areas of land⁷ delineated in the SCHEDULE to this decision and in those areas approved by the Commission from time to time. The holder of a liquor permit may possess liquor in the Groote Eylandt restricted area for the purposes of transporting it to areas delineated in the SCHEDULE or to those areas approved by the Commission from time to time.

Areas approved by the Commission

1. Alyangula

The Alyangula township generally includes Special Purpose Leases 382, 383, 392, 393 and is defined by the following survey coordinates and diagram provided by GEMCO.

Name	Easting	Northing	Level
1 Boat ramp	653243.377	8467429.524	999.000
2 North West point	652281.211	8468860.488	999.000
3 North point	652681.400	8469541.991	999.000
4 N/E middle	653777.165	8468898.541	999.000
5 N/E point	654238.569	8468895.723	999.000
6 S/E point	654231.678	8467758.835	999.000



2. Umbakumba

All that parcel of land near Umbakumba bounded by lines between the points described as follows:

WGS 84 Series R722 Sheet 6270 2 Umbakumba

Commencing at the point with easting 691000 and northing 8468000; thence easterly to a point with easting 694100 and northing 8468000 at low water mark on Port Langdon;

⁷ For the purposes of this declaration, a person is on the land within the restricted area if he or she stands on dry land or on tidal land that is partly submerged in sea water.

thence generally easterly by the said low water mark to a point with easting 698000 and northing 8468400 at low water mark on Little Lagoon; thence generally southeasterly to a point with easting 701300 and northing 8464000 at low water mark on the Gulf of Carpentaria; thence generally southerly and generally westerly to a point with easting 694000 and northing 8461300 at low water mark on the Gulf of Carpentaria; thence generally northwesterly to a point with easting 691700 and northing 8466000; thence generally north-northwesterly to the starting point with easting 691000 and northing 8468000.

Locations of signs advising of the restricted area

Signs of a size no less than 1m² are to be installed at all airstrips, wharves and barge landings in the Groote Eylandt restricted area so that all inbound passengers may be made aware that they have entered a restricted area. These signs are to state the following

(with words between these symbols: *...* in lettering no less than 50mm tall and between these symbols: †...† in lettering no less than 13mm tall)

Liquor Act Warning Restricted Area

†The possession or consumption of LIQUOR in this area is a serious offence. Any vehicle carrying liquor may be seized and forfeited and the following penalties may also apply.

First offence - up to \$1000 fine or 6 months imprisonment

Second or subsequent offence - up to \$2000 fine or 12 months imprisonment†

Signs of a size no less than 1m² are to be installed near roads at all points of entry to locations described in the SCHEDULE in the Groote Eylandt restricted area so that those who are entering there may be made aware that they have entered a part of the restricted area where liquor may be possessed and consumed strictly in accordance with the conditions of a permit. These signs are to state the following

(with words between these symbols: *...* in lettering no less than 50mm tall and between these symbols: †...† in lettering no less than 13mm tall)

Liquor Act Warning Restricted Area

†The possession or consumption of LIQUOR in this area without a valid liquor permit is a serious offence. Any vehicle carrying liquor may be seized and forfeited and the following penalties may also apply.

First offence - up to \$1000 fine or 6 months imprisonment

Second or subsequent offence - up to \$2000 fine or 12 months imprisonment†