

Northern Territory Licensing Commission

Reasons for Decision

Applicant:	Coomalie Community Council
Date of Hearing:	16 June 2010
Legislation:	Part VIII Divisions 1B and 2 of the <i>Liquor Act</i>
Members:	Mr Richard O'Sullivan (Chairman) Mr Philip Timney (Legal Member) Ms Kerri Williams
Appearances:	Mr John Hughes, Chief Executive Officer, Coomalie Community Government Council Brevet Sergeant Paul Maccioni, Officer in Charge, Batchelor Police Station Ms Myra Skinner, Long Term Resident Mr Nick McBride, Department of Health & Families

Application by Coomalie Community Government Council for a Public Restricted Area for the Town of Batchelor

1. This is an application by the Coomalie Community Government Council (the Council) for declaration of a Public Restricted Area for the Town of Batchelor pursuant to Section 76 of the *Liquor Act* ("the Act").
2. The application was made by correspondence of 25 August 2009 by Ms Lisa Waine, Chief Executive Officer and Mr Andrew Turner, President, of the Council, seeking to have the Town of Batchelor declared a Public Restricted Area. It followed a unanimous resolution of the Council at its Ordinary General Meeting held on 18 August 2009. The application seeks a Declaration of all public places within the entire Municipal Boundary of the Town of Batchelor.
3. In its application Council advised that the basis of its request is "*to assist our Police Officers to deal with the unacceptable behaviour of persons drinking in public areas*".
4. Submissions on the application were sought through public advertisements in January 2010 and letters were sent to all Licensees in the area, Batchelor Health Centre and Northern Territory Police. These letters and public advertising resulted in submissions of support being provided by the Batchelor Health Centre and Northern Territory Police at Batchelor. The Police submission included recent data on alcohol related incidents and offences.
5. In a letter of 28 April 2010 the Commission advised Licensees, agencies who had provided submission and the wider public that it would be conducting a Hearing into the application on Wednesday 16 June 2010 in the Coomalie Council Chambers in Batchelor. The Commission's letter stated:

"You are invited to make any submissions that you may have in relation to this application at Hearing. The Commission would also be interested in any evidence of law and order deterioration within the Batchelor area."

Hearing

6. The Commission advised that the application and subsequent advertising and consultation of the Public Restricted Area ("Dry Town") application met the requirements of the Act and

that following this Hearing, the Commission would be in a position to hand down its decision without need of further recourse to evidentiary material or statistical data.

Commalie Community Government Council

7. Mr Hughes advised the Hearing that in the initial Council application of 25 August 2009, it had sought that the Dry Town be put in place for a trial period. At the time of application this was cited as up until 31 December 2009. Given the time that has elapsed to give effect to the consultation requirements under the Act, the application was now proceeding to Hearing in 2010 and Mr Hughes advised that Council would seek a Public Restricted Declaration review after its initial twelve months of operation, rather than a temporary or limited period Declaration.
8. Mr Hughes outlined the Council's reasons for seeking the Dry Town which were principally based on increasing anti-social behaviour related to consumption of alcohol in public places. This drinking in public places was causing extensive litter throughout the Township and the presence of loitering and often violent intoxicated persons was of concern to the peaceful residents of the Township.
9. The application is to assist Police to have broader and more definite powers to control the consumption of liquor in public places enabled under the Public Restricted Area Declaration. When asked how soon the Declaration should apply, if approved, Mr Hughes responded that the Declaration should take effect as soon as practicable. On this point he was advised by the Hearing Commissioners of the need for the Department of Justice and Council to provide public education and awareness of the dry status of the Township and to provide sufficient time for the printing of appropriate brochures, signage etc in support of this education and awareness program.

Northern Territory Police

10. Brevet Sergeant Paul Maccioni advised the Commission that Police agree with and support the Council application. Sergeant Maccioni outlined the intensive resourcing required to deal with drunken disturbances becoming a problem in the Batchelor area.
11. He advised that the Private Restricted Declarations recently put in place for a number of Northern Territory Housing units had had some impact in lessening drinking in these dwellings. The fact that the Private Restricted Declarations empowered tenants to turn away drinkers or to call Police when drinkers were causing a nuisance, meant that many problem drinkers were now more likely to look to other public areas to undertake the consumption of alcohol.
12. Sergeant Maccioni stated that he was familiar with the powers and penalties provided for under the Dry Town status and that these provided a greater range of powers than under the existing "2km law" for Police to combat public drinking.
13. Sergeant Maccioni, on questioning who were the problem drinkers, outlined that visiting students to the Batchelor Institute from Territory communities and interstate frequently purchased takeaway alcohol and drank in public places. He stated that Police regularly attended the Batchelor Institute to deal with issues and raise awareness that drinking in public was an offence against the existing 2km law.

Ms Myra Skinner

14. Ms Skinner is a long term resident of Batchelor and for many years has provided voluntary assistance for the development of tourism in and around the Township. Ms Skinner advised the Commission in a heartfelt manner of the problems generated by the public area consumption of alcohol, particularly the creation of litter in the public parks which provide a great deal of the amenity of the Batchelor Township.

15. She outlined that besides the issue of litter, public drinking created unacceptable noise in areas and general Township disturbance, such that the amenity of the Township was being adversely impacted on and even undermined by alcohol fuelled anti-social behaviour.

Department of Health and Families

16. Mr McBride outlined the Health Centre support for the Council's application. He addressed the issue of the Health treatment infrastructure in the Township which he outlined does not allow for the treatment or general admission and dealing with people suffering under the effects of alcohol.
17. He advised the Commission that alcohol contributed to a high percentage of Health Centre admissions, the conditions including lacerations, broken limbs and general body harm.

Consideration of the Issues

18. During the Hearing the issue of the Batchelor Institute Campus being a dry area was raised. There was a view that by not allowing alcohol onto campus, the Institute was removing the problem from their boundary and exporting the problem to the general Township. The view included that there was an obligation on the Institute to inform, educate and control students to overcome the current situation where many are drinking in public places.
19. The Commission is aware that there are licensed venues in the Township which provide for on premises consumption. The purchase of takeaway at the two licensed venues is not linked to any system of ensuring that those persons purchasing takeaway have somewhere lawful to drink the products they have just purchased.
20. The issue of takeaway sale of alcohol in Batchelor has been a vexing issue for some time. In 2006 when the Commission granted a liquor licence to the Rum Jungle Tavern, which had formerly traded as the Rum Jungle Recreation Club, the Commission was not minded without further reassurance to grant a takeaway licence. It therefore stayed a decision on this until the Rum Jungle Tavern demonstrated a history of orderly trading.
21. In 2008 the Commission conducted a Hearing to determine the application for a takeaway licence of the Rum Jungle Tavern. Following careful consideration of this takeaway application, the Commission granted a takeaway licence on restricted conditions. These being that the takeaway sales cease at 7.00pm and not include the sale of cask wine larger than two litres.
22. That decision handed down on 26 November 2008 considered evidence in relation to harm caused by takeaway and particularly that relating to takeaway consumption by students at the Batchelor Institute. Excerpts of that decision of relevance to the Council application are contained below:

Mr Crowe submitted that a significant proportion of alcohol related problems in Batchelor arose as a result of The Institute's policy of banning alcohol on its campus. He submitted that students of the Institute were adults who, despite the ban on drinking on campus, were entitled to purchase and consume alcohol. The fact that the Institute does not provide a venue at which students could drink resulted in pushing the Institute's alcohol related problems into the Batchelor community, particularly the public areas.

Mr Crowe submitted that because students could not take alcohol back to the Institute they were consuming it in the "drinking paddock" and this was exacerbating anti-social behaviour in the Batchelor township. He noted that the "drinking paddock" was not an authorised drinking area however it was a venue used to consume takeaway alcohol purchased from the Rum Jungle Motor Inn. Mr Crowe confirmed that the applicant would co-operate with any initiatives introduced by the

Institute, including enforcing bans the Institute may wish to impose on particular students.

Batchelor Township has a unique demographic and provides accommodation and services for a range of industries. Commissioners were informed that the township comprises seven hundred (700) permanent residents and is also usually host to students attending The Institute whose number can swell to six hundred (600) students at peak periods. This mix of population appears to provide a background to, or root cause of much of the township disturbance, much of which follows consumption of alcohol and subsequent behaviour.

It must be recognised that many of the enrolled students come from communities where the availability of alcohol is very restricted and controlled or where, under law, alcohol is not able to be possessed, consumed or brought into that community. The temptation for these students to take advantage of the comparatively liberal availability of alcohol purportedly has a significant impact on the township. Much of the noisy and anti-social behaviour referred to in submissions and at hearing is from these students and to a less extent from their extended family, a number of whom are residents of public housing in Batchelor. Consumption of takeaway alcohol by students often occurs in the late evenings and early hours of the morning and in itself this behaviour cannot be conducive to the desired educational outcomes for residential study at The Institute.

Drinkers' use of a "drinking paddock" close to the Rum Jungle Motor Inn was specifically referred to during the hearing. An issue, beyond it being unlawful under the "two kilometre law", is that many of the drinkers become noisy and where students are involved, this noisy behaviour disrupts the peaceful amenity of the township when students walk through the town to return to The Institute.

23. There is no evidence or submission before the Commission opposing the application by the Council. Police have advised that the Dry Town status gives them extra penalties and powers as follows:
 - Having liquor tipped out as per the current 2km law and the ability to destroy unopened containers of alcohol;
 - An on the spot fine of \$100.00 through an infringement notice;
 - Court action through the issue of a contravention notice resulting in a fine of up to \$500.00.
 - Alcohol courts have powers to make prohibition orders and provide the option of rehabilitation or prison for offenders.
24. It appears that a Township once renowned for its attractiveness, peace and solitude, is now a Township beset with anti-social behaviour, particularly late in the evenings. The cause of this downward spiral in ambience from anti-social behaviour is public drinking, particularly by Batchelor Institute students and to some, perhaps lesser degree, drinking at a number of Northern Territory housing dwellings.
25. The latter has in part been dealt with through a number of these dwellings being declared Private Restricted with a notice provided at these residences to the effect that it is unlawful to bring, possess or consume alcohol within the Restricted premises. Police report that this measure has had some success in curbing alcohol related anti-social behaviour and public nuisance in the affected areas.
26. Given that there has been no contrary evidence submitted to the Commission on the potential for a Public Restricted Area Declaration to mitigate alcohol issues in the Township, the Commission notes that the application has standing under law and meets all the requirements of the Act for the Commission to grant the Declaration.

27. The Commission therefore turns its mind to the timing of the Declaration to come into effect. This timing must allow for appropriate education and information material to be prepared and presented. This education material must include advice to the many visitors to the Township who may see the public parks as an attractive area for picnics and the like, including the consumption of alcohol. The material also needs to be provided to students of the Batchelor Institute and potential students of the Institute before they arrive in the Township.
28. To allow time for this to occur, the Commission has determined that the Declaration will come into effect 1 September 2010.

Decision

29. The Commission approves the Council's application to have the Town of Batchelor declared Public Restricted as outlined in the Application. The Commission is of the opinion that such a declaration is in the public interest and is consistent with the objects of the *Liquor Act*.
30. The effect of the declaration means that it will be an offence against Section 75 of the *Liquor Act* to consume liquor in the Public Restricted Area without a permit. The Public Restricted Area does not include private premises. The penalties for consuming liquor in the Public Restricted Area without a permit will range from forfeiture of the liquor, to the issue of a \$100 infringement notice and up to a maximum fine of \$500 if the matter proceeds to Court. Repeat offenders appearing before the Court of Summary Jurisdiction may also be referred to the Alcohol Court.
31. The Commission will take measures to formalise this decision in accordance with Sections 86E and 86F of the *Liquor Act*. Taking into account the need for public education, awareness and information programs leading up to the formal introduction of the Public Restricted Area, the Commission has been advised that 1 September 2010 is a suitable commencement date. The area the subject of the Application will therefore become a Public Restricted Area commencing on 1 September 2010.
32. In order to ensure the decision has the intended impact, the Commission will review the operation of the Declaration after twelve (12) months from the date of implementation.
33. The Public Restricted Area will be formerly defined in the Gazettal Notice and the Northern Territory News and will be in accordance with the coordinates provided by the Council in its application and will cover the entire Municipal Boundary of the Township of Batchelor.
34. A standard Notice approved by the Director of Licensing is to be erected at suitable locations at the boundary of and within the Township as appropriate stating that it is an offence to consume liquor in the area.

Richard O'Sullivan
Chairman

2 July 2010