

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *APPLICATION FOR GENERAL RESTRICTED AREA OVER WILLIAMS WELL [2024] NTLiqComm 42*

FILE NO.: LC2024/034

APPLICANT: Mr Henry Oliver

AREA: Williams Well
Lot 3442
Ross Highway
ALICE SPRINGS NT 0872

LEGISLATION: Part 8 Division 3 of the *Liquor Act 2019* (NT)

HEARD BEFORE: Mr Russell Goldflam (Chairperson)
Ms Elizabeth Stephenson (Health Member)
Ms Rachael Shanahan (Community Member)

DATE OF HEARING: 2 October 2024

DATE OF DECISION: 7 October 2024

Decision

1. For the reasons set out below and in accordance with s 177 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to declare a general restricted area (**the GRA**) over the Williams Well family outstation situated on land owned by the Pwanje Aboriginal Land Trust.
2. In accordance with s 172 of the Act, the Commission will declare the GRA by *Gazette* notice specifying that:
 - a. The boundaries of the GRA are as depicted in Annexure One to this decision notice.
 - b. Other than in accordance with a permit issued under s 201 of the Act (**a liquor permit**) that has not been revoked or suspended, the following are prohibited in the GRA:
 - i. The bringing of liquor into the area;
 - ii. The possession of liquor in the area;

- iii. The consumption of liquor in the area; and
 - iv. The sale, supply and service of liquor in the area.
- c. Any restrictions imposed from time to time on the purchase of takeaway alcohol in Alice Springs by the *Liquor Regulations 2019* (NT), by the Minister pursuant to s 88 of the Act, or by the Commission pursuant to s 113 of the Act, are hereby deemed to also apply to the bringing of liquor into the GRA.
 - d. A resident of the GRA who holds a liquor permit is permitted to possess and consume liquor anywhere within the GRA.
 - e. The Director may on their own initiative suspend a liquor permit of a resident of the GRA for a period of up to six months with immediate effect.
 - f. The declaration of the GRA expires in 99 years.
3. By way of compliance with s 178 of the Act the Commission has determined to publish information about the GRA by posting this decision notice on the Commission's website, and by sending a copy of this decision notice to:
- a. Pwanye Aboriginal Land Trust
 - b. Central Land Council
 - c. MacDonnell Regional Shire Council
 - d. Ingkerreke Outstations Resource Services Aboriginal Corporation (**Ingkerreke**)
 - e. Director of Liquor Licensing (**the Director**)
 - f. NT Police
 - g. Minister for Alcohol Policy
 - h. Minister for Tourism and Hospitality
 - i. Office of the Central Australian Regional Controller
 - j. Alcohol Policy Unit, Department of Health
 - k. Office of Aboriginal Affairs, Department of the Chief Minister and Cabinet
 - l. Harm Minimisation Unit, Department of Health
 - m. National Indigenous Australians Agency

4. The declaration of the GRA will take effect on the date of publication of the *Gazette* notice referred to above.
5. The Commission requests the Director, the Director of the Harm Minimisation Unit and the residents of the GRA to together take reasonable steps to erect a sign at the junction of Ross Highway and the turn-off to Williams Well warning the public of the GRA in accordance with s 181(2)(a) and (b) of the Act.

Reasons

Introduction

6. Williams Well is the only small homeland community on the Pwanye Aboriginal Land Trust, which extends over an area of about 24 square kilometres to the east of Alice Springs. Williams Well, which is less than 1 square kilometre in size, is about 52 kilometres east of Alice Springs on the south side of Ross Highway, near the Corroboree Rock Conservation Reserve.
7. All the residents of Williams Well are its traditional owners and custodians, and in that capacity they are responsible for the protection and care of sacred sites on their country, including within the nearby Corroboree Rock Conservation Reserve.
8. Although Williams Well is a “dry” community, three of its five adult residents possess permits allowing them to bring liquor onto the community and consume it there.
9. The relevant history, circumstances and legal issues pertaining to this matter are similar to those set out in the decision of the Commission dated 19 June 2024 to declare a General Restricted Area for Itchy Koo Park.¹ It is unnecessary to now repeat the detailed consideration of those matters set out in that decision.

The Application

10. On 21 May 2024 Mr Henry Oliver, who identifies as an *apmerekke-artweye* (traditional owner) of Williams Well, applied for a declaration that Williams Well be declared a General Restricted Area. The application was accompanied by a petition signed by four adult Williams Well residents.

Consultation

11. Section 175 of the Act requires the Director to give notice of a proposed GRA to:
 - a. Any licensee whose licensed premises are in the area – there are no such licensees.

¹ *Application for General Restricted Area over Itchy Koo Park [2024] NTLiqComm 25*

- b. Any applicant for a licence whose proposed licensed premises are in the area – there are no such applicants.
 - c. Any local council in the proposed area – the Director notified both the McDonnell Regional Shire Council and the Central Land Council. Neither of these councils responded.
12. Section 175 also requires the Director to take reasonable steps to consult with the people who reside in the area. Licensing NT has visited the community and consulted with Williams Well members, who the Commission is satisfied are well aware of the circumstances of the application, and support it.
13. In addition, the Director consulted with NT Police, who support the application.

Director's Report

14. In accordance with s 176 of the Act, on 23 August 2024 the Director provided the Commission with a brief (**the brief**) including the following documents:
- a. Application for general restricted area dated 21 May 2024
 - b. Petition signed by four residents
 - c. Record of Administrative Interests and Information for Pwanye Aboriginal Land Trust
 - d. Community Alcohol Plan for Williams Well dated 15 May 2024
 - e. Notices of application sent to McDonnell Regional Shire Council and Central Land Council
 - f. Draft map of proposed GRA
 - g. "BUSHTEL" community profile for Williams Well

The hearing

15. On 2 October 2024 the application proceeded as a public hearing. Mr Henry Oliver appeared for the applicant accompanied by Mr Thomas Burdett. Ms Sowerby appeared for the Director, accompanied by Mr Mark Wood. The Commission thanks them all for their attendance and assistance.
16. Pursuant to s 23 of the Act the Commission is not bound by the rules of evidence and may inform itself in any manner it considers appropriate. The Commission conducted the hearing with a minimum of formality.
17. The brief, together with a map prepared by the Commission setting out the potential boundary of the GRA, were admitted into evidence.
18. On behalf of the applicant, Mr Oliver provided the following information at the hearing:

- a. He is one of five adults who live at Williams Well. No children live there.
- b. He understands that the two Williams Well residents who do not currently have a liquor permit may apply to the Director for a liquor permit.
- c. He understands that residents with a liquor permit are not allowed to share alcohol with another resident who does not have a liquor permit.
- d. Mr Oliver, a director of Ingkerreke, was prompted to apply for the GRA following a meeting attended by officers of Ingkerreke and the Director at which community members were informed that they could choose to either apply for revocation of an interim alcohol protected area, or apply for a GRA declaration.
- e. Family members from Santa Theresa and Amoonguna visit Williams Well from time to time and stay overnight. Strangers do not visit.
- f. The closest homelands community is at Mount Undoolya, about ten kilometres away.
- g. Williams Well has four houses, one of which is vacant. There are no plans for any other people to move there. All of the five residents are closely related and are either apmerekere-artweye or kwertengerle (traditional custodians) of Williams Well.
- h. Williams Well residents understand and support the Community Alcohol Plan.
- i. Mr Oliver supports the posting of a warning sign at the Ross Highway turn-off to Williams Well, to discourage and deter passers-by from littering the road with beer cans.
- j. Mr Oliver supports the conferral on the Director the power to suspend a liquor permit for up to six months.

19. On behalf of the Director, Ms Sowerby supported the application, together with the conditions set out at paragraph 2 above, and confirmed that no Williams Well resident liquor permit holders have had their permits revoked in the past or have been refused a liquor permit.

ASSESSMENT OF THE APPLICATION

20. Section 177 of the Act requires the Commission to consider:

- a. the application;
- b. the Director's report;
- c. the public interest and community impact requirements.

The application

21. The Commission finds that the application complies with the requirements for applicants set out at s 174 of the Act. Section 3 of the application (“Consent of the registered owner of the area”) is signed by Mr Henry Oliver, who describes himself as “Traditional Owner”. As the registered owner of the area is not Henry Oliver, but the Pwanye Aboriginal Land Trust, the application is in this respect irregular. A similar issue arose in similar circumstances when the Commission considered an application for a GRA over Itchy Koo Park. For the reasons given at [2024] NTLiqComm 25 [41] to [54] in that matter, the Commission now finds that despite the irregularity, the application now under consideration is valid.
22. The Commission now turns to consider the substance of the application.
23. In addition to requiring that an application be in the approved form, s 174 provides that it must include:
 - a. A detailed explanation of the restriction being proposed;
 - b. A detailed description of the proposed general restricted area.
 - c. The reasons for the proposed restriction.
 - d. A copy of a community alcohol plan, if any.
24. The Commission is satisfied that the applicant has provided sufficient detail of the restrictions it proposes, and, noting that they are supported by the Director, the Commission considers that those restrictions are appropriate, as reflected in this decision.
25. The Commission notes that its determination of the boundary it has specified is solely for the limited purpose of declaring the GRA. The Commission does not intend or purport to determine, declare or affect the property rights of Williams Well traditional owners vis a vis the property rights of others, including traditional owners of any nearby community areas.
26. The Commission is satisfied with the applicant’s reasons for imposing the restrictions he has proposed.
27. The applicant has prepared and provided a community alcohol plan. GRA applicants are not required to develop a community alcohol plan, but the Commission commends the applicant for having done so, and strongly encourages any future applicants to do so. The Commission accepts the submissions of the applicants and the Director that the Williams Well community alcohol plan has been developed by the community, has the support of the community, and is strong. The Commission notes that the plan is compliant with regulation 111B(2) of the *Liquor Regulations*, which prescribes that a community alcohol plan must include measures aimed at:
 - a. Managing the supply of alcohol in the community.

- b. Reducing demand for alcohol in the community.
- c. Reducing harm or risks of harm that may be caused the consumption of alcohol in the community.

28. The Commission finds that the Williams Well community alcohol plan is fit for purpose and thoughtfully formulated.

Whether issuing the licence is in the public interest

29. To determine whether the declaration of the GRA is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in section 49(2) of the Act:

- (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
- (b) ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
- (c) safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
- (d) protecting the safety, health and welfare of people who use licensed premises;
- (e) increasing cultural, recreational, employment or tourism benefits for the local community area;
- (f) promoting compliance with this Act and other relevant laws of the Territory;
- (g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
- (h) preventing the giving of credit in sales of liquor to people;
- (i) preventing practices that encourage irresponsible drinking;
- (j) reducing or limiting increases in anti-social behaviour.

30. Having considered each of these objectives, and having particular regard to the contents of the Williams Well community alcohol plan, the Commission is comfortably satisfied that it is in the public interest to declare the GRA, the primary practical effect of which will simply be to enable Williams Well residents with liquor permits to continue to lawfully use alcohol.

Whether the issue of the licence will have a significant adverse impact on the community

31. To determine whether it is satisfied that the declaration of the GRA will not have a significant adverse impact on the community, the Commission must consider the matters set out at section 49(3) of the Act, which are:
- (a) the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;
 - (b) the geographic area that would be affected;
 - (c) the risk of harm from the excessive or inappropriate consumption of liquor;
 - (d) the people or community who would be affected;
 - (e) the effect on culture, recreation, employment and tourism;
 - (f) the effect on social amenities and public health;
 - (g) the ratio of existing liquor licences and authorities in the community to the population of the community;
 - (h) the effect of the volume of liquor sales on the community;
 - (i) the community impact assessment guidelines issued under section 50;²
 - (j) any other matter prescribed by regulation.³
32. The Commission is satisfied that the declaration of the GRA will have a modestly beneficial impact on the community, having particular regard to the s 49(3)(d) and (e) matters. If the declaration were not made, the interim alcohol protected area would continue, and the Williams Well traditional owners and other residents may justifiably feel frustrated and disempowered. Conversely, issuing the GRA is a gesture of respect and acknowledgement to the Williams Well community.
33. The beneficial impact of the GRA should not however be overstated: in practical terms, the making of the declaration will have little if any effect on the daily life of Williams Well residents.

² In the view of the Commission, no such guidelines are currently in force.

³ There are no such “other” matters prescribed by regulation.

The liquor permit scheme

34. Part 8 Division 6 of the Act establishes a permit scheme administered by the Director, who determines applications by persons to bring liquor into a GRA, possess or control liquor in a GRA, and consume liquor in a GRA. The Director also has the power to revoke a liquor permit, and pursuant to this decision, will also have the power to suspend a liquor permit for up to six months.

Expiry

35. Section 172(3)(c) of the Act provides that the declaration of a general restricted area must specify when the declaration expires. If the law clearly authorised the Commission to decline to fix an expiry date for a general restricted area declaration, the Commission would not have fixed an expiry date in this matter. However, out of an abundance of caution, in order to ensure that the declaration is compliant with this provision, the Commission has specified an expiry date in the distant future.

Warning of general restricted area

36. Section 181 of the Act provides:

- (1) The Commission must take all steps it considers necessary to warn the public of a general restricted area at:
 - (a) The places where a road or other customary route enters the general restricted area; and
 - (b) The customary departure locations for any vessels or aircraft travelling into the general restricted area.
- (2) The warning must state the following:
 - (a) the details of the declaration;
 - (b) a summary of the offence against section 173;
 - (c) any other matters the Commission considers appropriate.

37. As requested by Mr Oliver, the Commission has determined that a warning sign should be erected. The only road access to Williams Well is from Ross Highway, by way of two inconspicuous unsealed turn-offs about 500 m apart. Approaching from Alice Springs, the first of these turn-offs is used only by workers from Undoolya Station to access a bore. The second turn-off, indicated by a purple flag at Annexure One, is the only place where a road or other customary route enters the GRA, and the Commission intends that the warning sign be located there.

The objects of the Act

38. Section 3(4) of the Act provides that in performing its function to decide whether to issue the licence, the Commission must have regard to the primary and secondary purposes of the Act.
39. The Commission considers that making the GRA declaration together with the conditions it has determined to impose, is consistent with the purposes of the Act.

NOTICE OF RIGHTS

40. Section 31(1) read with section 60(3) of the Act provide that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (**NTCAT**). Section 94(3) of the *NTCAT Act* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
41. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of this decision are the applicant and the Director.



Russell Goldflam

CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
7 October 2024

On behalf of Commissioners Goldflam, Stephenson and R Shanahan

Annexure One

