

NORTHERN TERRITORY LICENSING COMMISSION

EMU SPRINGS (BARRAPUNTA) RESTRICTED AREA APPLICATION

Heard before: Mr Alan Clough (Commissioner)

On: Monday 3 November 2003

At: Emu Springs

THE MATTER

The matter to be determined by the Commission is an application for declaration of a restricted area at Emu Springs also known as Barrapunta Homeland located 350km southwest of Nhulunbuy and 90km northeast of Bulman and within 1km (southeast) of the Central Arnhem Road. This homeland is an outstation of the Gulin Gulin & Weemol Community Council Aboriginal Corporation, a resource and support agency for the homeland. The area which is the subject of the application lies entirely within the Arnhem Land Aboriginal Land Trust.

Applicants:

- Mr Alfred Rickson
- Mr Robert Rickson
- Ms Jalkie Rickson
- Ms Anne Kelly
- Mr Moses Kelly
- Mr Aaron Kelly

The applicants were residents of Emu Springs at the time of the application (30 May 2003) and are recognised as traditional owners of Emu Springs (see Folio 1 of the hearing brief).

The Commission may declare that a specified area of land shall be a restricted area (Section 74(1) of the *Liquor Act* as in force at 24 January 2003).

The application conforms to the requirements of the Act specified in Section 76.

Section 77(1) of the Act requires that the Commission consider an application as soon as is reasonably practicable and shall conduct a hearing (Section 77(1b)) if the application is not refused on the grounds that it is frivolous, irrelevant or malicious (Section 77(1a)).

So that the Commission could determine opinions regarding the application (Section 78), the Director of Racing, Gaming and Licensing sought opinions in writing from the Northern Territory Police (Maranboy Station) and the Gulin Gulin & Weemol Community Council Aboriginal Corporation. The Director also caused the application to be advertised in the main public places in the Bulman community, the nearest Aboriginal settlement.

One letter that included opinion was received from Mr Richard Barcham (Town Clerk, Gulin Gulin & Weemol Community Council Aboriginal Corporation). In this letter, Mr Barcham submitted that "It is the wish of the traditional owners of the outstation area that they be able to control liquor at their outstation by a complete ban. They are seeking the restricted area to give them more weight when seeking reinforcement of this prohibition." (Folio 5 of the hearing brief).

The Director also sought precise specifications of the location of the proposed restricted area. Mr Jim Begley of the Northern Land Council (Katherine) provided GPS co-ordinates gathered during a site visit and inspection carried out at Emu Springs together with Mr Alfred Rickson, the senior community leader among the applicants. The specification of the area subject to the application is as per the attached schedule.

At its meeting of the 16/17 September 2003, the Commission considered the application and determined to conduct a hearing. The applicants were informed of the date of the hearing through Mr Richard Barcham, (CEO of the Gulin Gulin & Weemol Community Council Aboriginal Corporation). Mr Jim Begley of the Northern Land Council in Katherine and Sergeant Angelo De Nale, OIC of the Maranboy Police Station, were also notified of the hearing of the application although there is no specific requirement in the *Liquor Act* to inform these parties. The Commission decided to do this because the Northern Land Council has responsibilities for the interests of traditional owners of Aboriginal land under both the *NT Aboriginal Land Act* (1980) and the *Aboriginal Land Rights (Northern Territory) Act* (1976), and since the NT Police have significant responsibilities for policing restricted area provisions of the *NT Liquor Act*.

No written requests were made to the Chairman, pursuant to Section 78(1b) and 78(2), seeking to be heard in person with respect to the application at the hearing.

The hearing, held at Emu Springs in Arnhem Land, commenced at 1:30pm on Monday 3 November 2003 and ended at 3:30pm. It was conducted as a hearing pursuant to Section 79 of Part VIII of the Act whereby the Commission seeks to ascertain the opinions of residents regarding the application.

SUMMARY OF INFORMATION PRESENTED AT THE HEARING

Present:

Mr Alfred Rickson
Mr Robert Rickson
Mr Adrian Ashley
Mr Alphonso Rickson
Mr Anne Kelly
Ms Darian Nelson
Ms Fay Shadam

Mr Alfred Rickson and Ms Anne Kelly advised that Ms Jalkie Rickson (an applicant) was in Katherine escorting Bessie Kelly who had been admitted to Katherine hospital. Both Jalkie Rickson and Bessie Kelly (an elderly lady) normally reside at Emu Springs. Mr Moses Kelly and Mr Aaron Kelly, two of the original applicants, had recently moved with their families to Weemol and Beswick respectively and temporarily were not residing at Emu Springs. All adults resident in the community at the time attended the hearing.

Ms Anne Kelly submitted that the restricted area is needed in order to control alcohol coming into the community because she has fears for the safety and wellbeing of children. Husbands and wives more frequently fight with alcohol in the community and she is fearful of the effect on children who witness these episodes. Ms Kelly seeks to have no liquor brought into Emu Springs. Ms Kelly states that on the occasions when residents bring liquor into the community the matter is managed firmly by her husband, Alfred Rickson. While she is confident of her husband's capacity to continue to control residents who may bring alcohol, she is more concerned about extended family members who do not reside in Emu Springs but who occasionally visit from other areas such as Maningrida/Ramingining and Bulman/Beswick. These family members sometimes bring liquor from Nhulunbuy or Katherine.

Mr Alfred Rickson is the senior person at Emu Springs and has had this role since moving back there from Maningrida around 1996-97. He is seeking the declaration of a restricted area to have two sets of rules "my rules and that law" to assist him to control alcohol at Emu Springs. Mr Rickson shares the concerns of his wife, but in addition is concerned for the impact on the fee-paying tourists who visit the community and who camp there from time to time. Mr Rickson advised that the tourism operation is a joint venture enterprise between the Emu Springs community and a company he named as "Tag Along Tours". Fee-paying

tourists, Mr Rickson advised, book to stay at Emu Springs through the joint venture partner or by application for a permit to do so through the Northern Land Council. They arrive in their own vehicles and camp within the community precinct where basic but essential facilities are available. Tourists are required to hold a permit to enter and remain on Aboriginal Land (*NT Aboriginal Land Act, 1980*). The joint venture has adopted Mr Rickson's requirement that visitors bring no liquor to Emu Springs and the joint venture informs prospective visitors accordingly. While asserting that tourists have "always followed my rules", Mr Rickson is concerned that the attraction of Emu Springs for these low-key visitors could be ruined if alcohol was brought into Emu Springs contrary to his wishes.

Contractors who occasionally visit the community to carry out construction works abide by "my rules" of no alcohol asserts Mr Rickson.

Police from Maranboy (400km away) visit the community upon request but they are usually only called when there is a serious incident. Most incidents are dealt with locally.

No permits for liquor are required. Mr Rickson is of the view that a permit system would have the appearance of there being a set of rules for some and not for others. Mr Rickson asserted that he has no difficulty with residents who wish to drink so long as they do so outside the community and the proposed restricted area along with those members of their extended families who may visit from time to time. Mr Rickson also reported a commendable concern for those who would drink liquor near but outside of a restricted area suggesting that he would endeavour to ensure that drinkers were cared for until sober enough, by his criteria, to enter Emu Springs.

The others at the hearing were invited to speak but declined to do so as individuals. When asked how they felt about the restricted area and if they understood its meaning and consequences, they indicated their agreement that it would be appropriate. A show of hands was not appropriate for this small group. A number of the others at the hearing indicated that they were drinkers but did not speak against the restricted area. When asked how they felt about having no permits for liquor in the restricted area, the response was similar.

The hearing continued in the form of an inspection of the proposed restricted area and locations for signage that would be required pursuant to Section 85 if a restricted area was declared. The proposed locations for signage are as per the attached schedule.

DETERMINATION

It was clear from the evidence provided and the manner of its presentation that Mr Alfred Rickson is a man having pivotal authority at Emu Springs who is determined to minimize the negative effects of alcohol in his community. He wields the authority of a traditional family structure to do this. It seems likely, so long as Mr Rickson is there and so long as he remains resolute in his determination to control liquor in his community, his authority will prevail.

It was not possible pursuant to Section 79(1c) to fully ascertain and determine the opinions of the residents as individuals in this matter since, as a group, they deferred to the authority of their leader, Mr Rickson. Despite their utterances unanimously expressing willingness to acquiesce in their leader's views, it seems more likely than not that opinion would have been divided were it possible for individuals to have expressed their opinions independently of the imperatives of this structure of authority.

This would not condemn the application, however, if the Commission is prepared to make a determination on the *face* of the opinions ascertained which were, indeed, unanimously uttered in favour of both the restricted area and no permits for liquor. In the absence of an unequivocal view of the residents' opinions, and given the convincing authority and resoluteness of Mr Alfred Rickson in his community, such a determination seems realistic.

Further to this, it is determined that the application for a restricted area is clearly not intended as a means whereby Mr Rickson would abrogate the responsibilities he has asserted in managing alcohol issues at Emu Springs. On the contrary, Mr Rickson clearly seeks to reinforce his responsibilities with the assistance of NT law.

Mr Rickson demonstrated realistic consideration of the difficulties facing the NT Police in enforcing the provisions of the restricted area from Maranboy, a distance of 400km. It therefore seems unlikely that the community's expectations for additional policing efforts would be significantly in excess of their current demands if a restricted area was declared. What is more, over and above the prospects for apprehension by Police, it is possible that the residents of Emu Springs could benefit from the sporadic apprehension of those who would seek to bring alcohol into a restricted area that includes their community by virtue of the surveillance carried out by Licensing Inspectors of Racing, Gaming and Licensing.

If it was determined that the application should be refused on the grounds of divided opinions among the residents, Mr Rickson would be left to continue to try to prevent people bringing alcohol into Emu Springs, along with managing residents and visitors who may be intoxicated, almost alone and without the moral or real authority of NT Law.

For these reasons the Commission declares a restricted area at Emu Springs pursuant to Section 81(1b) of the *Liquor Act* and as specified in the attached schedule. Signs are to be erected in consultation with Mr Alfred Rickson as specified in the attached schedule. The declaration is to be effective from 1 February 2004.

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

Alan Clough
Commissioner

19 December 2003

SCHEDULE

DIPE Ref LI2002/52/112

All that parcel of land near Barrapunta Community in Arnhem Land in the Northern Territory of Australia containing an area of 3.14 square kilometres more or less and contained within a circle of radius 1 kilometre centred at map grid co-ordinates 483 794 metres East and 8 545 576 metres North (WGS 84 Zone 53).

Locations of signs advising of the restricted area

Signs are to be of a size no less than 1m², and installed in consultation with Mr Alfred Rickson.

Signs are to be of two types

1. Located on the Central Arnhem Road at these two locations

- (i) WGS 84 Barrapunta 21-53L 0482337 UTM 8545427
1km south of community
- (ii) WGS 84 Barrapunta 23-53L 0483123 UTM 8546913
1km north of community

and stating 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 beyond this point is a serious offence. Vehicles 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†

2. Located on the Central Arnhem Road at these two locations

- (iii) WGS 84 Barrapunta 22-53L 0476516 UTM 8542563
8km south of community
- (iv) WGS 84 Barrapunta 24-53L 0485755 UTM 8552917
8km north of community

and stating 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
AHEAD (7km)*

†The possession or consumption of LIQUOR in a restricted area is a serious offence. Vehicles 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†