

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *APPLICATION FOR GENERAL RESTRICTED AREA OVER ITCHY KOO PARK [2024] NTLiqComm 25*

APPLICANTS: Aaron Campbell, Christine Campbell and Gene Martin

PREMISES: Tywenpe E (Itchy Koo Park)
Iwupataka Aboriginal Land Trust
Lot 1691
Larapinta Drive
ALICE SPRINGS NT 0872

LEGISLATION: Part 8 Division 3 of the *Liquor Act 2019*.

HEARD BEFORE: Mr Russell Goldflam (Chairperson)

Ms Ebony Abbott-McCormack (Health Member)

Mr Denys Stedman (Community Member)

DATE OF HEARING: 5 June 2024

DATE OF DECISION: 19 June 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 Tywenpe E (Itchy Koo Park) family outstation situated on land owned by the Iwupataka 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 - b. Other than in accordance with a permit issued under s 201 of the Act (**a liquor permit**) that has not been revoked or suspended, the following are prohibited in the GRA: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 for Alcohol Policy 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. When considering whether to grant or revoke a liquor permit for a resident of the GRA, the Director of Liquor Licensing (**the Director**) must consult with the Alcohol Committee established in accordance with the Community Alcohol Plan at Schedule Two of this decision notice (**the Alcohol Committee**).
 - f. The Director may on their own initiative or at the recommendation of the Alcohol Committee, suspend a liquor permit of a resident of the GRA for a period of up to six months with immediate effect.
 - g. 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. Iwupataka Aboriginal Land Trust
 - b. Central Land Council
 - c. MacDonnell Regional Shire Council
 - d. NT Police
 - e. Minister for Alcohol Policy
 - f. Office of the Central Australian Regional Controller
 - g. Alcohol Policy Unit, Department of the Chief Minister and Cabinet
 - h. Office of Aboriginal Affairs, Department of the Chief Minister and Cabinet
 - i. Harm Minimisation Unit, Northern Territory Department of Health
 - j. 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 considers that it is not necessary to take steps to warn the public of the GRA at the places where a road or other customary route enters the GRA.

Reasons

Introduction

6. This is the first occasion on which the Commission has been required to consider an application under Part 8 Division 3 of the Act for a declaration of a general restricted area. The Commission anticipates that this will not be the last such occasion. In these circumstances, the Commission considers it appropriate to examine in some detail the factual and legal background to this application.
7. Tywenpe E, as it is formally designated, or Itchy Koo Park (**IKP**), as it is commonly known, is a small Arrernte homelands community 26 km west of Mparntwe (Alice Springs), bounded by Larapinta Drive to the north and Tyurretye (the MacDonnell Ranges) to the south. IKP has 15 houses occupied by about 30 adults and their children within an area of about one square kilometre. It is one of 21 homelands situated within the Iwupataka Aboriginal Land Trust (**IALT**), an estate of some 305 square kilometres extending from Alice Springs to Jay Creek, 46 km to the west. The IALT is administered by the Central Land Council.
8. The sole residents of IKP are traditional owners of that area, and their families. Although IKP is only a short distance from the popular tourist route of Larapinta Drive, passers-by are unlikely to notice its inconspicuous buildings, and IKP is very rarely visited by anyone who has not been invited. IKP offers no tourist attractions, facilities or services. It is a small, secluded and private desert community.
9. It is also a peaceful, orderly and law-abiding community.
10. Although IKP is, in circumstances that will be explained below, a “dry” community, most of its adult residents possess permits allowing them to bring liquor onto the community and consume it there.
11. In November 2023, the Director of Liquor Licensing (**the Director**) informed IKP permit holders that their permits would be revoked on 30 January 2024.
12. The current proceedings are the culmination of persistent and, as will be seen, ultimately successful efforts by IKP residents to retain the privilege of being able to lawfully consume liquor in their homes and on their community.

The history

13. By 2006, many Aboriginal communities in the Northern Territory were “general restricted areas” under the *Liquor Act 1978 (NT)* (**the 1978 Liquor Act**), either at the initiative of local authorities or the communities themselves.
14. However, IKP and most if not all of the other 20 small homeland communities spread out along either side of Larapinta Drive on the IALT, were not general restricted areas. A typical adult IKP resident was (and still is) employed in Alice Springs. Like any other typical Alice Springs worker, the typical adult IKP resident would (and still does) purchase moderate amounts of takeaway alcohol in town to bring home to drink.
15. In 2007 the Commonwealth enacted the *Northern Territory National Emergency Response Act 2007* (**the NTNERA**), the effect of which was that every area of Aboriginal land in the Northern Territory,¹ including the IALT (which in turn includes IKP), was deemed to be a general restricted area under the 1978 Liquor Act.
16. The 1978 Liquor Act included a scheme by which the Director could issue permits authorising permit holders to bring liquor onto a general restricted area and consume it there. Both the general restricted area scheme and the permit scheme were substantially preserved when the 1978 Act was repealed and replaced by the 2019 Liquor Act.
17. Following the commencement of the NTNERA, IALT residents who wished to continue to drink alcohol at home applied for and were regularly issued with permits. At the hearing of this matter, a delegate of the Director, Mr Mark Wood (Southern Regional Manager – Licensing & Compliance, Licensing NT) informed the Commission that currently there are 70 to 80 permit holders resident on the IALT. Those permit holders include about 20 adult residents of IKP. It appears that no IKP applicant has ever been refused a permit, that no IKP permit holder has ever had their permit revoked, and that no IKP permit holder has ever been placed on the Banned Drinkers Register.
18. In 2012, the NTNERA expired and was superseded by the *Stronger Futures in the Northern Territory Act 2012 (Cth)* (**the SFNTA**) which, in conjunction with associated legislation, continued liquor prohibitions on Aboriginal land in the Northern Territory, but rebadged these places as “alcohol protected areas”. This had no practical effect on the rights of IKP permit holders to bring liquor onto their land and drink it there.
19. On 17 July 2022 the SFNTA expired, and the *Liquor Act 2019 (NT)* was amended by introducing a scheme for Aboriginal communities to choose to return to being “dry” areas. Most remote Aboriginal communities were unaffected by this, as they had been general restricted areas before the

¹ Section 3 of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* defines “Aboriginal land” as “land held by a Land Trust for an estate in fee simple”. The IALT is one such Land Trust.

NTNERA, and with the expiry of the SFNTA, they reverted to that state. However, IKP now once again became an area free of liquor restrictions. IKP residents did not choose to “opt in” to becoming dry again. Indeed, very few communities chose to opt in. This change had no substantial practical effect on IKP residents. Previously, they had drunk liquor at home with the authority of their liquor permits. Now they could continue to drink lawfully at home, irrespective of whether they held a permit.

20. Between 17 July 2022 and January 2023 there was a significant increase in alcohol-related harm in Alice Springs, largely as a consequence, it has been widely reported, of the lifting of liquor restrictions on Alice Springs town camps.
21. Consequently, on 16 February 2023, the liquor restrictions that had been imposed on Aboriginal land by the NTNERA and continued by the SFNTA, were effectively reimposed by the *Liquor Amendment Act 2023* (NT). The affected areas were rebadged again, this time as “interim alcohol protected areas”. Part 8 Division 1 of the Act was reformed, establishing a scheme for affected residents to apply to the Director to revoke their interim alcohol protected area and thereby to “opt out” of being a dry area (**the opt-out scheme**).
22. Accordingly, IKP once again became a dry area, namely an interim alcohol protected area. However, this further change did not immediately affect the lawfulness of the activity of IKP residents who would bring alcohol onto their land and drink it there. This was because the *Liquor Amendment Act 2023* also extended the existing permit scheme to apply to interim alcohol protected areas. Accordingly, the liquor permits held by IKP residents remained in effect.
23. To date, some sixteen months since the establishment of the opt-out scheme, no interim alcohol protected area has been revoked in the Northern Territory. As will be seen, opting out under the scheme is not a simple process.

The applicants seek to opt out

24. In November 2023, as stated above, the Director notified IKP residents that their permits would be revoked on 30 January 2024. The Director has informed the Commission that it sent similar notices to permit holders who are members of other communities situated on interim alcohol protected areas across the Northern Territory, to encourage community members who wished to do so to make an application under the opt-out scheme. In the view of the Commission, this was a well-intentioned and reasonable step taken to support the government policy underlying the opt-out scheme.
25. The IKP community did not need this encouragement. Its members had already lodged with the office of the Director an application to revoke their interim alcohol protected area.
26. The application, made in October 2023, was accompanied by a letter (**the letter of support**) listing 30 named adult residents of IKP who were said to support the application. Attached to the letter of support was a petition signed by 20 adult IKP residents representing 11 of the community’s 15 households. Seven

of the those who did not sign were recorded as being out of town, interstate or on long service leave. One other resident who did not sign, Mr Aaron Campbell, later became a signatory to the application now before the Commission, and the Commission counts him too as a supporter.

27. The letter of support was signed by the heads of four IKP households who identified themselves as “the recognised Traditional Owner[s]” of IKP. The first-named signatory was Donald Campbell. The others were Heather Campbell, Colleen Campbell and Christine Campbell.
28. The Commission accepts that, as asserted in the letter of support, “almost all the adult population of Itchy Koo Park” were (and are) in favour of opting out.
29. The Commission finds that at least 60% of the adults who reside in the area supported the opt-out application.
30. However, the opt-out scheme requires more. Section 170AB(2)(b)(i) of the Act provides that an opt-out application must be accompanied by “a statement of support by the registered owner of any land in the area to which the request applies”. The registered owner of IKP is the IALT.
31. Accordingly, the applicants requested the Central Land Council to procure a statement of support from the IALT. To the applicants’ disappointment, the Central Land Council did not respond positively to this request.
32. On being informed of this, on 7 December 2023 the chairperson of the Commission took the unusual step of writing to the Central Land Council seeking a meeting. In his letter the chairperson stated:

I am keen to assist communities to navigate their way through these provisions of the Act. Underlying my interest is a serious concern that if affected communities (whose numbers, I believe, run to thousands of persons of drinking age across the Territory) are frustrated in their attempts to opt out, their members will turn to sly grogging. This in turn has the potential to seriously undermine a broad range of alcohol harm-reduction measures. I note that prior to COVID-19, consumption of liquor in the NT had been steadily declining for several years. Since the advent of COVID-19, consumption levels have returned to the unacceptably high levels they were a decade ago. It is apparent that the increase in consumption has in turn led to a corresponding increase in alcohol-related harm.

Yesterday I attended a meeting between IKP residents and officers from Licensing NT and the Harm Reduction Unit (Department of Health). The Harm Reduction Unit has been working with IKP to develop a Community Alcohol Plan, which is well advanced. Notably, IKP are, I am informed, more advanced along the road to opting out than any other Interim

Alcohol Protected Area in the Northern Territory. For this reason, the progress of their application is of particular significance, as it may well establish a precedent for other similarly circumstanced communities.

33. On 12 December 2023 the chairperson of the Commission met the Executive Manager of Policy and Governance and the Principal Legal Officer of the Central Land Council, who confirmed that there was no reasonable prospect of obtaining a statement of support for the IKP opt-out application from the IALT within the following three months. Furthermore, there was no certainty that such a statement could be procured at all, having regard to the large number of small communities located within the IALT, and the possible difficulty in reaching a consensus that the IKP application should be supported.
34. The Commission finds that in these circumstances it was impracticable for the applicants to submit an application that was compliant with the statutory requirements of the opt-out scheme.

The applicants apply for a general restricted area declaration

35. On about 29 January 2024 the applicants, having decided to abandon their attempt to opt out, instead reluctantly lodged an application with the Director that IKP be declared as a general restricted area.
36. It may at first blush appear illogical for a community whose members wish to lawfully consume liquor where they live, to apply for a declaration that liquor be prohibited where they live. However, in the view of the Commission, under the Act as currently in force, making this application was not only reasonable, but the only viable pathway to achieve their objective.
37. That is apparent when the following features of the general restricted area scheme are considered.
38. Firstly, as stated above, permit holders are exempted from general restricted area prohibitions, and the IKP residents who drink alcohol already have long-standing liquor permits. (The Commission notes that in the meantime the Director had decided not to revoke the IKP permits on 30 January 2024, and has provided an undertaking to the Commission to allow the permits to remain in effect until at least 30 June 2025.)
39. Secondly, s 170A of the Act provides that “an area ceases to be an interim alcohol protected area... if it is subsumed by a general restricted area...”.
40. Thirdly, there is no express statutory requirement that an applicant for a general restricted area declaration provide a statement of support from the registered owner of any land in the area.

An irregular application

41. Section 174(2) of the Act provides that an application for a general restricted area must be “in the approved form”, a term that is defined by s 4 of the Act to mean “a form approved by the Director of Liquor Licensing”.
42. The Commission is satisfied that the form used by the applicants was the approved form. It is headed “Application for a general restricted area” and features familiar Northern Territory government livery and style. Section 3 of the form has the following heading:

Consent of the registered owner of the area

This is to be completed by a person approved to make this declaration on behalf of the owner of the area

43. This section of the form was signed by Donald Campbell and dated 29 January 2024. The answer given to the question “Nature of your authority to act on behalf of the owner of the area?” was “Senior Traditional Owner”. The answer given to the question “What is your interest or connection to this area?” was “Resident Traditional Owner”.
44. However, Donald Campbell is not the registered owner of the area, and he has not been approved by the IALT to make a declaration on its behalf. The Commission has considered whether this irregularity invalidates the application, and has concluded that it does not, for the following reasons.
45. Firstly, as stated above, whereas the statutory provisions that establish the opt-out scheme expressly require an opt-out application to be accompanied by a statement of support by the registered owner, the statutory provisions that establish the general restricted area scheme do not.
46. Secondly, apart from the irregularity referred to above, the application was otherwise in the approved form, and in all other respects complied with the requirements for an application, which are set out at s 174 of the Act.
47. Thirdly, the Director accepted the application, referred it to the Commission, and at the hearing of the application unequivocally submitted that it should be allowed.
48. Fourthly, for the purpose of this application, and having received no evidence or submission to the contrary, the Commission is satisfied that Donald Campbell is a senior traditional owner of IKP, an IKP resident and the acknowledged head of an IKP household.
49. Fifthly, the Commission is of the view that the underlying purpose of Section 3 of the approved form is to elicit from applicants evidence capable of satisfying the Commission that a person or group with substantial proprietary rights over the area consents to the application.

50. Section 4 of the *Aboriginal Land Rights (Northern Territory Act 1976* (Cth) relevantly provides:

The Minister may, by notice published in the *Gazette*, establish Aboriginal Land Trusts to hold title to land in the Northern Territory for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of the land concerned...

51. The IALT is an Aboriginal Land Trust that was established under this provision. The IALT is the legal owner of IKP. The traditional owners who occupy and use IKP have substantial proprietary rights derived from their equitable interest in the land, because they are the beneficiaries of the Trust. For the purpose of this application, the Commission is satisfied that Donald Campbell has the authority to consent to the application on behalf of a group with substantial proprietary rights over IKP, namely the "Aboriginals entitled by Aboriginal tradition to the use or occupation of the land".

52. Sixthly, in *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28; 194 CLR 355, the plurality stated, at [91]:

An act done in breach of a condition regulating the exercise of a statutory power is not necessarily invalid and of no effect. Whether it is depends upon whether there can be discerned a legislative purpose to invalidate any act that fails to comply with the condition. The existence of the purpose is ascertained by reference to the language of the statute, its subject matter and objects, and the consequences for the parties of holding void every act done in breach of the condition.

53. The Commission does not consider that the legislature intended to invalidate an application for the declaration of a general restricted area merely because there is no evidence that the registered owner has consented to the application. Had the legislature intended to do so, it could have expressly provided for this, as it did in establishing the opt-out scheme.

54. Accordingly, the Commission finds that despite its irregularity, the application is valid.

Consultation

55. 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.
- 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 MacDonnell Regional Shire Council and the Central Land Council. Neither of these councils responded.

56. 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 extensively with IKP members, who the Commission has found are not only well aware of the circumstances of the application, but strongly support it.

Director's Report

57. In accordance with s 176 of the Act, the Director reported to the Commission the submissions, opinions and advice it received in a very helpful memorandum prepared by Mr Wood dated 7 May 2024 accompanied by documents including **(the brief)**:

- a. Application for general restricted area dated 28 January 2024
- b. Record of Administrative Interests and Information for NT Portion 01691
- c. Correspondence between IKP residents and Licensing NT
- d. Incomplete application to revoke interim alcohol protected area dated 11 October 2023
- e. IKP traditional owners' letter of support and residents' petition
- f. Community Alcohol Plan for IKP
- g. Notices of application sent to MacDonnell Regional Shire Council and Central Land Council
- h. "BUSHTEL" community profile for IKP

The hearing

58. On 5 June 2024 the application proceeded as a public hearing. Mr Aaron Campbell and Mr Gene Martin appeared on behalf of the applicants. Mr Wood appeared for the Director. Ms Patrina McMaster and Mr Hassan Tariq, officers of the Department of Health Harm Reduction Unit, attended and participated in the hearing. The Commission thanks them all for their attendance and assistance.

59. 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.

60. The following documents were admitted into evidence:

- a. The brief, including a draft plan prepared by the Commission setting out the potential boundary of the GRA.
- b. The *Gazette* notice of the declaration of a restricted area made under the *Liquor Act 1978* on 24 August 1979, by way of example.

- c. A Fact Sheet titled “General Restricted Areas” issued by the Department of Chief Minister and Cabinet (3 pages).
61. Mr Wood submitted that the application was supported by the Director, and should be allowed.
62. Mr Wood made the following further submissions:
 - a. Based on Mr Wood’s discussions with Acting Commander Drew Slape of the NT Police, the Commission should accept that police are wholly supportive of the application, and that there are no alcohol-related problems at IKP that have come to the attention of police.
 - b. Having regard to the fact that Part 8 Division 6 (“Permissions and permits”) establishes a procedure for the revocation of permits, but not one for the suspension of permits, consideration should be given to including in the GRA declaration a condition enabling permit-holders to be suspended.
 - c. The GRA declaration should include a condition that permit holders are authorised to possess and consume liquor anywhere within the designated boundary of the GRA.
 - d. The Director supports a condition being placed on the declaration that imposed the same restrictions on IKP residents as apply to people who purchase takeaway alcohol in Alice Springs.
 - e. The Commission should give serious consideration to placing signage at the entrance to the GRA, in accordance with s 181 of the Act. Licensing NT has the capacity to supply and install the signage, and offered to consult with IKP residents about the signage design.
63. Ms McMaster, who had worked over a period of several months with the IKP community to develop and finalise the IKP Community Alcohol Plan, submitted that it was a strong plan that had been designed by the community itself.
64. On behalf of the applicants, Mr Campbell and Mr Martin made the following observations and submissions:
 - a. The IKP community would have preferred to get the interim alcohol protected area revoked, but could not do so because they were unable to obtain a statement of support from the IALT.
 - b. IKP residents unanimously support the Community Alcohol Plan, which contains “extra levels of prudence” and required a lot of work from many members of the community.

- c. “We are largely a fully functioning extended family and more often than not we’d start from the place of do we want this person around us, and is this person going to be responsible and safe with alcohol. They’re going to be our family members. There won’t be any strangers. It wouldn’t be a formal process. If someone is at a gathering and is carrying on they get pulled into line pretty quickly by the strong family. If there’s anyone doing secondary supply, we’ll report it straight to the authorities.”
- d. The GRA declaration should include a condition imposing the same restrictions on IKP residents as apply to people who purchase takeaway alcohol in Alice Springs.
- e. The boundary of the GRA should be “future-proofed”, so that if further houses are built at IKP, they will be within the GRA.
- f. GRA signage at the entrance to IKP would be unnecessary, intrusive and unwelcome to IKP residents. Almost all people who visit IKP do so at the invitation of residents.
- g. IKP is grateful to both the Licensing NT and Harm Minimisation Unit officers who over a lengthy period assisted the community to make the application.

65. The Commission notes that both Mr Campbell and Mr Martin are members, along with three other community members, of the Alcohol Committee. A majority of the committee are traditional owners, and the committee also includes a health practitioner.

ASSESSMENT OF THE APPLICATION

66. 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 requirement

The application

67. The Commission has found that the application, apart from a non-invalidating irregularity, complies with the requirements for applicants set out at s 174 of the Act. The Commission now turns to consider the substance of the application.

68. 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.
69. The Commission is satisfied that the applicants have 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.
70. At the hearing, the Commission invited the applicants to submit a plan of the proposed area drawn with waypoints plotted using Google Earth. The applicants supplied the plan that now comprises Annexure One to this notice. The applicants' proposed boundary for the GRA is consistent with the applicants' evidence given at the hearing. The Commission is satisfied that the boundary proposed by the applicants is described with sufficient detail for the purpose of this application, and, noting that the applicants' proposed boundary is supported by the Director, considers that the applicants' proposed boundary is appropriate.
71. The Commission also 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 IKP traditional owners vis a vis the property rights of traditional owners of the neighbouring homelands of Twyenpe D to the east and Arrillhijere to the west. (The northern boundary of IKP is clearly defined by Larapinta Drive. The southern boundary of IKP is marked by the ramparts of Tyurretye, the MacDonnell Ranges.)
72. The Commission is satisfied with the applicants' reasons – which have been discussed above in some detail – for imposing the restrictions it has proposed.
73. The applicants have prepared and provided a community alcohol plan. GRA applicants are not required to develop a community alcohol plan, but the Commission commends the applicants for having done so, and strongly encourages any future applicants to do so. The Commission accepts the submissions of the applicants, the Director and the Harm Minimisation Unit that the IKP 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.
74. The Commission finds that the IKP community management plan is fit for purpose and thoughtfully formulated.
75. The Commission has determined to publish the IKP community alcohol plan

(with redactions to protect the privacy of individuals) as Annexure Two to this notice, as a guide for other communities that are in the process of developing their own plans.

Whether issuing the licence is in the public interest

76. 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.

77. Having considered each of these objectives, and having particular regard to the contents of the IKP 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 IKP residents to continue to lawfully use alcohol.

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

78. 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

79. 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 IKP traditional owners and other residents would justifiably feel frustrated and disempowered. Conversely, issuing the GRA is a gesture of respect and acknowledgement to the IKP community.

80. 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 IKP residents, who have been using alcohol lawfully and responsibly for decades, and are likely to continue to do so for the foreseeable future.

The liquor permit scheme

81. 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 permit.

82. Section 203(1)(d) of the Act provides that when considering an application for a permit, the Director must take reasonable steps to consult with “any permit

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

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

committee established for the restricted area under the regulations". However, no such committee has been prescribed to date.

83. In accordance with the underlying purpose of s 203(1)(d) and the IKP community management plan, the Commission has determined to impose a condition on the declaration of the GRA that when considering whether to grant or revoke a permit for the IKP GRA, the Director must consult with the Alcohol Committee.

84. The plan tasks the committee to lodge permit applications, and "to counsel or bar residents from consuming alcohol on the Homelands if they feel consumption of an individual is harming their health".

85. In order to give legally binding effect to this component of the IKP community alcohol plan, the Commission was minded to impose a condition on the GRA declaration that gives the Alcohol Committee the authority to suspend a liquor permit. However, in accordance with the submissions of both the applicants and the Director, the Commission instead fixes the condition set out at paragraph 2(f) above.

Additional condition

86. In accordance with the IKP community alcohol plan, and as supported by the submissions of the applicants and the Director, the Commission has also determined to fix the condition set out at paragraph 2(c) above.

Expiry

87. 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

88. 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.

89. Having carefully considered the submissions of the parties summarised at paragraphs 62(e) and 64(f) above, the Commission has come to the view that it is not necessary to take any steps to warn the public of this GRA, having regard to the following matters:

- a. The only road access to IKP is Larapinta Drive, by way of two inconspicuous unsealed turn-offs about 400 m apart.
- b. IKP is within the IALTA, an interim alcohol protected area effectively subject to the same prohibitions and restrictions on liquor as the GRA. Anyone who approaches or passes either of the two entrances to IKP is already on land where alcohol is restricted, and must have passed warning signs to that effect.
- c. IKP is very rarely visited by anyone who has not been invited.
- d. IKP has no tourist attractions, facilities or services.
- e. The risk that anyone would bring unwittingly bring liquor onto the GRA in circumstances amounting to an offence against s 173 of the Act is low.
- f. Any warning signs compliant with the strict requirements of s 181(2) would inevitably be intrusively large in size and stern in tone.
- g. Such warning signs would send a message to passers-by that people who live in the area have a particular problem with alcohol, and that they either do not want alcohol to be allowed on their community, or that a government has decided that they must not be allowed to have alcohol on their community. Such a message would be false, misleading and apt to promote negative and unfair stereotypes of Arrernte people.
- h. IKP residents do not want warning signs to be erected at the entrances to their community.

The objects of the Act

90. 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.

91. 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

92. 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. 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.

93. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of this decision are the applicants, the Director and the Chief Executive Officer of the Department of Health.

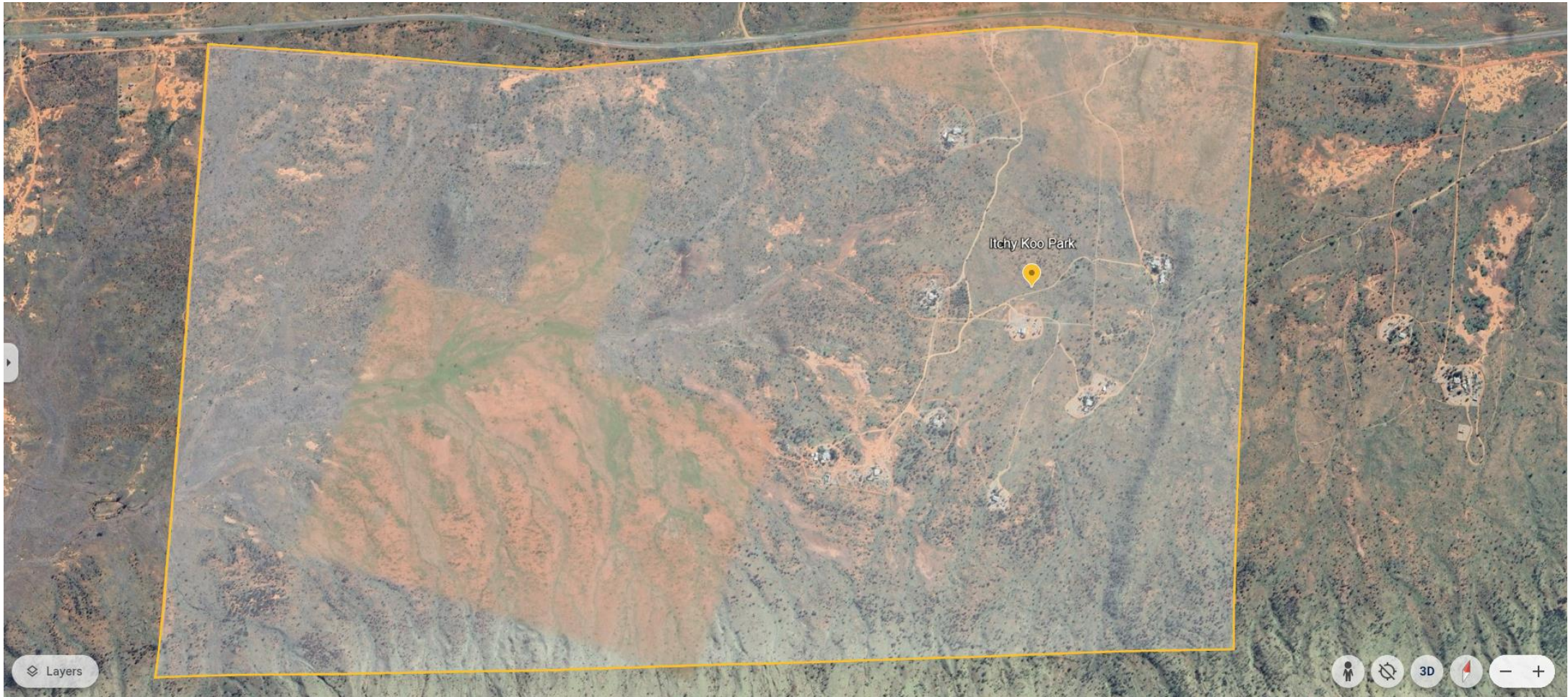


Russell Goldflam

CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
19 June 2024

On behalf of Commissioners Goldflam, Abbott-McCormack and Stedman

Schedule One





TYWENPE E (ITCHY KOO PARK)

Community Alcohol Plan

2024-2028

Community name:	Tywenpe E (Itchy Koo Park) Iwupataka Land Trust Via Alice Springs
Communities covered by the Community Alcohol Plan:	Tywenpe E - Itchy Koo Park
Contact person(s) and position:	[REDACTED]
Date approved by Director of Liquor Licensing:	
Document review:	4 Yearly

Version	Date	Author	Changes made
1	09/11/2023	[REDACTED]	First Version
1.2	21/02/2024	[REDACTED]	Second Version
1.3	6/03/24	[REDACTED]	Expanded Risk section and proof

Acronyms	Full form
Tywenpe E	Itchy Koo Park
NTG	Northern Territory Government
Members	Community Residents
AOD	Alcohol and Other Drugs
CAP	Community Alcohol Plan
CAAC	Central Australia Aboriginal Congress
AAI	Alcohol Action Initiatives
BDR	Banned Drinker Registry
DASA	Drug and Alcohol Service
CAAPU	Central Australian Aboriginal Alcohol Programmes Unit
ADSCA	Alcohol and Other Drugs Services Central Australia
DV & FV	Domestic Violence and Family Violence
ASTC	Alice Springs Town Council
AHW	Aboriginal Health Worker
CLC	Central Land Council
HMU/PAAO	Harm Minimisation Unit / Principal Alcohol Action Officer

Vision of the Community Alcohol Plan (the Plan)

The vision statement should outline the community's long-term alcohol goals and aspirations.

Itchy Koo Park has evolved over time, a natural Alcohol Management Plan (AMP). Being comprised of fully employed adults with strong family values, residents of Itchy Koo Park largely self-manage the availability of alcohol, as well as any 'alcohol related damage'.

Tywenpe E long term goal is to carry on as per normal of the past with Permit system if required by legislation to purchase and consume Alcohol on the Homeland as per Alice Springs residents.

The occupant's and Traditional Owners of Tywenpe E are prepared to control any known alcohol harm or abuse through their Elders and recently formed Alcohol committee.

Objectives

What does the community want to achieve through their Plan? Objectives should be clear, well defined and unambiguous.

1. Itchy Koo Park has evolved over time, a natural Alcohol Management Plan (AMP). Being comprised of fully employed adults with strong family values, residents of Itchy Koo Park largely self-manage the availability of alcohol, as well as any 'alcohol related damage'.
2. All the adults that do drink alcohol at Itchy Koo Park have had long standing alcohol permits, and therefore, it would be assumed, they were deemed worthy of such a privilege. However, we believe that this is no longer required for the residents of Itchy Koo Park.
3. Over the years there have been many social gatherings and smaller family get-togethers at Itchy Koo Park. There has never been a major incident involving alcohol. If any visitors attend our social gatherings and they are either too intoxicated or turn up with the intention of accessing alcohol from others, they are swiftly put in their place and told to arrange their own supply, or to promptly leave the premises.
4. As mentioned above, the adults that do consume alcohol at Itchy Koo Park, are also fully employed, and therefore like most Australians, enjoy a drink as the end of a working week. This is a self-regulating mechanism, as there is a requirement to be in a work ready state for most of the week. All residents are aware of the dangers of drink driving therefore chose to drink in their own environment as there's no public transport available and taxi is out of the question both financially and physically.
5. Most Friday evenings, many gather with the family matriarch and enjoy a few drinks and a laugh, often returning home before midnight. If there is a significant milestone, such as a birthday or other celebration, the family will gather at the clubhouse for more drinks and a laugh. Having a dedicated clubhouse means that people can attend and leave as they please, and the festivities do not impact on the quiet enjoyment of any residents that choose not to attend. As there is no provision of alcohol, everyone is responsible for their own alcohol.

Governance structure

The Homelands select permanent occupants to be the Alcohol Committee which has Traditional Owner representation and Health practitioners.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

This committee is tasked to lodge Liquor Permit application and report back the whole community at an organised meeting. The community will meet if and when required.

The above listed homeland is a well governed Homeland which has had the now revoked permit system in place since the Northern Territory Commonwealth imposed Alcohol purchase and consumption on Aboriginal prescribed communities (Intervention).

This Homeland is a family group and manages their own internal affairs as a family group and part of this arrangement is alcohol control, and following the agreed CAP.

Since receiving the notice from the Director of Licencing stating all individual liquor permits will be revoked 30 January 2024 (since postponed to 31 March 2024) the family has met and formed an Alcohol Committee to set their own Alcohol Plan in place to conform with the restrictions by law placed on the township of Alice Springs and Aboriginal Communities.

This committee will have the permission to counsel or bar residents from consuming alcohol on the Homelands if they feel consumption of an individual is harming their health, or any alcohol related incidents that require their attention. If needed this committee will confer with authorities in the best interest of all.

Tywenpe E - all residents are clients of CAAC and have regular medical appointments, and furthermore we have registered Health practitioners' as permanent occupants on the Homelands.

Itchy Koo Park will welcome licencing feedback to drive the objectives of the alcohol plan.

Supply measures

A supply measure is defined as any measure associated with the supply of alcohol. For example, a community may wish to:

- retain total prohibition on alcohol under a general restricted area
- allow controlled access to alcohol under a permit system, or through restricting different types and/or quantities of alcohol
- apply for a community club licence
- have no alcohol restrictions (i.e., apply for a revocation of the Interim APA)
- consider its supply management capacity (e.g., police station permanently staffed, community safety plan and committee in place).

Description of the measure <i>What we will do</i>	Responsible <i>Who will do it</i>	Status of the measure <i>How much of it has been done</i>	Action to be taken <i>How we will do it</i>
Apply for GRA	All members	Limits as per the bottle shop purchases	Alcohol committee
Allow a safe quantity of alcohol during family events	All members	Prior to CAP, this was done naturally through strong family structure	All members are drinking responsible and safely
BDR information	Alcohol Committee	Information to be spread to all members	Alcohol committee will contact Alice Springs Police for assistance, if extreme measures are required

Demand reduction measures

A demand reduction measure is defined as any measure that is associated with reducing the demand for alcohol. For example:

- resources and strategies for intervention, detoxification and treatment of dependent drinkers
- education and awareness campaigns or strategies aimed at specific groups to get them to not drink or drink less (e.g. pregnant women or young people) – also referred to as early intervention, proactive and preventative measures
- programs offered by the local health clinic, school or other providers about reducing a person's drinking
- sport and other youth diversion activities
- programs and service which provide alternatives to drinking (cultural camps, sport, music etc.).

Description of the measure <i>What we will do</i>	Responsible <i>Who will do it</i>	Status of the measure <i>How much of it has been done</i>	Action to be taken <i>How we will do it</i>
Community identifying alcohol dependency	Alcohol committee and family	Members have not identified any alcohol dependence. If there is a known issue, the family will support each other with contacting the right services in Alice Springs.	Family intervention in first instance Through local health practitioners working within CAAC ADSCA referral CAAPU or DASA referral
CAAC for general health care	Members	Members are currently supported through CAAC for their medical needs	Use personal transportation to attend appointments
School attendance	Members	Children attending school every day of the term	No consuming alcohol during the weekdays. Transporting children to school using personal vehicles and local school bus service
Free events in Alice Springs	Members	Attending Alcohol free events in Alice Springs	Taking the family out to an event, coming home safely and not consuming alcohol.
Weekend events	Members	Attending sports events every football and netball season	Going to alcohol free events such as watching family play sport, no alcohol is consumed in public areas, which would mean no drink driving and having an alcohol free weekend.
Family outing	Members	Travelling to natural water holes for day trips Family BBQs A harmonious alcohol free outings on country	Members have been visiting sites around CA for many years, planning and preparing is a normal thing to do.

Harm reduction measures

A harm reduction measure is defined as any measure aimed at reducing the harm associated with alcohol to individuals, families and the community. For example:

- support groups
- night and day patrols
- alcohol and other drug treatment and rehabilitation services available in the community (including sobering up shelters, counsellor available)
- women's shelters/safe houses
- resources and strategies for intervention, detoxification and treatment of dependent drinkers
- programs offered by the local health clinic, school or other providers about reducing a person's drinking
- educational and therapeutic interventions about alcohol related violence prevention
- delivery of, and participation in, [Alcohol Action Initiative projects](#).

Description of the measure <i>What we will do</i>	Responsible <i>Who will do it</i>	Status of the measure <i>How much of it has been done</i>	Action to be taken <i>How we will do it</i>
Local knowledge within Homeland	All adults represented by the Homeland Liquor permit	Local knowledge in regard to individual consumption currently being monitored by local health practitioner's resident in Itchy Koo Park	Caring and sharing is a factor of life in this Homeland shall be responsible to care for one another
Residents drinking too much	Alcohol Committee	Regular meetings with residents	Regular Health checks through local AMS every 12 months
Trouble/Aggressive drinkers	Alcohol Committee	Residents to report to the committee	Family intervention in first instance To be placed on the BDR for 12 months
Domestic violence	Alcohol Committee and police report	Residents to report to the committee and the police	DVO/BDR placed on perpetrator for up to 12 months
AAI projects	Members	In consultation with HMU <ul style="list-style-type: none"> • Outdoor Gym Equipment • Movie nights • Campground/Oval • Half-court basketball court • BBQ area 	Consultations with [REDACTED]

Risk assessment

The risk assessment tool should identify, mitigate and reduce risk associated with alcohol-related harm within the community.

Risk	Level of risk	Risk components	Strategies	Actions	Responsibility	Measures
Excessive Drinking	Medium	Health degradation	Keep watch if the risk is obvious	Members are active in monitoring this type of behaviour and intervene if needed	Members/Alcohol committee	Regular attendance at medical centre
Lack of designated drivers	Medium	Accident, injury, or death Loss of licence or jail	Members who drink alcohol at IKP, live at IKP. This eliminates the need to drive on public roads.	Residents encourage staying overnight on the property	All members	Committee to monitor
Loss of cultural identity	Low	Loss of empowerment Loss of knowledge	Promote the importance of culture to all members	Ensure that all members do not prioritise drinking over cultural events or learning	Senior members	Senior members to monitor
Drinking negatively impacts on work	Medium	Loss of income negatively affecting family health and wellbeing	Promote the importance of family, work, and providing for family	Family supporting family	All members	Senior members to monitor
Family relationships	Medium	Relationship breakdown due to alcohol consumption	Promote the importance of family, work, and providing for family	Ensure family stays strong with regular family gatherings and events	All members	Senior members to monitor

Consultation process

Describe the steps taken during the consultation process to ensure that all community members had a chance to fully participate in the development of the Plan.

The development of the Plan must consult with and consider the views of:

- residents of the community, including women, young people and vulnerable people
- representatives of local government for the community
- providers or proposed providers of education and health services, including alcohol and other drugs services, in the community.
- representatives of agencies principally responsible for child protection, justice and police
- businesses or service providers delivering services to the community.
- any stakeholders identified for delivering any of the supply, demand and harm reduction measures listed in the Plan.

This Homeland has met with all Households being present mandatory as all consume Alcohol and the Homeland is family orientated and all contribute to community events and guidelines.

Monitoring

Describe the process for monitoring the supply, demand, and harm reduction measures outlined in the Plan including the indicators used to gauge its success.

This is in the best interest of all, so all Homelands residents are to monitor their for Alcohol consumption with the view of long term Health being an objective.

Family Violence is not tolerated.

Information about the methods used to determine the community's support for the Plan

Describe the steps taken during the election process to ensure that all community members had an opportunity to freely consent whether or not to support the Plan.

Communities with a population exceeding 50 people

For communities with a population exceeding 50 people, the Plan must include:

- the total number of adults who permanently reside in the community, including information as to how that number was determined
- the percentage or number of adults who permanently reside in the community who support the Plan.

All adults on this Homelands support alcohol consumption and purchasing as per Alice Springs township regulations. List of Household and residents attached.

Communities with a population of 50 people or less

For communities with a population of 50 people or less, the Plan must include:

- the total number of adults who permanently reside in the community, including information as to how that number was determined
- the percentage or number of adults who permanently reside in the community who support the Plan
- a document that includes the name and signature of each adult who permanently resides in the community who supports the Plan, provided that this represents at least 60% of the eligible cohort.

Please note a community with a population of 50 people or less may also seek support for the Plan through a ballot process.