



Queensland

Liquor Amendment Regulation (No. 2) 2010

Explanatory Notes for SL 2010 No. 290

made under the

Liquor Act 1992

Short title

Liquor Amendment Regulation (No. 2) 2010 (the amendment regulation).

Authorising law

Sections 173G, 173H and 235 of the *Liquor Act 1992* (the Liquor Act).

Objectives of the legislation

The objective of Part 6A of the Liquor Act is to minimise harm caused by alcohol abuse and misuse and associated violence, and alcohol related disturbances or public disorder in Indigenous communities. Part 6A provides for the declaration of restricted areas and the establishment of liquor possession limits in restricted areas.

Reasons for the subordinate legislation

Since 2002, 19 discrete Indigenous communities have been declared alcohol restricted areas by way of regulation to the Liquor Act, including Wujal Wujal. Alcohol restrictions continue to be a crucial part of government's alcohol management program which aims to reduce alcohol supply to in turn encourage residents to participate in demand reduction

and diversionary activities, enter the available rehabilitation and detoxication programs and improve their quality of life.

Since 2003, the Wujal Wujal Shire area has been subject to alcohol restrictions declared by regulation to the Liquor Act, in order to minimise harm caused by alcohol abuse, misuse and associated violence. Under the regulation alcohol is prohibited in the entire Shire.

Four properties (lots 8, 9 and 10, and lot 12) are located on the southern side of the Bloomfield River in Cairns Regional Council area. These lots do not currently form part of the Wujal Wujal alcohol restricted area.

Lots 8 to 10 are owned freehold by the Wujal Wujal Aboriginal Shire Council (WWASC) and the houses built on the lots are tenanted by Wujal Wujal community members. In practical effect, these three land lots are a part of the Wujal Wujal community and due to the land ownership by the WWASC and cultural beliefs particularly ties to land, Wujal Wujal community members recognise these three lots as being part of their community.

As these lots are not subject to alcohol restrictions like the rest of the community, certain Wujal Wujal residents congregate in the houses and on the riverbanks to consume alcohol within close proximity to the township, particularly wine and spirits. This activity is resulting in significant alcohol related harm on the properties and in the Wujal Wujal Township. Currently, at least 50% of assaults recorded for Wujal Wujal occur as a result of alcohol being consumed on these lots. One third of all reported offences against the person in a 12 month period to March 2010 involved serious offences such as grievous bodily harm, assault with a weapon and sexual assault. The rate of reported offences against the person occurring in Wujal Wujal (59.7) is well above the 2008/2009 Queensland expected rate per 1000 people (7.1). While the majority of evidence is for harm occurring in the houses on these lots, due to the low lying topography and community ownership, it is highly likely residents will simply walk the extra few metres along the river to drink on lots 8 and 9 if only lot 10 were included in the restrictions.

It must be recognised that the tenants did not necessarily commit all the offences as kin and friends from the main township use these houses to bypass the alcohol restrictions. The Queensland Police Service (QPS) is unable to stop people carrying alcohol to these land lots as they are outside the restricted area. The amendment regulation extends the alcohol

restricted area to include community members living in Wujal Wujal; however, outside the Wujal Wujal restricted area.

The amendment regulation is in response to the request of the land lots' owner, the WWASC, to include these lots in the restricted area in order to minimise this alcohol related harm. The Wujal Wujal Warranga Community Justice Group (CJG) fully supported WWASC's request. The amendment regulation will expand the current restricted area boundary for the Wujal Wujal community to include land lot 8 on plan RP903515, lot 9 on plan RP903516 and lot 10 on RP903517, the adjacent foreshores and all roads, tracks and proposed roads that travel through or bound these land lots.

A privately owned block of land (lot 12 on plan BK15783) will be surrounded by the current restricted area and the new extension to the restricted area. It should be noted that lot 12 has not been excluded from the restrictions; merely the amendment regulation does not extend the restricted area to lot 12. The reason for this is that Lot 12 is not currently recognised as part of Wujal Wujal community area and there is no evidence of alcohol related harm occurring either at this property or in the township as a result of alcohol consumption at lot 12. There are two owners currently living on lot 12; one near the Esplanade at the western boundary of the property adjacent to the Bloomfield River and the other on the ridge top near the eastern boundary of the property.

Under section 168B(3A) of the Liquor Act roads and public facilities can be prescribed by regulation to allow travellers to pass through a restricted area with alcohol in their vehicles provided they adhere to several conditions. Conditions include that the traveller must be able to prove their final destination is not Wujal Wujal and must not consume the alcohol or remove it from the vehicle while in the restricted area. The Wujal Wujal community derives economic and employment benefits from the tourism industry in the region; therefore, the amendment regulation prescribes the Bloomfield Road and the new Arts and Cultural Centre car park as a road and public facility where the 'bona fide traveller exemption' applies.

The amendment regulation also prescribes two access roads to allow the Lot 12 owners and their bona fide visitors to access their property via the restricted area. The first access road is part of the Esplanade adjoining lot 12, which leads from the Bloomfield Road to the riverside house on lot 12. The second access road leads from the Zig Zag Track, which is the eastern boundary of the Wujal Wujal Shire area, to the ridge top house on lot 12.

The amendment regulation also makes a technical amendment to the Kowanyama restricted area regulation to change the name of part of the included national park, which as a result of a native title determination has been renamed as the Errk Oykangand National Park (Cape York Peninsula Aboriginal Land).

Consistency with authorising law

The amendment regulation is consistent with Part 6A of the Liquor Act, which provides for declaring a restricted area by way of regulation. Section 173G(1) of the Liquor Act states that an area can be declared a restricted area for the purpose of minimising harm caused by alcohol abuse and misuse and associated violence. Without limiting section 173G(1), section 173G(2) states that a community area, or part of a community area, may be declared to be a restricted area with the quantity of a type of liquor that a person may have in possession in the restricted area (s 173H) also prescribed in the regulation. Therefore the extension of the Wujal Wujal restricted area is not limited to a community area and is able to be undertaken.

Estimated cost of government implementation

Any expenditure associated with the implementation of the regulation will be met through existing budget allocations.

Fundamental legislative principles

The proposed regulation is consistent with fundamental legislative principles.

Consultation

(a) Community

An extensive community consultation process was undertaken for Wujal Wujal including a community visit in June 2010. In particular, consultation has been undertaken with the WWASC, CJG and all owners and head tenants of houses on the affected land lots. The owners of lot 12 have been consulted on the submission.

(b) Government

Consultation has occurred with the Departments of the Premier and Cabinet, Communities (including ATSI, Child Safety and Housing Management branches), Environment and Resource Management, and Infrastructure and Planning, and the Queensland Police Service. The Office of the Queensland Parliamentary Counsel has drafted the amendment regulation. The Cairns Regional Council was also consulted as the local government authority for the affected land lots.

Results of consultation

(a) Community

The WWASC provided its unanimous support and the CJG also supported the extension of the alcohol restricted area boundary to include lots 8, 9 and 10. It should be noted that the WWASC and CJG have been requesting this boundary extension for some time and have always fully supported the proposal. All head tenants of the affected houses also support the extension.

(b) Government

All Government agencies consulted support the recommendation to extend the Wujal Wujal alcohol restricted area boundary to include land lots 8, 9 and 10. The Cairns Regional Council consented to the inclusion of the land lots in the restricted area.

NOTES ON PROVISIONS

1 Short title

Section 1 provides for the short title of the amendment regulation.

2 Commencement

Section 2 provides for the amendment regulation to commence on 15 November 2010.

3 Regulation amended

Section 3 outlines the regulation to be amended.

4 Amendment of sch 1F (Wujal Wujal)

Sections 4 to 7 extend the alcohol restricted area boundary for Wujal Wujal and prescribe several roads and public facilities where section 168B(3A) applies.

Section 4 extends the restricted area boundary to include:

- land lot 8 on RP903515;
- land lot 9 on RP903516;
- land lot 10 on RP903517;
- all roads which pass through or bound the land lots;
- all proposed roads which pass through or bound the land lots;
- the foreshores on the southern side of the Bloomfield River between the boundaries of lot 42 on SR837 which is also the existing restricted area boundary; and
- the Bloomfield Crossing.

Section 5 prescribes a significant road used by tourists.

Section 6 prescribes roads to allow access to lot 12 on plan BK15783.

Section 7 prescribes car park facilities in order to not impede tourism in Wujal Wujal.

5 Amendment of sch 1G (Kowanyama)

Section 8 makes a technical amendment which updates the names of the national parks included in the Kowanyama restricted area, which have been renamed as a result of a native title determination.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Employment, Economic Development and Innovation.

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