

Liquor (Kowanyama) Amendment Regulation 2020

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Shannon Fentiman, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence provide this human rights certificate with respect to the *Liquor (Kowanyama) Amendment Regulation 2020* (Amendment Regulation) made under the *Liquor Act 1992* and *Statutory Instruments Act 1992*.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation temporarily extends the increased alcohol carriage limit in the Kowanyama restricted area and waives the fee payable by the Kowanyama Sport & Recreation Association Incorporated (Kowanyama Club) for a community liquor permit until 30 June 2021.

Under sections 173G and 173H of the *Liquor Act 1992*, a regulation may declare a restricted area and prohibit a person from possessing more than the quantity of liquor prescribed in the *Liquor Regulation 2002* for the area. The Kowanyama Aboriginal community is a restricted area prescribed under Schedule 1G of the *Liquor Regulation 2002*. Ordinarily, a zero-alcohol carriage limit applies in Kowanyama (i.e. persons are prohibited from having alcohol in their possession in the area). The Kowanyama Club is currently authorised to sell liquor from its premises, for consumption on the premises, under the authority of a restricted liquor permit. A restricted liquor permit does not authorise takeaway liquor sales.

On 5 June 2020, the *Liquor (Kowanyama and Pormpuraaw) Amendment Regulation 2020* commenced. It established a temporary alcohol carriage limit in the Kowanyama community of 2.25 litres of liquor (the equivalent of 6 x 375ml cans), with an alcohol concentration of less than 4% alcohol by volume.

In conjunction with this change, the Commissioner for Liquor and Gaming granted a community liquor permit to the Kowanyama Club, which allows it to sell takeaway liquor until 31 December 2020. The *Liquor (Kowanyama and Pormpuraaw) Amendment Regulation 2020* also inserted Part 10 (Provisions for COVID-19 emergency) into the *Liquor Regulation 2002* which, among other things, waives the fee for the Kowanyama Club's community liquor permit (\$72.95 for each day of an event or occasion) for the duration of its operation.

These changes were made following closures and restrictions imposed in Kowanyama in response to the COVID-19 public health emergency. The changes are temporary and will expire on 31 December 2020. Accordingly, on 1 January 2021, the alcohol carriage limit in Kowanyama will revert to zero.

The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DATSIP) has advised ongoing renovations at the Kowanyama Club will prevent on-premises consumption of alcohol due to safety reasons. Because of delays related to a shortage of materials and labour, an extension for completing the refurbishment has been granted until 8 March 2021. As the upcoming wet season may result in further delays, the Kowanyama Club has requested that a further extension be granted until 30 June 2021.

The Kowanyama Aboriginal Shire Council has raised concerns with DATSIP that, should the alcohol carriage limit return to zero with no alcohol consumption allowed at the Kowanyama Club, this would likely cause violence and the influx of ‘sly grog’ back into the community.

To address these concerns, the Amendment Regulation amends Schedule 1G of the Liquor Regulation to continue the temporary carriage limit in the Kowanyama community of 2.25 litres of liquor (the equivalent of 6 x 375ml cans), with an alcohol concentration of less than 4% alcohol by volume, until 30 June 2021. The amendments ensure that the alcohol carriage limit will return to zero on 1 July 2021.

The Amendment Regulation also waives any fees for a community liquor permit (which facilitates takeaway sales) otherwise payable by the Kowanyama Club from 1 January 2020 to 30 June 2021.

Human Rights Issues

No human rights have been identified as being engaged or limited by the *Liquor (Kowanyama) Amendment Regulation 2020*.

Conclusion

I consider that the *Liquor (Kowanyama) Amendment Regulation 2020* is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

SHANNON FENTIMAN MP
Attorney-General and Minister for Justice,
Minister for Women and
Minister for the Prevention of Domestic and Family Violence