

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

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| PREMISES: | GOLDFIELDS HOTEL |
| LICENSEE: | GOLD TENNANT PTY LTD |
| LICENCE NUMBER: | 80102538 |
| NOMINEE: | Wayne Stephens |
| PROCEEDING: | Complaints pursuant to s.48(2) of the <i>Liquor Act</i> |
| COMPLAINANT: | Sgt Christopher Smith |
| CORAM: | Mr John Withnall (Chairman) |
| DATE OF HEARING: | 21 September 2004 |
| DATE OF DECISION: | 22 September 2004 |
| APPEARANCES: | Mr A Dixon, for the Complainant Mr T Svikart, for the Licensee |

1. Three police complaints against the Goldfields Hotel proceeded by way of the licensee's agreement with the police precis tendered in relation to each complaint.
2. Although dated 31 December 2003, the complaints were not received by the Deputy Director of Licensing (South) until 31 March 2004. At its June meeting the Commission determined to hold a hearing on 17 August 2004, deferred to 21 September 2004 at the request of the licensee.
3. The essence of the complaints was as follows:

04 Dec 03: an intoxicated 16 year old minor was served a can of beer in one of the bars at 8.50 pm, not leaving the hotel until 10.30 pm by which time he was in such a state of collapse as to need being taken into protective custody;

18 Dec 03: a patron who had been refused further service at the Sporties Club at about 4.30 pm because of his intoxication was served with a can of beer at 6.30 pm at a Goldfields bar, and with several further cans of beer ten minutes

later. While consuming the first can he had been observed by police continually bumping into people and leaning on various objects for support;

23 Dec 03: a pedestrian was served in the bottleshop with two bottles of port while he was in such an intoxicated condition as to require being taken into protective custody.

4. There were some unresolved oddities in relation to the police summaries:

Re complaint 1: Although two Aboriginal Community Police Officers established the intoxication of the known minor by observing and speaking with him on the premises at 8.50 pm, he seems to have been left to remain on the premises, apparently to continue drinking there until next sighted leaving the premises at 10.30 pm in an obviously advanced state of intoxication.

Re complaint 3: The written response of the licensee to the notified allegations was to reproduce the bottleshop attendant's response which was seemingly referring to a different named patron making a different liquor purchase.

5. However, the matter proceeded without contest on any critical facts, with the three breaches being admitted.
6. Current nominee Mr Wayne Stephens gave evidence in mitigation.
7. The current licensee company purchased the hotel business in October 2003. Mr Stephens was part of that corporate investment. The investment was originally run from South Australia through local managers. After recognition of communicative difficulties with problematic management, Mr Stephens and his wife moved to Tennant Creek in mid-January 2004 to personally take over the management of the premises.
8. After enforcing necessary changes to various endemisms, and a complete change of staff later, Mr Stephens now enjoys an obvious level of police support for his management practices, to the point where some police now patronise the Goldfields themselves with their families, a situation which Mr Dixon on behalf of the complainant acknowledges would hitherto have been difficult to envisage.
9. The complainant acknowledges the managerial sea change effected by Mr Stephens. Mr Dixon notes that public drunkenness and anti-social behaviour emanating from the operation of the hotel has reduced, and the complainant's position is to recognise that Mr Stephens has rendered a marked improvement to the way in which the Goldfields now operates.
10. It is this testament from the complainant that saves the corporate licensee from a heavy suspension. If an interstate hotel operator elects to seek profit in a notoriously problematic Territory environment, it is hardly any excuse to plead the difficulty of remote control. The choice of business enterprise came with appurtenant obligations in terms of the regulatory regime.

11. A bundled penalty for the three complaints of at least four days suspension of licence was the minimum the licensee could have expected had it not acted as swiftly and effectively as the complainant concedes has been the case.
12. However, I agree with Mr Dixon that it is not just a matter of personal deterrence, and that issues of general deterrence require the recording of a suspension of licence for such a collection of breaches of the *Liquor Act*.
13. Noting Mr Dixon's instructions that the complainant would not be averse to a suspension of any licence suspension, I make the following determination.
14. Pursuant to s.66(1)(b) of the *Liquor Act* the Commission is satisfied that the licensee's contraventions of the *Act* as complained of are of such gravity as to justify the suspension of Licence No. 80102583 for four trading days, which is to say that the licence will not permit any trading in liquor during the course of such suspension. Because of the bundling of the complaints I make no distinction between bottleshop and bar areas.
15. The Commission will defer the suspension, such that notification of dates on which the suspension is to take effect will not be given unless any further complaint may be upheld in relation to the licensed premises which involves a contravention of a licence condition or provision of or direction given under the *Liquor Act* (or any substituted legislation), and which first comes before the Commission within a period of twelve months from today.
16. What this means is that if no further complaints in relation to the Goldfields Hotel have been forwarded to the Commission by 22 September 2005, then this matter will be at an end. If however any complaint against the licensee or nominee in relation to the operation of the licensed premises comes before the Commission before 22 September 2005 and is subsequently upheld against the licensee or nominee as constituting a breach of the *Liquor Act* (or any substituted legislation) or of any licence condition or formal directions, then in addition to whatever penalty may be imposed in relation to the further complaint, the Commission may also notify dates for the suspension of licence hereby imposed to be served in relation to this present matter.
17. It is perhaps timely to point out to Mr Stephens that the Deputy Director of Licensing in Alice Springs would appear to be currently able to lodge a complaint to the Commission in relation to the directions given by the previous Chairman by recorded decision at Tennant Creek on 25 February 2004. I would suggest to Mr Stephens that his legal representatives liaise with Mr McIntyre as a matter of some urgency.

John Withnall
CHAIRMAN
22 September 04