

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Complaint pursuant to section 160 of the <i>Liquor Act 2019</i>
LICENSEE:	SGRD Pty Ltd
PREMISES:	Bojangles Saloon and Dining Room
LICENCE:	80102200
LEGISLATION:	Part 7, Division 3 of the <i>Liquor Act 2019</i>
DECISION OF:	A/Senior Director Liquor – Licensing and Compliance
DATE OF DECISION:	25 September 2024

DECISION

1. For the reasons set out below as a delegate of the Director of Liquor Licensing (the Director), I upheld a complaint against the licensee, SGRD Pty Ltd (the licensee) had on 22 June 2024 had breached the *Liquor Act 2019* (the Act) by:
 - a. Failing to remove a person who was incapable of controlling their behaviour contrary to section 141(1) of the Act.
2. Upon completion of the investigation into the complaint, I am satisfied that the following action should be taken:
 - a. Pursuant to section 163(1)(b) of the Act give the licensee a formal warning in relation to the complaint.

REASONS

Background

3. SGRD Pty Ltd (the licensee) is the holder of liquor licence FLL1509 (the licence) for premises known as “Bojangles Saloon and Dining Room”, situated at 80 Todd Street, Alice Springs (the premises). The nominee is Ms Pearl Randhay.

4. The licence is issued with the following authorities:
 - public bar authority
 - late night authority (from 12 midnight to 2am)
5. Section 141 of the Act imposes an obligation on a licensee to exclude and remove from the licensed premises any person who is violent, quarrelsome, disorderly or incapable of controlling the person's behaviour, other than a person residing in or lodging at residential accommodation on or in the licensed premises.
6. On 22 June 2024, inspectors attended the premises to conduct compliance activity as a part of daily compliance operations within the Alice Springs town precinct.
7. At approximately 2310 hours, inspectors observed a male patron near the dance floor lying face down on the ground.
8. The person was helped to his feet by companions and crowd controllers then removed from the premises.
9. The person required assistance in doing this and was supported by companions.
10. Inspectors then observed the person being assisted walking in a southern direction along Todd Street requiring assistance and walking with a significantly impaired gait.
11. Consequently, inspectors requested footage from the premises to conduct an investigation into the background of the person and the incident, which was provided by the licensee.

THE COMPLAINT

12. On 18 July 2024, an inspector lodged a complaint with the Director pursuant to section 160 of the Act, the grounds for the complaint being pursuant to subsection 160(1)(b) in that:
 - (b) The licensee or the licensee's employee contravened another provision of this Act of the regulations, whether or not it constitutes an offence.
13. The complaint was in the approved form specifying the grounds for the complaint, was signed and lodged with the Director in compliance with the requirements of section 160(2) of the Act.

14. A delegate of the Director accepted the complaint on 18 July 2024 within the 14 day prescribed period, and the licensee was given a notice of the substance of the complaint in compliance with section 162(1) of the Act within the prescribed period, and invited them to provide a response to the complaint.
15. Upon receipt of the complaint Ms Randhay requested a meeting with the Southern Region Manager – Liquor and Compliance to discuss the matter and other general issues.
16. A meeting was subsequently held between Ms Randhay and Mr Rupinder Singh, the owners and operators of the premises and representatives of the Director.
17. During that meeting parties discussed the incident in detail, and it was obvious the licensee had conducted an in-depth review of the footage and incident prior to the meeting which is evidence of the level of seriousness the licensee has applied to these matters.
18. The licensee outlined strategies that had been put in place to better monitor the potential decline in a person's behaviour, and masking issues which are well-known and intended by patrons to prevent detection as they become further intoxicated.
19. It is acknowledged patrons in order not to be detected to avoid removal or obtain service whilst intoxicated go to great lengths to mask their behaviour and apparent level of intoxication. This applies not only to on-premises licences but off-premises licences.
20. The licensee correctly acknowledges their obligation notwithstanding the difficulty that is associated with ensuring compliance.
21. The licensee has been forthcoming and provided full assistance to the Director in conducting the investigation into this matter, and this is greatly appreciated and should be acknowledged.
22. The discussions with the licensee and the Director's representatives in relation to this matter were likewise open and forthright, providing comfort to the Director the licensee identifies these issues and seriousness of the matter and has in place strategies to mitigate future potential issues of this nature.
23. Once the incident had been observed by the licensee they acted appropriately and removed the person from the premises as required, also offering assistance which was refused as the person had companions to support them.
24. Although the licensee acted appropriately once it was detected the person was on the ground, a review of the footage throughout the evening demonstrates occasions where observations could have been made and actions taken, to prevent the eventual incident.
25. Apparent to all is the need for greater vigilance in making observations of patrons who have been on the premises for significant periods, and those who may be sitting quietly making detection as to their level of intoxication more difficult.

26. Again, it is a testament to the licensee that they have of their own volition undertaken a detailed review of the matter and put in place additional strategies to combat these issues in the future. Accordingly, they should be congratulated for these actions and afforded the benefit of them in any disposition made.

COMPLIANCE HISTORY

27. The licensee has not been the subject of disciplinary action since being granted the licence in June 2022.

ACTION AFTER INVESTIGATION

28. On completion of the investigation, as a delegate of the Director I may do any of the following:

- Take no further action if satisfied that there are no grounds or evidence to justify taking further action, or the matter does not warrant taking further action;
- Give the licensee a formal warning in relation to the complaint;
- Mediate the complaint;
- Issue an infringement notice in relation to the complaint;
- Enter into an enforceable undertaking with the licensee; or
- Refer the matter to the Commission for disciplinary action.

29. On considering the materials it is reasonable to believe, this matter may be taken to fall within the lower scale of seriousness and the licensee has taken suitable remedial actions to prevent further occurrences.

30. On the basis of the above and applying the principles of proportionality, parity and deterrence, the appropriate action to take is to issue a formal warning to the licensee in relation to the complaint.

31. Again, the Director thanks the licensee for their candour and the co-operation they have provided in relation to this matter and congratulates them for the manner in which they have dealt with it.

32. Within 14 days of making this decision the Act requires the complainant, licensee and the Commission to be given a copy of the notice.

REVIEW OF DECISION

33. As a decision of a delegate of the Director, this notice must state the decision and reasons for it, as well as advise an affected person of their right to seek a review of the decision and the manner in which it may be done.
34. Section 27 of the Act provides for a licensee or the complainant to seek a review of the decision within 28 days after the written notice is given to the person, and the application must be in the approved form and state the grounds for the review, and the facts relied upon to establish the grounds.
35. Accordingly, the affected persons in relation to this decision are SGRD Pty Ltd and the relevant inspector.



Mark Wood
A/Senior Director Liquor – Licensing & Compliance
Delegate of the Director of Liquor Licensing

25 September 2024