

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Golf Links Motel
Licensee:	Territory Earley Brothers Pty Ltd
Licence Number:	8021864
Nominee:	Mr Braedon Greer Earley
Proceedings:	Hearing to Consider a Material Alteration to the Golf Links Motel licensed Premises in accordance with Section 119 of the <i>Liquor Act</i> , to allow the Sale of Alcohol from the External Bar area and to allow Patrons to Consume Alcohol in the Outside Courtyard and Pool Area of the Premises in Accordance with Current Licence Conditions
Members:	Mr Richard O'Sullivan (Chairman) Mrs Kerri Williams Ms Jane Large
Date of Hearing:	14 July 2008

Background

1. Between 4 August 2005 and 9 August 2006 a series of complaints against the Golf Links Motel were received by the Director of Licensing and the Northern Territory Licensing Commission from residents of Raffles Plaza. The complaints related to noise, raucous behaviour and drunkenness in the outside bar area of the Golf Links Motel.
2. At a hearing on these complaints on 5 March 2007 it was agreed by all parties that Special Conditions be included in the Golf Links Motel's liquor licence relating to the times when the outside bistro area would be closed.
3. The revised conditions were:

"Bona Fide Lodgers

- (i) *Subject to paragraph (ii) hereof, liquor shall be sold at any time to bona fide lodgers of the premises or invited guests of the ledger, (in the presence of the lodger), for consumption on the premises.*
- (ii) *Liquor shall be sold for consumption away from the premises to bona fide lodgers only during the above hours through the provision of room service.*
- (iii) *Subject to paragraph (iv) the outside bistro area is to be closed to all persons outside the hours of 07:30 and 22:00 Monday to Friday and 08:00 and 22:00 Saturday and Sunday.*
- (iv) *Staff access to the outside bistro area for cleaning, set-up, clean-up and maintenance purposes will be confined to the hours 07:00 to 22:30 Monday to Friday and 07:30 to 22:30 Saturday and Sunday save in an emergency.*
- (v) *The roller door between the bar in the outside bistro area and the restaurant and the door from the restaurant to the outside bistro area, shall be closed between the hours 22:00 and 07:30 Monday to Friday and 22:00 and 08:00 Saturday and Sunday, subject to (iv) above."*

4. During the investigations conducted for the above Hearing it was discovered that the outside bar did not conform with the approval given previously by the Licensing Commission. Instead of a temporary bar being constructed which was to be removed during the "wet" season each year a permanent bar had been erected and had never been removed during the previous three "wet" seasons. The Licensee was advised by the Director of Licensing that in order to obtain approval for a permanent material alteration and to avoid action under Section 120 of the *Liquor Act* ("the Act") the following documents were to be provided to the Licensing Commission:
- A copy of the plans for the outside bar annotated as approved by the Development Consent Authority;
 - A copy of the Certificate of Occupancy for the Golf Links Motel issued by the building certifier after the constructions of the bar was completed.
5. At a Hearing of the Commission on 20 February 2008 the Licensee provided the Building Permit, all Building Inspection Reports, Engineer Reports and Occupancy Permit. The planning approval by the Development Consent Authority (DCD) was not provided and evidence was given by Mr Lesh, Manager of Urban Planning, Department of Planning and Infrastructure that the building was a non compliant construction as DCA approval was required prior to a Building Permit or Occupancy Permit being issued. The Commission found that whilst the material alteration was outside the scope of the approval given by the Commission and did not have all the required planning approvals there was little to be gained in making an order that the outside bar should be removed from the licensed premises and determined:
- "The external bar that has been constructed in the Pool Area of the Golf Links Motel licensed premises is to be closed immediately and not opened for the sale of alcohol or any other operation related to sale or dispensing of alcohol until the required planning/building/occupancy permits are obtained which make this bar compliant with the laws of the Territory;*
- Upon receipt of the required planning/building/occupancy documents the Licensee shall submit all documents to the Director of Licensing, together with an application to the Licensing Commission for consideration and decision on the retrospective approval for the material alterations to the licensed premises and approval to re-open the external bar."*
6. On 8 July 2008 Mr Braedon Earley, Owner/Manger of the Golf Links Motel forwarded a copy of the DCA's approval to use and develop land for the purpose of hotel/bar extension to existing motel and applied for retrospective approval to have the permanent bar structure located on the premises and to allow the sale and supply of alcohol from the bar area and to allow patrons to consume alcohol in the outside courtyard and pool area of the premises in accordance with the current licence conditions.

Consideration of the Issues

7. The planning and building approvals have not been obtained in the right order but this has not been entirely the fault of the Licensee. It is difficult to comprehend how the errors occurred but clearly Building Permit #13 approved by the Northern Territory Government and the Occupancy Permit, certified by the Building Certifier, Irwin Consult Pty Ltd were all issued without the necessary planning approval from the Darwin Consent Authority. Now all the required approvals for the construction of a permanent bar in the outdoor bistro area of the Golf Links Motel are in place. The application complies with Section 119(2) of the *Liquor Act* and since the bar has been in place and operating since 2004 there appears little point in causing a notice of the application to be published. Therefore the Commission finds that approval should be given for the permanent bar structure located on the licensed premises, Golf Links Motel.

8. An examination of the liquor licence conditions that relate to hours of operation of the external bar were agreed by previous complainants against the Motel. It appears that the Licensee complied with them during the period 5 March 2007 and 20 February 2008 without any further complaints from the residents in the neighbourhood and it is reasonable that the bar should be re-opened to allow the sale and supply of alcohol from the bar area with consumption of alcohol in the outside courtyard and pool area, known as the "outside bistro area" of the premises.
9. The Commission has noted an anomaly in the licence conditions in that whilst the external bar in the outside bistro area is to be closed at 22:00 hours the light entertainment condition allows other than amplified music and entertainment to continue in this area until 22:30 hours. For the purposes of consistency in alleviating noise in the outside bistro area all music and entertainment should cease at 22:00 hours.

Decision

10. The Commission approved:

- (i) the material alteration of a licensed premises namely, a permanent bar structure located in the outside bistro area of the Golf Links Motel;
- (ii) the sale and supply of alcohol from the bar area and the consumption of alcohol in the outside bistro area of the premises in accordance with current licence conditions;
- (iii) the Light Entertainment Condition relating to the outdoor bistro area should be amended to read as follows:
 - (c) Any other music or other entertainment in the outdoor bistro area of the Golf Links Motel:
 - (i) shall not exceed a LAEQ level of 60 decibels at the boundary of the licensed premises; and
 - (ii) shall cease at 22:00 hours.

Richard O'Sullivan
Chairman

July 2008