

## Delegate of the Director of Liquor Licensing

### Amended Decision Notice

---

<b>MATTER:</b>	Complaint pursuant to section 160 of the <i>Liquor Act 2019</i>
<b>LICENSEE:</b>	S&J George Pty Ltd
<b>PREMISES:</b>	The NT Rock Bar
<b>LEGISLATION:</b>	Part 7, Division 3 of the <i>Liquor Act 2019</i>
<b>DECISION OF:</b>	Delegate of the Director of Liquor Licensing
<b>DATE OF DECISION:</b>	25 February 2025

---

### DECISION

- For the reasons set out below as a delegate of the Director of Liquor Licensing (the Director), I upheld a complaint against the licensee, S&J George Pty Ltd (the licensee) or an employee of the licensee had breached the *Liquor Act 2019* (the Act) on 22 October 2024 by:
  - selling liquor to another person and that person was in the licensed premises and was intoxicated, contrary to section 285(1) of the Act; and
  - failed to remove a person who was disorderly, contrary to section 141(1) of the Act.
- Upon completion of the investigation into the complaint, I am satisfied grounds for disciplinary action exist and the following action should be taken:
  - Pursuant to section 163(1)(d) issue the licensee an infringement notice of 5 penalty units (\$925.00) in relation to the complaint.
  - Take no further action in relation to the fail to remove a person.

### REASONS

#### Background

- S&J George Pty Ltd is the holder of liquor licence 80818127 (the licence) for the premises known as The NT Rock Bar, situated at Shop 2, 78 Todd Street, Alice Springs NT 0870. The nominee is Jolyon William George.
- The licence is issued with the following authorities:
  - Restaurant bar authority
  - Late night authority

5. Section 285(1) of the Act specifies a person commits an offence if the person is a licensee or a licensee's employee and the person intentionally sells or otherwise supplies liquor to another person who is on the licensed premises and is intoxicated and the employee is reckless in relation to those circumstances.
6. Section 141(1) of the Act specifies a licensee and the licensee's employees must 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.
7. On 22 October 2024, inspectors observed a female who appeared intoxicated sitting on the ground in the entrance area to the NT Rock Bar.
8. As a result of their observations the inspectors requested footage from the premises to conduct an investigation into the prior movements of the person they had observed at the front of the premises.
9. A review of CCTV footage was conducted and depicted the person presenting to the premises for entry at 11:48 hours. She appeared unsteady on approach, and after engaging with a staff member slightly stumbled upon entry and presenting to the bar for service.
10. The female is observed through the CCTV to be on the premises for approximately 60 minutes.
11. A further review of the CCTV shows the person purchasing a jug of beer from the bar and is seated at a table positioned in front of the bar sharing the contents of the jug with three other patrons.
12. After 20 minutes the person is observed to relocate to the outdoor area and is visibly unsteady and stumbled as she approached the doorway of the outdoor area.
13. The person remained in the outdoor area for approximately 25 minutes before being approached by a staff member for removal at 12:39 hours.
14. The person appears to resist removal initially, eventually departing without incident at 12:44 hours in an unsteady manner.
15. Following removal the person is observed in the CCTV loitering around The NT Rock Bar and Bojangles entrances for a further 30 minutes, continuing to display signs of intoxication such as being unsteady on her feet and unable to maintain normal composure.
16. A subsequent attempt to re-enter the premises was refused, with the person being observed to fall over in the lineup area of the premises at 12:57 hours.
17. Staff of the licensed premises promptly rendered assistance, sitting the person upright and providing water. At 13:09 hours the person is observed attempting to stand up and is assisted by a Crowd Controller, she further loiters before departing the area at 13:15 hours.
18. A review of the CCTV supports the opinion the person was displaying signs of intoxication when entering the premises at 11:48 hours and should not have been permitted to purchase or consume liquor on the premises. The premises does not appear to be busy at the time and with staff frequently circulating the premises it is reasonable in the circumstances that the person's behaviour should have been assessed for removal prior to this time.

19. The licensee maintains the person was not considered intoxicated before being permitted entry to the premises and upon staff later identifying the female as intoxicated, she was asked to leave the premises.

## THE COMPLAINT

20. On 16 December 2024, an inspector lodged a complaint with the Director, the grounds for the complaint being pursuant to section 160(1)(b) of the Act in that:
- (b) The licensee or the licensee's employee contravened another provision of this Act or the regulations, whether or not it constitutes an offence.
21. 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.
22. A delegate of the Director accepted the complaint on 17 December 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 to provide a response to the complaint.
23. On 17 December 2024, the licensee provided a response to the complaint submitting they were able to identify the person as they are known to him personally also, as someone in his opinion who can become intoxicated quickly and normally walks in an unsteady manner due to hip and foot problems.
24. Additionally, the licensee submits the person is known to ingest Pituri/Minkulpa (native tobacco mixed with ash) which may have been a contributing factor to their quick deterioration.
25. I have no evidence to refute the submission of the licensee in relation to the person's use of Pituri/Minkulpa however, section 5 of the Act provides a meaning for the word "intoxicated" which includes a belief the person's impairment results from the person's consumption or use of liquor *or a drug* (emphasis added).
26. The licensee submits the female was not considered intoxicated before being permitted entry to the premises and upon staff later identifying the female as intoxicated, she was asked to leave the premises.

## DISCIPLINARY ACTION

27. 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.
28. In determining an appropriate disposition in this matter I am required to apply the principles of proportionality, parity and deterrence.
  29. The disciplinary action must be proportionate to the seriousness of the contravention and the harm arising, or potential for harm as a result of these matters.
  30. Having regards to previous like matters, the objective level of seriousness, the licensee's submission and work to prevent future occurrences, along with previous penalties imposed for other matters, I have determined the appropriate action to take against the licensee is to issue an infringement notice for the first matter and take no further action in relation to the fail to remove a person.
  31. Within 14 days of making this decision the Act requires the complainant, licensee and the Commission to be given a copy of the notice.
  32. The licensee is placed on notice that future matters of this nature may result in an escalation of penalties.

## REVIEW OF DECISION

28. Section 27(1) of the *Liquor Act 2019* provides that an affected person for a delegate decision may apply to the Director for a review of the decision.
29. Section 27(2) of the *Liquor Act 2019* sets out the procedures for applying for a review of a delegate decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person unless the Director extends the time allowed for making an application.
30. The affected persons in this matter are the licensee of The NT Rock Bar and the relevant inspector.



**Mark Wood**

Delegate of the Director of Liquor Licensing

27 February 2025