

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Walkabout Tavern Westral Street Nhulunbuy NT 0880
Licensee:	Gove & Beyond Pty Ltd
Licence Number:	80316140
Proceedings:	Hearing to Consider a Complaint Alleging that the Licensee Breached Section 110 of the <i>Liquor Act</i> , by Failing to Supply CCTV Footage
Members:	Mr P Timney (Presiding Member) Mr D Brooker Mrs J M Large
Attendees:	Mr S Holehouse, Licensing Inspector for the Director of Licensing Mr T Weldon, General Manager, Walkabout Lodge and Tavern for the Licensee Sergeant Robert Gordon ACPO Melonie Baird
Date of Hearing:	17 March 2011

Background

- 1) On 17 December 2010, Aboriginal Community Police Officer Melonie Baird, made a verbal request of the Duty Manager at the Walkabout Tavern for a review of the CCTV footage following a complaint that a patron had been assaulted on the premises of the Walkabout Tavern. Later she was advised by the Duty Manager that he had reviewed the footage and it did not show any sign of a domestic dispute. On 20 December 2010, a formal written request was issued to the Walkabout Tavern for the CCTV footage by Northern Territory Police.
- 2) On 31 December 2010, fourteen days after the initial request for the footage, Police had not received the requested CCTV footage and due to the expiration of fourteen days the footage was no longer available.
- 3) A Special Condition included in the Walkabout Tavern's liquor licence states:
"Camera Surveillance Requirement The Licensee shall comply with such requirements for and in relation to camera surveillance as the Commission shall at any time notify to the Licensee in writing as being thereafter applicable to the licensed premises."
- 4) In October 2009, the Northern Territory Camera Surveillance Requirements and Guidelines were issued to all Licensees and included the following requirement:
"3.5 Access to, and copies of, recordings from the camera surveillance system are to be made available to NT Police and Licensing Inspectors upon request."
- 5) A complaint was lodged with the Director of Licensing alleging a breach of the Special Condition included in the Walkabout Tavern's Liquor Licence, namely the failure to supply CCTV footage upon request from Police.

- 6) The Licensee of the Walkabout Tavern was notified on the complaint on 11 January 2011 and provided a letter of response on the 18 January 2011 through Mr Tony Weldon, General Manager, who explained that he had investigated the matter and he accepted the facts outlined in the complaint with one exception. Namely, the staff member involved in the verbal request was under the impression that he had satisfied the Police request by viewing the footage and giving them a statement as to what was on the footage. In regards to the written request, Mr Weldon apologised and explained that due to personal problems the previous nominee for the premises had "dropped the ball".
- 7) A Hearing into the matter was set down for Thursday 17 March 2011.

The Hearing

- 8) The facts were read by Inspector Holehouse on behalf of the Director of Licensing and agreed by Mr Weldon for the Licensee. Inspector Holehouse tendered the Camera Surveillance Plan for the premises and a letter from the Nominee, Mr Tourish. In his letter Mr Tourish reiterated what had been provided by Mr Weldon but also requested that the Commission take into consideration the good efforts of the Licensee in cooperating with all Northern Territory Authorities and their committed "track record" in improving the Tavern operations and procedures.
- 9) Sergeant Robert Gordon of the Nhulunbuy Police addressed the Commission and explained that in the case in question the failure to provide the footage had not impacted on the Police investigation. He stated that on all other occasions when CCTV requests have been made the staff at the Walkabout Tavern had dealt with them very responsibly. There had been numerous previous requests and this was the only one time that a request had "fallen through the crack".
- 10) In his submission on penalty, Inspector Holehouse brought other similar cases to the Commission's attention, namely the Cavenagh Hotel (9 January 2006) and Kitty O'Shea's Irish Bar (4 August 2006). In these cases the penalties imposed were an order to undertake a training program for the former premises and a new system and a two day licence suspension which was then suspended for twelve months for the latter premises. In this case Inspector Holehouse stated there was no issue with the CCTV system and cameras installed at the Walkabout premises and this was a first offence of this nature against the Licensee. He submitted that in the circumstances a one day suspension of licence, to be served, was the appropriate penalty.
- 11) Mr Weldon asked the Commission to consider the past exemplary behaviour of the Tavern in regards to the provision of CCTV footage to Police. The Walkabout was a high volume outlet for requests for CCTV and it was shown by Sergeant Gordon's comments that the organisation had a positive relationship with the Police. He requested that any licence suspension should be suspended for a period of time.
- 12) The Commission undertook a viewing of the secure area which houses the operations of the CCTV at the Walkabout Tavern and discussed with the Operations Manager the procedures that have been introduced to maintain security of the area, the records maintained of requests for footage and the time required to download footage to meet requests. The Commission was informed by the Operations Manager that the Licensee was required to respond to numerous requests from Police for copies of CCTV footage, in many cases for investigations that did not involve the operation or activities of the Tavern itself. He noted that a recent request from Police investigating a homicide had required him to spend two days downloading footage over a twenty-four hour period from every camera in the premises.

Consideration of the issues

- 13) The Commission has taken into consideration all the submissions by Inspector Holehouse, and Mr Weldon, the evidence contained in the affidavit of ACPO Baird, the comments made by Sergeant Gordon and the documents tendered at the Hearing.
- 14) The installation of surveillance cameras in licensed premises provides valuable evidence for Licensing Inspectors and the Police for investigating possible offences both within the premises and within the community.
- 15) The Commission has continually stressed the importance:
 - of having camera surveillance systems in place in licensed premises which meet the Guidelines;
 - that they are regularly maintained and checked; and
 - that clear footage is provided upon request from the Police or Licensing Inspectors,and considers any breach seriously.
- 16) Previous decisions by the Commission for similar breaches of this liquor licence condition have varied from requiring staff training, upgrading of systems and suspension of a licence to trade for a period of time and each case has been dealt with on its own merits and in its own circumstances.
- 17) In this case the breach has been admitted by the Licensee and the Commission agrees with the Director of Licensing that a suspension should be imposed. However, this is a first offence by this Licensee and, whilst the footage requested related to a possible offence of domestic violence, the Commission is significantly persuaded by submission from Sergeant Gordon that the failure to provide camera footage did not impede the Police in finalising their investigation. In addition, the Commission has also taken into account that, despite the high volume of requests for footage and the time needed to download footage, the Licensee of the Walkabout Tavern has previously met all requests for CCTV footage and maintains a good relationship with assisting the Police in Nhulunbuy. The Commission is of the view that the Licensee should be given the opportunity to retain its good reputation and any suspension imposed should be suspended for a period of time.

Decision

- 18) The Commission imposes a suspension of one day trading but that suspension is immediately suspended. It will remain as a suspended penalty for a further twelve month period from the date of this decision. Should no further breach of a similar or greater seriousness occur within the twelve month period then this penalty will lapse at the end of that period. However, if within the next twelve months, there is a proven breach of either the *Liquor Act* or the licence conditions that is of a similar or greater seriousness to this matter then the one day suspension will come into force, together with any other penalty that may be imposed for the subsequent breach.

Philip Timney
Presiding Member

1 April 2011