Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Complaint pursuant to section 160 of the *Liquor Act 2019*
LICENSEE:	Iris Todd Operations Pty Ltd
PREMISES:	Todd Tavern
LEGISLATION:	Part 7, Division 3 of the *Liquor Act 2019*
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	26 October 2026

DECISION

1. For the reasons set out below as a delegate of the Director of Liquor Licensing (the Director), I upheld two complaints against the licensee, **Iris Todd Operations Pty Ltd** (the licensee) for having breached the *Liquor Act 2019* (the Act) on 5 September 2026 by:
   a. contrary to section 285(1) of the Act, the licensee or the licensee's employee intentionally sold liquor to a person on two occasions and they were intoxicated.
2. Pursuant to section 163(1) of the Act, on completion of the investigation I am satisfied on the balance of probabilities, that the licensee or their employees have acted contrary to section 285(1) of the Act on 5 September 2026.
3. I take into account the licensee's response, including their acceptance of the first allegation, and also their overall compliance history and ongoing co-operation with this department to build effective systems to prevent non-compliance. It is on this basis and all the materials, that it is my decision the appropriate disposition is to issue the licensee with an infringement notice for both matters pursuant to section 163(1)(d) of the Act and with reference to Schedule 6 of the *Liquor Regulations 2026* being:
   a) Allegation 1 - section 285(1) of the Act – 5 penalty units ($970.00); and
   b) Allegation 2 – section 285(1) of the Act – 5 penalty units ($970.00);
   c) In total - $1,940.00.

REASONS

Background

4. Iris Todd Operations Pty Ltd is the holder of liquor licence 80102200 for the premises known as "Todd Tavern", situated at 1 Todd Street, Alice Springs NT 0870.
5. Section 285(1) of the Act specifies the licensee and the licensee's employees must not intentionally sell or otherwise supply liquor to another person who is intoxicated, and the person is reckless in relation to those circumstances.

6. On 5 September 2026, inspectors attended the premises for the purpose of conducting after hours inspections in the company of Police. Upon attending the premises, at 22:13 hours an inspector observed a male in the gaming machine area of the premises who was yelling.
7. The inspector then observed that person being served a schooner of beer at 22:14 hours and they had formed the opinion from his behaviour that he was intoxicated.
8. A staff member of the premises observed the male and immediately acted to remove him from the premises, albeit after he had been served the drink. Police subsequently intervened before he could affect the removal and they removed him from the premises.
9. For the avoidance of doubt, the actions of the staff member to intervene and commence removal of the patron is entirely correct and they should be commended for recognising the issue.
10. Inspectors subsequently undertook a further investigation into the matter and upon reviewing CCTV from the premises, were able to identify the male in question entering the premises at 20:58 hours. There was nothing remarkable in regards to his demeanour or gait and he did not appear to be impaired.
11. A further examination of the footage confirms the male consumed five (5) drinks within a 1 hour and 18 minute period, with a decline in his condition evident.
12. He is observed stumbling and his balance and co-ordination appears impaired.
13. The male was observed being served liquor at 22:00 hours, prior to first allegation occurring, and he was on the balance of probabilities, impaired at that time.

THE COMPLAINT

14. On 2 October 2026, a complaint was lodged with the Director pursuant to section 160 of the Act, 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.

15. 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.
16. A delegate of the Director accepted the complaint on 2 October 2026, within the 14 day prescribed period and the licensee was given a notice of the substance of the complaint and invited to provide a response in compliance with section 162(1) of the Act.
17. The licensee provided a fulsome response to the particulars of the section 160 complaint within the prescribed period. The licensee accepted the first allegation, notwithstanding it was the later event in time, and submits the second allegation (first in time) is less certain.

CONSIDERATION OF THE MATTER

18. The licensee has provided a fulsome submission in relation to this matter and I appreciate the efforts to provide the materials in a timely manner. It demonstrates the seriousness with which the licensee takes these issues and I also acknowledge the significant training and work the licensee does to ensure their staff are acting in accordance with the Act.

19. The licensee is therefore to be commended for their overall operation and I thank them for their candour.

20. Regrettably however, there will be circumstances where errors are made, and which gave rise to this matter.

21. Of particular relevance, the staff member involved in serving the patron has been central to a previous like complaint against this licensee, where the Commission after hearing the matter, upheld a compliant for conduct contrary to section 285(1) of the Act[1].

22. In that matter the staff member gave evidence of his significant experience in the industry and acknowledged the clientele at the premises were different from the clientele of other local licensed premises he had worked at, agreeing there was a substantial risk requiring him to take additional precautions and observations to make sure a sale is justifiable[2].

23. For the avoidance of doubt, as with the previous matter determined by the Commission and by application of the Briginshaw[3] test there is no suggestion the licensee has expressly or tacitly, authorised or permitted the staff member's contravention or actions.

24. Noting the licensee does not dispute the first allegation, there is little value in further examining that matter here.

25. The licensee has raised questions in relation to the second allegation, being the first of these two transactions in time.

26. The licensee acknowledges the patron appears to "…display a rolling gait and some issues with balance while ambulating" but submits, "…these observations alone do not conclusively establish intoxication at the relevant time of service (22:00 hours).

27. The licensee does not dispute the patron was affected by alcohol and submits:

> "…it remains unclear whether the level of impairment observed at 2200 hours (sic) was solely attributable to alcohol consumption, and whether the patron's presentation materially differed from that observed upon arrival at the premises".

28. I agree with the further submission of the licensee that "…caution should be exercised when drawing conclusions regarding a patron's level of intoxication at a specific point in time", when determining whether a breach has occurred based solely upon CCTV footage.

29. I further concede, such reliance has limitations.

30. It is unclear from the submission of the licensee whether their phrase "…solely attributable to alcohol consumption" is suggesting a pre-existing physical impairment, or whether the patron may have also been under the influence of a drug or illicit substance.

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[1] Northern Territory Liquor Commission, *Disciplinary Action Against Todd Tavern Licensee*, [2025] NTLiqComm 22 (20 June 2025).
[2] Ibid, at [20] and [65].
[3] *Briginshaw v Briginshaw* [1938] HCA 34.

31. Section 5 of the Act defines a person to be intoxicated if:

    (a) the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and
    (b) it is reasonable in the circumstances to believe the impairment results from the person's consumption or use of liquor or a drug.

32. It necessarily follows the definition is not limited to the consumption of liquor alone.

33. The limitations notwithstanding, upon entry the patron is not displaying any noticeable impairment, irrespective of its origin or nature.

34. There is a noticeable decline in the patron's behaviour and movement in the intervening period until the first transaction in time, being at 22:00 hours and the subsequent sale at 22:14 hours.

35. The CCTV also confirms that patron consuming several drinks during this period.

36. As written earlier, the staff member has previously acknowledged there is a significant risk of intoxication of patrons at the premises and that they need to take greater consideration before making a sale.

37. Section 43AK of the *Criminal Code Act 1983* prescribes a person is reckless in relation to a result and a circumstance if they are aware of a substantial risk and having regard to the circumstances known to the person, it is unjustifiable to take the risk.

38. It is for these reasons that I am satisfied, on the balance of probabilities that the staff member was aware of a significant risk and has been reckless in relation to the result and circumstances, and that the evidence when considered in totality supports the forming of the belief that both allegations are made out.

DISCIPLINARY ACTION

39. 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.

40. In determining an appropriate disposition in this matter, I am required to apply the principles of proportionality, parity and deterrence.

41. 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.

42. Having regards to previous like matters, the objective level of seriousness, the licensee's submission, along with previous penalties imposed for other matters, I have determined the appropriate action to take against the licensee is to issue an infringement for both matters.

43. 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

28. Section 27 (1) of the Act 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 Act 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 is the licensee of Todd Tavern and the relevant inspector.



Mark Wood
Delegate of the Director of Liquor Licensing

26 October 2026