



## Director-General of Licensing

### Decision Notice

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<b>Matter:</b>	Application for Increase in Gaming Machines
<b>Premises:</b>	Monsoons 46 Mitchell Street Darwin NT 0800
<b>Applicant:</b>	Tropic Holdings Pty Ltd
<b>Nominee:</b>	Mr Andrew Binns
<b>Submissions:</b>	Nil
<b>Legislation:</b>	Section 41 <i>Gaming Machine Act</i>
<b>Decision of:</b>	Director-General of Licensing
<b>Date of Decision:</b>	22 June 2016

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### Background

1. On 8 January 2016, Mr Andrew Binns applied on behalf of Tropics Holdings Pty Ltd, Licensee of Monsoons ("the Applicant"), to increase the number of gaming machines authorised for use at Monsoons pursuant to section 41 of the *Gaming Machine Act* ("the Act").
2. Regulation 3(a) of the *Gaming Machine Regulations* ("the Regulations") sets the maximum number of gaming machines that may be authorised for a Category 1 licensed premise at 20 gaming machines. Regulation 2(2)(a)(i) of the Regulations defines a Category 1 licensed premise as a premise for which a hotel liquor licence is in force at any particular time. The Applicant is the holder of a licence issued under the Act endorsed AUTHORITY – TAVERN, being liquor licence number 80303036. Section 3 of the Act defines "hotel liquor licence" as including a licence endorsed with the words "AUTHORITY TAVERN, as is the case for Monsoons.
3. Under section 41(1) of the Act, a licensee may apply to have the number of gaming machines authorised for use under a gaming machine licence increased. The Director-General of Licensing ("Director-General") may grant or refuse such an application and in determining the application shall have regard to Part 3, Division 5 of the Act.
4. The Applicant currently holds a Gaming Machine Licence and is seeking to increase the number of gaming machines from its current level of ten to a proposed new number of 20 gaming machines. The application was accompanied by the prescribed application fee and the prescribed levy for the ten additional gaming machines sought by the Applicant. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by DWS Hospitality Specialists, a multidisciplinary consultancy that services the hospitality, gaming, accommodation, leisure and tourism sectors.
5. The Tavern's application was advertised in the NT News on 30 March 2016. The period for the lodgement of submissions in respect of the application closed on 28 April 2016.

## Consideration and Reasons

6. When determining this application, the Director-General must have regard to relevant provisions of the Act and Regulations, including but not limited to the statutory objects of the Act which are:
  - (a) *to promote probity and integrity in gaming;*
  - (b) *to maintain the probity and integrity of persons engaged in gaming in the Territory;*
  - (c) *to promote fairness, integrity and efficiency in the operations of persons engaged in gaming in the Territory;*
  - (d) *to reduce any adverse social impact of gaming; and*
  - (e) *to promote a balanced contribution by the gaming industry to general community benefit and amenity.*
  
7. Additionally, pursuant to section 41(4) of the Act, the Director-General shall when determining an application for an increase in the number of gaming machines authorised for use, have regard to:
  - (a) *the increased number of gaming machines that the applicant seeks to have authorised for use under the gaming machine licence;*
  - (b) *if section 41A applies – the community impact analysis;*
  - (ba) *if section 41B applies – any submissions received under the section;*
  - (c) *the gross monthly profit of existing gaming machines operated on the premises;*
  - (d) *the hours and days when the premises are open for the sale of liquor;*
  - (e) *the size, layout and facilities of the premises together with any proposed modification or relocation of the gaming machine areas of the premises; and*
  - (f) *such other matters as the Director-General considers are relevant.*

## Increased number of gaming machines

8. The Applicant seeks to increase the number of gaming machines from its current level of ten to a proposed new number of 20 gaming machines, an increase of ten gaming machines. The Applicant currently holds Gaming Machine Licence No. GM238 and is authorised to operate ten gaming machines on the premises, the limit of its current authorisation.
  
9. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 1 licensed premise at twenty. As the Applicant is the holder of a licence issued under the Act endorsed AUTHORITY – TAVERN, which is defined under section 3 of the Act as a hotel liquor licence, the premises are considered to be a Category 1 licensed premise pursuant to 2(2)(a) of the Regulations.
  
10. As such, the Applicant is able to apply for an increase of ten gaming machines and if granted, I am satisfied that the number of gaming machines on the premises would be within the statutory limit of 20 gaming machines.
  
11. It is expected, should the application be approved, that the additional ten gaming machines will be installed during the 2016/17 financial year.

## Community Impact Analysis

12. Pursuant to section 41A(2) of the Act, the CIA must provide details pertaining to:
- (a) *the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;*
  - (b) *the suitability of the premises to which the application relates having regard to the primary activity conducted at the premises;*
  - (c) *the suitability of the location to which the application relates having regard to the population of the local area, the proximity of the premises to other gaming venues and the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers;*
  - (d) *the appropriateness of problem gambling risk management and responsible gambling strategies;*
  - (e) *economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism.*

### Suitability of Premises – size, layout and facilities

13. Monsoons is located towards the eastern end of Mitchell Street and situated amongst a cluster of 13 other licensed venues and 65 cafes and restaurants within the Darwin CBD. Mitchell Street is widely recognised as Darwin's entertainment and nightclub precinct. The CIA reports that in 2013/2014 approximately 1.32 million persons visited Darwin accounting for 5.1 million visitor nights. Of the visitors, 526 000 listed food and wine as one of their major activities during their stay.
14. The current gaming area is located towards the rear of the premises with minimum visibility from Shadforth Lane, which runs down the side of Monsoons. The CIA states that the current gaming room occupies 6% of the venue's total floor plan. The ratio of floor space allocated for the gaming room after the renovations represents a small part of the overall footprint of the premises, indicating that gaming is not the primary focus of the venues or a major source of overall revenue.
15. If the application for an additional ten gaming machines is approved the gaming area will be extended and will occupy approximately 9% of the venue's floor plan by incorporating an existing function room into the gaming room. That percentage of floor space is commensurate with similar tavern premises in the Darwin CBD and elsewhere. The proposed renovations are relatively minor and involve the removal of an internal wall between the existing gaming room and function room.
16. Since opening Monsoons has won a variety of AHA Awards of Excellence including Best Hotel Gaming Venue, Best Bistro Dining, the Minister's Responsible Service of Alcohol Award and Best Entertainment Venue along with several other category awards.

### Suitability of Premises – primary activity

17. Monsoons' business has a focus on entertainment and includes a restaurant, al fresco dining area, gaming room, Keno, a dance floor and stage for live entertainment. The venue has been in operation since 2007 and maintains a large client base through lunch and dinner periods with outdoor seating areas and open entertainment spaces. As well as its dining facilities Monsoons is one of the major nightclubs in Mitchell Street with authorisation to trade until 04:00 hours seven days per week.

18. The CIA provides information within the confidential section regarding the venue's financial performance. The figures provided show substantial growth in gaming machine profits over the last few years. The introduction of note acceptors has arguably played a part in the considerable growth in the venue's gaming machine revenue, however other factors including increased patronage appear to have contributed to the growth in revenues.
19. The financial information contained with the CIA indicates that there is very strong demand for gaming at the venue in recent years. This growth has resulted in gaming machine revenue now representing approximately 10% of the venue's overall revenue with liquor making up 75% and catering and other revenue streams accounting for 15% of total revenue. The CIA predicts that gaming machine revenue is expected to account for between 7% and 8% of the venue's total revenue for the 2016 to 2019 period however, data held by Licensing NT indicates that gaming machine revenue may contribute more to the venue's income streams in the future than has been predicted.

**Suitability of Location - population of local area, proximity to other gaming venues and proximity to sensitive areas**

20. The Local Community Area ("LCA") agreed to with Licensing NT for use in the development of the CIA includes the suburbs of Stuart Park, Fannie Bay, The Gardens, Darwin City and Larrakeyah. The venue is located in the CBD of Darwin in a mixed-use residential and commercial area. It is anticipated that the additional machines will service the growing tourism sector and the local population offering ancillary services to the entertainment offerings currently in existence in the Mitchell Street precinct.
21. Information obtained from the 2011 Census Data shows the area had a population at that time of approximately 14 800, with 86% being adults. However, that information is now somewhat dated being almost five years old. Since the 2011 census there has been considerable growth in the LCA, particularly the inner city with the development of numerous high rise residential developments. The current population of the LCA is estimated at approximately 17 000 people based on yearly growth estimates.
22. The inner city Darwin precinct is comprised of a high proportion of affluent young professionals who rent residential premises. This group is an attractive demographic for clubs and hotels, as they are likely to have high disposable incomes and explore regular dining and entertainment options. Also, suburbs such as Fannie Bay and Larrakeyah are recognised as being amongst the Territory's wealthiest with high rates of home ownership and disposable income.
23. The LCA has a high population density with 1 409 people per square kilometre, compared to the Darwin Local Government Area benchmark of 654 and the overall NT figure of 0.2 people per square kilometre. This is due to the inner-city nature of the LCA and LGA compared to the more rural nature of the wider Northern Territory. The figures are consistent with those of other state and territory capital city CBD's.
24. Approximately 4.4% of LCA's residents are identified as being of an Indigenous background, Aboriginal and/or Torres Strait Islanders, which is less than the Darwin LGA of 7.3% and much lower than the Northern Territory wide figure of 25.7%. The CIA reports that research shows that the Indigenous population are more likely to show signs of pathological gamblers compared to non-Indigenous people. The LCA's very low Indigenous profile could lower the risk associated with problem gambling in the catchment area.

25. Statistical information obtained from this data shows that the LCA has a higher proportion of people with higher level qualifications such as bachelor degrees, graduate qualifications or post graduate degrees when compared to the Northern Territory benchmark. There is also a higher proportion of people employed in the managerial and professional categories compared to the broader benchmarks. Household incomes for the LCA are higher than the other Territory benchmarks.
26. The CIA also contains information in relation to the Australian Bureau of Statistics' Socio-Economic Indexes for Areas ("SEIFA") which is a product that enables the assessment of the welfare of Australian communities based on census data relating to household income, education, employment, occupation, housing and other indicators of advantage and disadvantage. The CIA states that the SEIFA analysis indicates that the LCA is an area of relative advantage compared to the Darwin Local Government Area benchmark.
27. There are a number of ways to view the scores from the SEIFA, with one being through the decile score system where a ranking is given from one to ten with one indicating that an area is in the bottom 10% of areas or, in other words, the most disadvantaged and ten indicating that the area is in the top 10% of areas, thus being the most advantaged.
28. The CIA states that all four suburbs comprising the CIA fall within the second tier of SEIFA ratings at decile nine, meaning those suburbs are among the top 20% of all suburbs in Australia. On that basis Monsoons is assessed as being situated in an area of relative social advantage. The CIA states further that the SEIFA scores indicate a lower chance of economic risk in the area and for Monsoons. Overall the demographic profile of the LCA is relatively young and affluent with low levels of unemployment and high levels of socio-economic advantage. Monsoons caters for a young demographic given the live nightly entertainment offering and, as such, the resident population indicates a strong market for the venue.
29. The CIA indicates that within the LCA there are 14 other gaming venues, these being Top End Hotel, Buff Club, Darwin Bowls & Social Club, Darwin Trailer Boat Club, Ducks Nuts, Globies Tavern, Darwin RSL Club, Quality Frontier Hotel, Shenannigans Irish Pub, Squires Tavern, The Cavenagh, Deck Bar, Darwin Hotel and Skycity Casino (which has approximately 80% of all gaming machines situated within the LCA). Many of these venues have recently received approval to increase the number of gaming machines in their premises or are in the process of applying for additional machines.
30. The CIA predicts that for the 2015/2016 financial year there will be an increase of 52 gaming machines within the LCA. Taking account of projected population increases in the LCA, the CIA estimates gaming machine density within the LCA will peak at 174 gaming machines per 10 000 adults by 2017. The CIA states that the higher density of gaming machines within the CIA is a direct result of the clustering of machines in the Darwin CBD entertainment precinct together with the 778 gaming machines located at Skycity casino.
31. It is evident that accessibility to gaming machines by those people residing in the LCA will increase, should this and other similar applications be approved. However, the SEIFA decile scores which identify that the LCA area is generally not regarded as an area of socio-economic deprivation also needs to be taken into consideration in determining whether an increase in accessibility to gaming machines within the LCA will lead to greater harm. It would appear that the profile of the majority of residents living in the LCA does not mirror the profile of those most at-risk of experiencing harm from gambling.

32. Another consideration to be taken into account is that whilst the gaming machine density in the LCA will increase should this and other similar applications be approved, the patron source for this venue and others in this area is not restricted to just residents of the LCA. The LCA, including the Darwin CBD, the Mitchell Street entertainment precinct and the Darwin Waterfront Precinct, does attract a large number of tourists and visitors. As a result the actual gaming machine density may in fact be lower than current and projected figures if these additional persons are taken into account in gaming machine density calculations. Considerations around problem gambling risk management and responsible gambling strategies implemented by the venue must also be taken into account.
33. Pursuant to 41A(2)(c) of the Act, the CIA must provide details with respect to the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers. In doing so, the CIA accompanying this application has identified a number of sites located within 200 metres of Monsoons which include OK Money (a pawn shop), Territory Medical Mitchell Centre, Darwin Police Station, Red Shield Hostel (an accommodation arm of the Salvation Army) as well as Coles Darwin which is located opposite the venue. In the wider area of the LCA gambling sensitive sites include a number of churches, community support centres, schools, shopping centres, and psychologists as well as the Darwin Waterfront Precinct.
34. It should be noted that the venue has co-existed with all these sites for many years without causing any apparent harm to nearby businesses or the locality in general. The venue is also located within the central business and entertainment district of Darwin amongst other gaming venues and as a result it could be argued that an additional ten machines will have little impact on gambling sensitive sites.
35. The venue currently holds a gaming machine licence and on the basis of the information available above, I am satisfied that the venue's location continues to be suitable for the operation of gaming machines.

**Appropriateness of problem gambling risk management and responsible gambling strategies**

36. The CIA states that according to the 2014 report 'Gambling Harm in the Northern Territory: An Atlas of Venue Catchments' which was a report prepared for the Community Benefit Committee through the Department of Business in May 2014, 84% of residents within the Northern Territory present as non-problem gamblers, with the remaining percentage being characterised as low, moderate or high risk.
37. Due to a low response rate (107 out of a catchment of 2 850), the CIA states that specific figures relating to Monsoons are not available. The CIA states that caution must be used in relying on figures provided due to the low level of respondents. As such I do not see that the lack of specific data in relation to Monsoons can be considered negatively.
38. The CIA also sets out the policy and procedures underpinning the responsible delivery of gaming services relevant to Monsoons in some detail. Harm minimisation strategies and measures including exclusion provisions, cash limits, restrictions on cheque cashing and the location of Automatic Teller Machines away from the gaming room are stated to be in existence at the venue. There are also requirements that must be met to ensure the venue complies with gaming machine audits conducted by Licensing NT officers on a periodic basis.

39. Further information was sought from the Applicant in relation to the venue's Responsible Gambling Incident Register. The Register shows that two people are currently subject to self-exclusion notices. A further five incidents are recorded in the Register however these relate to anti-social behaviour in the gaming area rather than problem gambling issues. The lack of entries could raise concerns that incidents are not being properly recorded, alternatively it may simply be that there are no incidents to record as the management of the business conducted under the Gaming Machine Licence and the manner in which the Applicant conducts and manages the overall business of the premises may cause there to be few, if any, incidents or concern in relation to gambling on the premises.
40. The policies in place at Monsoons at present are compliant with the current Code of Practice for Responsible Gambling in the Northern Territory and there is no indication that an increase in the number of gaming machines at the venue would require any amendment or addition to those policies or existing procedures relating to the management and monitoring of gaming.

**Economic impact - contribution to the community, employment creation and significance/reliance of the venue to or on tourism**

41. The CIA states that the venue currently employs 59 staff across the management, gaming, restaurant and bar activities. It is anticipated that, if this application is granted, the venue will need to employ an additional two staff to ensure the safe, efficient and responsible administration of gaming facilities.
42. The CIA also presents a large amount of data pertaining to tourism with these statistics showing that Darwin City is a core tourism destination and accounts for 79% of visitor numbers to the Northern Territory. As a result the CIA concludes there is a strong demand for leisure and entertainment options within the LCA.
43. The CIA reports that 28 key organisations were contacted to ascertain their views on the potential impact of this application within the LCA. Only eight responses were received and of these seven believed the addition of ten gaming machines would have a negative impact on the community and one supported the application stating that although it would have a negative impact on the community, the majority of people would go there to drink and eat, not gamble. It should be noted that from this consultation process there was no indication that problem gambling was notably high within the LCA or at Monsoons.
44. While the concerns expressed by those organisations that did complete the Community Representative Feedback Survey should be noted and taken into account they cannot in my view, given their generalised nature, be afforded any significant weight in reaching a determination on this matter.
45. The authors of the CIA also conducted a patron survey to which 60 people responded with 45% of respondents in support of the application, 15% opposed and 40% neutral, stating that they did not mind or will be unaffected by the additional machines should the application be approved.

**Written submissions in response to the application**

46. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 30 March 2016. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification. No submissions were received during the prescribed period.

### **Gross monthly profit of existing gaming machines operated on the premises**

47. Statistical information held by Licensing NT shows that hotels/taverns with gaming machines in the Northern Territory averaged, for the 2014/15 financial year, a gross monthly profit of approximately \$6 467 per machine. Monsoons' gaming machines performed at almost double that of the industry average, with a gross monthly profit of \$12 187 per machine. Information contained within the confidential section of the CIA indicates considerable growth in gaming machine operations at Monsoons over the last three years.
48. On the basis of the financial analysis provided within the CIA and Licensing NT data it is apparent that the venue does not depend heavily on gaming machine operations as revenue from that source accounts for approximately 10% of the venue's overall revenue. Revenue from gaming machine activity is not expected to increase significantly if this application is approved as the venue has a strong focus on entertainment with the majority of its income being deprived from liquor sales. Having said that, by comparison to similar venues in the Darwin CBD Monsoon's is a large scale hospitality operation and 10% of overall revenue represents an important income stream for the venue which no doubt assists the business to remain viable in the very competitive hospitality industry.
49. Should the application be approved, the cost to the Applicant of installing ten additional gaming machines will be in the order of \$770 000, which includes the application fee, gaming machine levy and the cost of ten additional machines, but does not include renovation expenses. However, the alterations to increase the size of the gaming room appear to be of a minor nature and as a result do not require approval under section 119 of the *Liquor Act*.
50. The Financial Analysis provided within the CIA indicates that the venue is performing well and presents a very strong case for being able to proceed with the installation and operation of the additional machines sought.

### **Hours and days when the premises are open for the sale of liquor**

51. The trading hours for the venue are from 10:00 to 04:00 hours the following day seven days per week, with no trading permitted on Good Friday or Christmas Day. The trading hours at Monsoons are similar to those applicable to other nightclub style venues authorised for late night trading in the Darwin CBD.

### **Size, layout and facilities of the premises**

52. The venue has the space to accommodate the additional machines requested. It is proposed that the existing gaming room will be extended into the function room to accommodate the extra gaming machines. There will be no changes to the venue's licensed footprint.
53. The Applicant advises that the focus of Monsoon's business will not change and that it will continue to be an entertainment venue, catering to a variety of demographics, servicing the lunch and dinner periods for local business workers and tourists and offering live late night entertainment to its younger patrons.



## Other matters the Director-General considers relevant

54. The Gaming and Liquor Amendment Bill of 2015 amended the Act to effectively lift the previously imposed cap on authorisations of gaming machines in licensed hotels, taverns and clubs in the Northern Territory. As well as lifting the overall cap, the amendments also provided for an increase of the number of gaming machines in hotels and taverns, which now allows for a maximum of 20 machines, up from the previously imposed maximum of ten gaming machines. At the time of introducing the amendments, the Minister for Racing, Gaming and Licensing noted that the arbitrary Territory-wide cap was abolished in favour of a rigorous community impact assessment process for new applications and for applications seeking additional gaming machines.
55. Against that background the Applicant has presented a well prepared application with strong supporting evidence indicating that this application meets the requirements of the Act in relation to an increase in the authorised number of gaming machines. The comprehensive CIA prepared for the purpose of this application is analysed in considerable detail above and does not raise any issues of concern specific to Monsoons that would support refusal of the application.
56. The harms associated with gaming machines and problem gambling are well documented and well known within the general community. However, the Applicant in this instance has in place policies and procedures that will have the effect of minimising the harms associated with gambling generally and the use of gaming machines specifically at Monsoons.
57. The CIA suggests non-government agencies who responded via the Community Representative survey have concerns with the application believing the increase in gaming machines will have a negative effect on the community and, as a result, those organisations do not support the application. Whilst the comments of the organisations who responded to the survey conducted by the authors of the CIA are properly made and no doubt indicative of the views of the organisations represented, they do not provide any specific details of prospective harms or potential adverse community outcomes directly related to Monsoons.
58. In addition, as evidenced by the Applicant's submissions in support of the application, including the content of the CIA, management intends to continue to incorporate strategies aimed at reducing gaming-related harm if the application is approved. Licensing NT's compliance officers have also advised that the venue is professionally run and to date no complaints have been received in respect of gambling related issues at Monsoons.
59. When considering this application it must be taken into account that the cap on Territory gaming machine numbers had been in-place since 2008, a considerable period of time for a region that experienced a substantial increase in population during that period. Not surprisingly, since the cap was lifted there has been a significant number of applications for gaming machine licences and increases in gaming machine numbers at already licensed venues.

## Decision

60. For the reasons set out above, and in accordance with section 41(3) of the Act I have determined to grant the application lodged by Tropic Holdings Pty Ltd and authorise the increase of the number of gaming machines located at Monsoons from the current limit of ten gaming machines to the maximum allowable for the holder of a tavern liquor licence, namely a maximum of 20 gaming machines.
61. The additional approved ten gaming machines are required to be included in the schedule attached to the gaming machine licence in which each individual gaming machine is identified and authorised for use. The schedule will be updated upon submission by the Applicant of the details pertaining to the additional ten gaming machines, once they are purchased.

## Review of Decision

62. Section 166A of the Act provides that a decision of the Director-General, as specified in the Schedule to the Act, is a reviewable decision. A decision under section 41 for approve or refuse an increase in the number of authorised gaming machines is specified in the Schedule and is a reviewable decision. Section 166C of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision. As no submissions were received in respect of this application there are no affected persons as defined by section 166B of the Act, apart from the Applicant.



**Cindy Bravos**  
**Director-General of Licensing**

22 June 2016