

Director of Gaming Machines

Decision Notice

MATTER:	APPLICATION FOR INCREASE IN GAMING MACHINES #GM216
APPLICANT:	Iris Todd Operations Pty Ltd
PREMISES:	Todd Tavern 1 Todd Street Alice Springs NT 0871
SUBMISSIONS:	485
LEGISLATION:	Section 41 of the <i>Gaming Machine Act 1995</i>
DATE:	14 June 2023

DECISION

1. For the reasons set out below and in accordance with section 41(3) of the *Gaming Machine Act 1995* (the Act), I have determined to grant the application lodged by Iris Todd Operations Pty Ltd (the Applicant) and authorise an increase to the number of gaming machines for operation at Todd Tavern. I have determined to increase the number of authorised gaming machines from the current number of 10, to 20, which is the maximum prescribed by the Gaming Machine Regulations 1995 (the Regulations).
2. The additional approved 10 gaming machines are required to be included in the schedule attached to the current 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 gaming machines once installed.

BACKGROUND

3. On 14 June 2022, Ms Clear Henderson on behalf of the Applicant applied for an increase in the number of gaming machines authorised for use at the Todd Tavern (the Premises). That application was made pursuant to section 41(1) of the Act.
4. Regulation 3(a) of the Regulations sets the maximum number of gaming machines that may be authorised for Category 1 licensed premises at 20 gaming machines.
5. Relevant to this application, Regulation 2(2)(a) defines Category 1 licensed premise as those premises for which a hotel licence is in force at any particular time.
6. The reference to a “hotel licence” is redundant. When the *Liquor Act 2019* came into force in November 2019 new authorities were created for liquor licences and hotel licences transitioned to public bar authorities. Unfortunately the Gaming Machine Regulations were not amended at that time to reflect the new liquor licence authorities.

7. Having regard to that anomaly, the Todd Tavern did hold a hotel liquor licence immediately prior to the changes made in the *Liquor Act 2019* and therefore continues to be a Category 1 licensed premises pursuant to regulation 2(2)(b) of the Regulations for the purposes of this application.
8. The licensee for the Premises is currently authorised to operate 10 gaming machines at the Todd Tavern. As a consequence the Todd Tavern operates less than the maximum number of gaming machines prescribed for Category 1 premises and is therefore entitled to apply for an additional 10 gaming machines.
9. As required by section 41(2)(f) of the Act, the application was accompanied by the prescribed application fee and the prescribed levy for each additional gaming machine that the Applicant has sought to have authorised for use under the licence.

CONSIDERATIONS

10. When determining an application under the Act, the Director of Gaming Machines (Director) 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.*
11. Additionally, pursuant to section 41(4) of the Act, the Director, when determining an application for an increase in the number of gaming machines authorised for use, shall 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 considers are relevant.*

Increased number of gaming machines

12. The Applicant seeks to increase the number of approved gaming machines from its current level of 10 to the maximum permissible number of 20, an increase of 10 gaming machines.
13. The Applicant is currently the holder of Gaming Machine Licence GM216. The Applicant also holds Liquor Licence 80102200 with a number of liquor licence authorities including a public bar authority. As noted above, the Todd Tavern is therefore a Category 1 licensed premises and, as a consequence, may be permitted to operate a maximum of 20 gaming machines at the Premises. If the additional gaming machines are approved I am satisfied that the number of gaming machines on the premises would be within the statutory limit of 20 gaming machines.

Community Impact Analysis

14. As required by section 41A(1) of the Act, the application was accompanied by Community Impact Analysis (CIA) prepared by DNS Specialist Services.
15. Pursuant to section 41A(2) of the Act, the CIA must provide the following details:
 - (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

16. There are no structural alterations currently planned for the premises. Instead the additional gaming machines will be located within the current approved gaming room footprint. Should this change, it would be incumbent on the Applicant to lodge a future application seeking approval to modify the gaming machine space and which, if required, would be considered separately to this application.

Suitability of Premises – primary activity

17. Todd Tavern was first established in 1957, it was originally called the Riverside Hotel, then the Desert Inn Hotel and currently the Todd Tavern.
18. Information contained in the CIA indicates that following acquisition of the Premises the Applicant intends to undertake extensive renovations of the second-floor accommodation, which has not been utilised for some time.
19. Additional revenue streams include employment opportunities and increased opportunities for delivering further community benefits in the way of entertainment, food, beverage, accommodation, and tourism experiences.

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

20. The Premises is located centrally within the Alice Springs CBD, in close proximity to the town centre and the Todd Mall. The natural boundaries to the CBD are the Todd River on one side and the Stuart Highway on the other.
21. The Premises is zoned as Central Business, the purpose of this zone is to promote an active and attractive mixed-use environment that maximises its function as the commercial, cultural, administrative, tourist, and civic centre for the surrounding region that is integrated with high-density residential development.
22. Due to the CBD location of the Premises and the nature of its operations, the CIA refers to the Alice Springs Local Government Area (LGA) as the defined Local Community Area (LCA) for analysis.
23. The defined LGA indicates a population of 24,753 of which 18,945 (77%) are adults; NT as a whole has a marginally lower representation of adults at 170,707 (75%).

24. The Department of Treasury and Finance 2019 figures projects an increase of 4,253 new residents in the Alice Spring region from 2016 to 2036.
25. The 18 - 29 age group is higher within the LCA (19.2%) compared to the rest of the NT (14.5%). Conversely residents aged 60+ are under-represented within the LCA compared to the remainder of the NT.
26. There are five licensed gaming machine premises in Alice Springs, this includes Lasseters Casino, two Clubs (Gillen Club and Club Eastside) and two hotels, the Todd Tavern and Gap View Hotel. At the time of making this application, Lasseters Casino dominates the market share of gaming machines at 69% followed by the two clubs at 26% and the two hotels at 6%.
27. Club Eastside and the Gillen Club, both holding club liquor licence authorities, already have the maximum permitted number of 55 gaming machines at each venue.
28. There are two gaming sensitive sites within 200 metres of the Premises, the Alice Plaza, which houses a variety of businesses, including restaurants, department stores and retail shops, and the Anzac Oval which is being developed into a must visit destination for visitors to the region.
29. There are four gaming sensitive sites immediately outside of the 200 metre radius from the Premises, being Alice Springs Youth Centre, CatholicCare NT, Multicultural Community Services of Central Australia and Sacred Heart Catholic Church.
30. The CIA states it is not anticipated that there will be any impact on these sites as the Applicant will continue to operate in line with the confines of its liquor licence and will adhere to the policies enforced by its gaming machine licence.

Appropriateness of problem gambling risk management and responsible gambling strategies

31. The CIA states that based on findings from the 2018 NT Gambling Prevalence and Wellbeing Survey released in 2020, one in 52 gamblers in the NT are classified as experiencing problem gambling, one in 20 are at moderate risk of problem gambling and one in 13 gamblers are at low risk of problem gambling.
32. Aboriginal gamblers were significantly more likely to experience problem gambling, with 5.3%, 8% and 21% classified as experiencing problem, moderate and low risk gambling respectively compared with 0.9%, 4.1% and 11% for non-Indigenous gamblers.
33. These estimates of problem gambling levels are applicable to all forms of gambling such as sports betting, lotteries, raffles, casino table games and racetrack betting. They are not solely restricted to just gambling in relation to gaming machines.
34. In relation to harm minimisation strategies and venue intervention, the CIA reports that the Applicant is committed to best practice in the provision of responsible gambling with the aim of minimising potential harm to individuals in the community through responsible gambling practices.
35. Further, all relevant staff employed at the Premises have the necessary training to identify problem gambling with annual refresher training undertaken by staff to ensure their knowledge remains current. Dedicated customer liaison officers are engaged as first point of contact for gaming related matters and are tasked with approaching patrons in any instance where they suspect problem gambling, including the provision of information for those seeking help as a result of gambling.
36. In the view of the authors of the CIA, it is not anticipated that a favourable outcome for this application would incur a higher risk of problem gambling within the Alice Springs local area.

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

37. The CIA states that the approval of additional machines would provide diverse entertainment options, which would enhance the opportunity for greater ongoing investment into the overall Premises. Increased revenue would have a positive impact on increased employment opportunities, staff training and the expenditure with local contractors, suppliers and entertainment vendors.
38. Further, under the previous operator the Premises expended in excess of \$1 million in labour costs for 2021. With the introduction of additional gaming machines and venue upgrades under the current licensee this is expected to increase.
39. In addition to employment opportunities, the ongoing financial viability of the Premises will potentially result in economic benefits for the local economy through the supply of goods and services. The Applicant states that it will support local businesses where possible and will contribute an estimated figure in excess of \$3.2 million per year in costs of goods sold which will benefit local suppliers and contractors.

Gross monthly profit of existing gaming machines operated on the premises

40. For the from November 2022 through to April 2023, the gross monthly profits for gaming machines at the Premises was moderate and in line with the profits generated by similar premises, namely pubic bars. Monthly revenue from the gaming machines situated at the Todd Tavern is considerably less than the revenue of the two licensed clubs and the casino.

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

41. The Premises has a number of bars with different trading hours, including a late night authority and a takeaway authority. While the trading hours vary for the different bars in the venue the licence authorises the sale of liquor from 10 am to midnight. The late night authority permits trading from 12 midnight to 4 am the following day, 2 days a week, subject to conditions contained within the liquor licence. Those trading hours are similar to those of similar premises that have a public bar and late trading authorities

PUBLISHING OF APPLICATION

42. The application was advertised in the NT News on Saturday 9 July 2022 informing readers that the Applicant was seeking to increase its gaming machine numbers at the Todd Tavern by 10. Additionally, persons seeking a copy of the CIA or any other information, including, making a submission, they could do via a request to a generic mailbox within 30 days of the notice.

SUBMISSIONS

43. As a result of publication of notice of the application, 485 submissions were received. Of those 415 were in the form of a template letter submission, although some were received from individual personal email addresses with the same or similar content in the body of the email, some with handwritten notes. There were two submissions received that directly refer to this application specifically.
44. Overall there were 70 submissions received (referring to the one submission being made for the total 415 template submissions) which includes 15 from people who reside interstate. There were also 12 submissions received from organisations, as follows:
 - Centred in Choices Pty Ltd
 - Central Australian Aboriginal Congress
 - Children's Ground

- Northern Territory Council of Social Service
 - Association of Alcohol and other Drug Agencies NT
 - Lutheran Care
 - Aboriginal Medical Services Alliance – NT
 - People’s Alcohol Action Coalition
 - Royal Australasian College of Surgeons
 - Australian Medical Association Northern Territory Inc.
 - Anglicare NT
 - Mental Health Association of Central Australia.
45. The 415 template submissions opposed four gaming machine applications made by IRIS Capital subsidiaries for Mercure Alice Springs Resort, Uncles Tavern, Gap View Hotel and Todd Tavern for a total increase of gaming machines in the Alice Springs region of 60 gaming machines, expressing the following concerns:
- the negative impact these new gaming machines will have on the character and community’s use of the venues
 - that the Mercure Alice Springs Resort, Uncles Tavern, Todd Tavern and Gap View Hotel are all close to sensitive sites, such as banks, support services and supermarkets
 - that Iris Capital’s CIAs did not meet the requirements set out in Licensing NT’s Guidelines.
46. The thrust of the template submissions refer to provisions within the Act that relate to applications for new gaming machine licences in the NT. The application the subject of this decision is for an increase in gaming machines at an already licensed venue, and therefore that part of the submissions is not relevant to an application for an increase in the number of gaming machines at the Premises.
47. As noted above, this application was publically advertised and, while there is a 30-day period in which to make a submission, there is a discretion the Director can apply to accept a submission outside of this timeframe. In fact, a number of submissions were received after the 30-day period and given the public interest in the matter, these were accepted and have been considered.
48. There was a comprehensive CIA prepared for the purpose of this application which details who was consulted and why. The CIA also noted those who provided a response at the time of submitting the CIA, those being the Alice Springs Youth Centre, Amity Community Services and Lutheran Care, one of which lodged a submission within the timeframe against the four applications.
49. The submissions lodged raise a number of concerns, mostly as they relate to the four applications, and can be summarised as follows:
- negative impacts on the community
 - the location of the venues
 - that tourism will be impacted by the addition of more gaming machines
 - no growth in population to support more gaming machines when there are already too many in Alice Springs
 - potential for an increase in problem gambling, particularly in the indigenous community, leading to anti-social behaviour
 - will inhibit the culture, entertainment and cheapen the culture and inhibit business
 - employment opportunities/increases are not positive
 - NT/Alice Springs residents have high rates of high-risk gamblers, poker machine usage and lower rates of gambling help behaviours.

CONSIDERATIONS

50. Whilst the submissions received are properly made and no doubt indicative of the views of the individuals and organisations represented, most relate to the four applications for Alice Springs venues as a whole and without providing any specific details of prospective harms or potential adverse community outcomes directly related to this application for the Todd Tavern Premises.
51. It is reasonable to say that those who lodged submissions opposing an increase in gaming machines at the Todd Tavern are opposed to any increase in gaming machine numbers in Alice Springs. The majority of submissions note the harms that can arise in respect of problem gamblers and the negative impact that excessive gambling can have in respect of an individual, their extended family and the community at large.
52. As a result of those concerns those lodging submissions state that no more gaming machines should be approved and permitted to operate in Alice Springs.
53. Those submissions are properly made and the harms associated with gaming machines for problem gamblers are well researched and well known. It is worth noting that the ground swell against increases to gaming machine numbers are not unique to Alice Springs or the NT. Most, if not all, jurisdictions in Australia are in a similar situation with certain sectors of communities strongly opposed to gaming machines per se.
54. None of the submissions received provide any specific evidence that the manner in which the Applicant is managing the Premises and is operating its current gaming machines is likely to cause any additional gambling related harm in the community. The Premises has held a gaming machine licence since November 2004 and during that period has not been subject to any disciplinary action of adverse reports in respect of the manner in which it operates the gaming machines at the Premises.
55. For the Northern Territory 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 public bars 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 for licensed public bars (now Category 1 licensed premises) with existing gaming machines from 10 to a maximum of 20 gaming machines. The number of gaming machines permitted for clubs was increased from 45 to 55 per venue.
56. The total number of gaming machines authorised for use in the NT is subject to a cap which has been amended and lowered in recent times. At the time the application for an increase in gaming machines at the Premises was received there were gaming machine licences available under the cap.
57. The submitters are almost universal in their position that no more gaming machines should be approved for Alice Springs due to the harms that can and do arise from problem gambling on the part of a percentage of gaming machine users.
58. The submissions relating to gambling harm are generally accepted, both in the NT and also within the wider Australian community. However, the question for the Director is not whether there is an excessive number of gaming machines in Alice Springs such that no further licences or an increase in the numbers of gaming machines at an already licensed premises should be granted. The Act provides for the increase of gaming machines and, as noted above, there are a small number of gaming machine licences still available under the current cap.
59. Despite the submissions of the majority of people lodging submissions opposing the application, the question for the Director is not whether there should be more gaming machine licences granted in Alice Springs. The Act specifically allows a licensee to apply for additional gaming machines so long as the NT wide cap is not breached. The question for the Director in terms of this application is whether the Applicant satisfies the statutory criteria to be issued with a licence authorising 10 additional gaming

machines at the Premises¹. In assessing the statutory criteria there is nothing before the Director specific to the Applicant or the Premises that indicates that the additional gaming machines should not be approved.

Other matters the Director considers relevant

60. At the time of introducing the amendments noted above, 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.
61. Against that background, the Applicant the subject of this decision 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 at the Premises.
62. The comprehensive CIA prepared for the purpose of this application has been analysed in considerable detail. No issues arise which would preclude the approval of this application.
63. The harms associated with gaming machines and problem gambling are well documented and well known within the general community. I am satisfied that the Applicant in this instance has in place policies and procedures that will have the effect of minimising the harms associated with the use of gaming machines at the Premises.
64. When considering this application the following matters were taken into account:
 - Memo Club Alice Springs surrendered its gaming machine licence on 22 June 2017 for 42 gaming machines
 - Alice Springs Golf Club surrendered its gaming machine licence on 5 June 2018 for 8 gaming machines
 - Alice Springs RSL Club surrendered its gaming machine licence on 30 June 2020 for 24 gaming machines.
65. The above surrenders resulted in a total of 74 gaming machines no longer operating in the Alice Springs region since June 2017.
66. Of further relevance, Club Eastside applied for and was granted an increase to its gaming machines at the venue from 45 to 55, in July 2022. As per notification requirements established under the Act, that application was published and no submissions were received, adverse or otherwise as part of that application process.
67. The Applicant has evidenced their previous adherence to gaming laws and regulation and there is no evidence to suggest that this would change with an increase of 10 gaming machines at the Premises.
68. There has been no adverse comments or reports received from Licensing NT departmental personnel in relation to the compliance concerns attached to the 10 gaming machine currently in operation at the Premises.
69. As noted at paragraph 11 above, section 41(4) sets out the matters the Director must take into account in considering an application for an increase in the number of gaming machines for use under a gaming machine licence.
70. For section 41(4)(a) of the Act, I am satisfied that the increased number of gaming machines that the Applicant seeks to have authorised for use under the gaming machine licence falls within the maximum

¹ *SGRD Pty Ltd v Northern Territory Liquor Commission & Director of Liquor Licensing for the Northern Territory* [2022] NTCAT 5

number of 20 gaming machines allowable for a licensee holding a public bar liquor licence. In addition, the grant of authorisation for an additional 10 gaming machines will not breach the NT cap on gaming machine numbers.

71. In respect of section 41A(b) of the Act, I am satisfied that the CIA lodged by the Applicant is compliant in terms of the requirements set out in the Act and discloses no material reason why the application should be refused.
72. For section 41(4)(ba) of the Act, the submissions received opposing the grant of the additional 10 gaming machines for the Premises are considered in this decision notice. As noted above and also noting the genuine concerns of the submitters in respect of harms arising from gaming machines generally, those submissions disclose not material information specific to the Premises that militate towards the application being refused.
73. In respect of section 41(4)(c), I have considered the gross monthly profit of existing gaming machines operated on the Premises. Whilst that information was provided on a commercial in confidence basis it discloses no matters of concern and in fact the revenue falls within the usual range in terms of profitability for a public bar operating 10 gaming machines.
74. For section 41(4)(d) of the Act, the hours and days when the Premises is open for the sale of liquor is consistent with similar licensed premises located in Alice Springs.
75. As required by section 41(4)(e) of the Act, the size, layout and facilities of the Premises are suitable for the operation of gaming machines, as evidenced by the fact gaming machines have been available at the Premises since November 2004. The Applicant has advised that, should the application be granted, the additional 10 gaming machines will be located within the existing gaming room with no requirement for building or structural changes.
76. In all the circumstances I am satisfied, in my capacity as Director of Gaming Machines, that Iris Todd Operations Pty Ltd satisfies the relevant statutory requirements under the Act and, for the reasons set out above, the application for an additional 10 gaming machines at the Todd Tavern should be granted.

Review of Decision

77. Section 166H of the Act provides that a decision of the Director of Gaming Machines that is listed in the Schedule of Reviewable Decisions is reviewable by the NT Civil and Administrative Tribunal (NTCAT). An application under section 41 of the Act for an increase in gaming machines is included in the Schedule and is therefore a reviewable decision.
78. Section 166H(2) provides that an affected person may apply to NTCAT once the person has exhausted any other avenue of appeal. To clarify, all other avenues of appeal have been exhausted on publication of this decision notice.
79. For the purpose of this decision, the affected persons are Iris Todd Operations Pty Ltd and the 485 organisations and individuals who lodged submissions as they relate to an application for an increase of gaming machines at the Todd Tavern.



Philip Timney

Director of Gaming Machines