

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

Licensee:	Town & Country Tavern Pty Ltd
Premises:	Town & Country Tavern
Nominees:	Geoffrey John Booth Mark Leslie Ellis
Licence Number:	80317647
Hearing:	Application for Gaming Machine Licence
Members:	Mr Richard O'Sullivan Ms Merran Short Mr John Brears
Hearing Date:	18 September 2007
Representation:	Mr Murray Preston for the Licensee Ms S J Davies, Objector Mr Wayne Sanderson for the Director of Licensing

Summary of Decision

- 1) The application for a Gaming Machine Licence for the Town and Country Tavern is denied.

Background

- 2) The Town & Country Tavern is located at 75 Todd Mall, Alice Springs and currently operates under a tavern style liquor licence (licence number 80317647) and is authorised to sell alcohol at the premises seven (7) days a week.
- 3) Application ("the Application") has been made pursuant to Section 24 of the *Gaming Machine Act* ("the Act") for approval for a gaming machine licence for ten (10) machines. Mr John Geoffrey Booth, Mr Terrence Weeks, Mr Craig Oldfield, & Mrs Vivian Oldfield are Directors of Gillan Club Nominees Pty Ltd which is the sole shareholder of the Town and Country Tavern Pty Ltd ("the Tavern").

- 4) Mr Geoffrey Booth is the Nominee of the Gillan Club and Dual Nominee with Mr Mark Ellis of the Tavern ("the Applicant"). The Tavern operating under the authority of the tavern style liquor licence is eligible to apply for the gaming machine licence pursuant to Section 24(1)(B) of the Act.
- 5) Company details and certificates of registration as well as the copy of the business plan and community impact analysis were provided by the applicant in support of the application.
- 6) Notice of the application was published in the Centralian Advocate on Friday 15 June 2007; the content of the advertisement included the type of licence applied for and the appropriate information allowing submissions against the granting of a licence to be submitted within the appropriate time frame. In addition a notice advising the public of the application was posted for the required period of thirty (30) days.
- 7) In addition in accordance with Section 24A(d) of the Act, the Notice contained a statement that a person may make a written submission to the Director on the application within thirty (30) days of the notice being first published in a newspaper.

24A. Notice of application

(1) An applicant for a gaming machine licence must, within 28 days of lodging the application, publish a notice that the application has been made –

(a) in a newspaper or newspapers nominated by the Director; and

(b) in any other manner the Director considers suitable to publicise the application.

(2) The notice must –

(a) include a description in sufficient detail to identify the location of the premises to which the application relates;

(b) contain details of the number of gaming machines applied for;

(c) contain details of where community impact information may be obtained;

(d) contain a statement that a person may make a written submission to the Director on the application within 30 days of the notice being first published in a newspaper;

(e) contain any other particulars determined by the Director; and

(f) be not less than a size determined by the Director.

- 8) One written submission was received from Ms SJ Davies of Alice Springs. A copy of this submission was forwarded to the Applicant and the Applicant was provided with an opportunity to respond. The Chairman determined to hold a hearing in Alice Springs to consider all the matters as set out in Section 25 of the Act.

25. Consideration of application

(1) On receiving an application for a gaming machine licence and compliance by the applicant with this Part, the Director shall initiate and have followed through such investigations as the Director considers are necessary in relation to the application.

(2) The Director must forward to the Commission the results of an investigation initiated under sub Section (1) as soon as practicable after the investigation is completed.

(3) The Commission must consider the application and anything accompanying it together with the results of investigations made under sub Section (1) and any submissions received under Section 24A and make an assessment of –

(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;

(f) if the applicant is a natural person – the financial stability, general reputation and character of the applicant;

(g) if the applicant is a body corporate – the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;

(h) if the applicant is a federation of clubs – the business reputation and financial stability of each constituent club and the general reputation and character of the secretary and executive officers of each constituent club;

(i) whether the applicant is a fit and proper person to hold a licence;

(j) if a person is referred to in the affidavit under Section 44 – whether that person is a fit and proper person to be an associate of a licensee;

(k) if the Commission considers it appropriate – whether any other associate of the applicant is a fit and proper person to be an associate of a licensee; and

(l) any other matter that the Commission considers necessary.

The Application

9) As part of the hearing the Commission undertook a view of the premises.

The Applicant submitted at hearing that the granting of the licence would –

- enhance the entertainment and tourism prospect of the area;
- not interfere with exit safety or security features of the premises;
- not take up the majority of the floor space of the premises;
- not be visible by passing pedestrian traffic;
- not give access to the proposed gaming area without first accessing the general public area of the licence premises;
- not have any adverse affect upon the problems already experienced within the Mall;

10) In addition the Applicant gave evidence that they expected their alfresco seating to increase from twelve (12) to twenty-four (24) with the expansion proposed by the Alice Springs Town Council. Mr Booth stated that the Tavern wanted to expand the experience for locals and tourists by giving them the opportunity to play the gaming machines. In so doing the Applicant intended to maintain the current dress code and did not anticipate that the gaming machines would impact upon the consumers who may wish to patronise the premises. Mr Booth also gave evidence that it was intended to make room for the gaming machines by removing the karaoke area which is currently conducted on the premises.

11) Mr Booth gave comprehensive evidence as to the gaming strategies he intended to implement to ensure responsible gambling was associated with the gaming machines.

- 12) On behalf of the Applicant, Mr Paul Cornick from Darzlin Bound Wood (“DBW”) spoke to the community impact assessment (“CIA”), required pursuant to Section 41A of the Act, which was prepared by DBW.
- 13) The substance of the CIA was to the effect that although the premises were located within close proximity of several sensitive areas, see Section 25(3)(B) of the Act, such as the Dr John Flynn Uniting Church, a meeting area used for markets and movies and other family events (“the meeting area”), provided the gaming machines were properly managed the installation of the gaming machines would not have any adverse impact upon the surrounding area.

Submissions Against Granting the licence

- 14) The Commission heard from Ms SJ Davies who had provided a written submission under Section 24(2)(d) of the Act. Ms Davies is a geographical researcher and long time resident of Alice Springs. Ms Davies’ spoke to her written submission and said that her primary concern was that to allow more gaming machines in Alice Springs would extend the risk factors recognised as part and parcel of the gambling industry which would apply a further burden on social services within Alice Springs.
- 15) In Ms Davies’s opinion the CIA did not undertake a very robust examination of the adverse socio economic affect that the installation of the gaming machines might have upon the immediate neighbourhood. In addition Ms Davies was concerned about the proximity of the Tavern to the meeting area and the Uniting Church and did not accept Mr Cornick’s view that the gaming machines would enhance the area for tourism. Rather Ms Davies opined that the installation of the machines could lead to the Tavern becoming less attractive to patrons who do not want to be exposed to gaming machines and therefore the demographics of the patronage of Tavern may adversely impact upon the immediate vicinity.
- 16) Overall Ms Davies’s submission was to the effect that she did not accept that the area required gaming machines to enhance the attractiveness of the immediate area for tourists and to install such machines would in fact detract from an area that is central to Alice Springs and is recognised as a family environment.

Decision

- 17) In reaching its decision the Commission had regard to the following, that –
- the matters set out in Section 24 of the Act were addressed by the Applicant and proper notification of the application was given pursuant to Section 24A of the Act;
 - Section 25(3) of the Act, in particular sub Sections (B) and (C) were relevant in this application;

- the installation of ten (10) gaming machines would make the premises crowded and accordingly, alter the primary activity conducted at the premises namely: drinking at the bar or eating at the restaurant. See Section 25(3)(B);
- the Commission was not persuaded that the installation of the ten (10) gaming machines would enhance the tourism prospects of the area to such a degree that it would outweigh the negative impact the gaming machines might have;
- the Commission accepted the submissions of Ms Davies that the installation of the gaming machines may alter the type of patrons who enter the Tavern and that in turn may have a negative impact upon the immediate surrounding area;
- the Commission is of the view that the long term impact of the gaming machines may place a further burden upon the social services within Alice Springs;
- in the Commission's analysis the proximity of the Tavern to sensitive areas such as the Uniting Church and the meeting area see Section 25(3)(C). It was perhaps this issue that the Commission found most persuasive in denying the Application.

18) Overall the Commission was simply not persuaded that the risk of significant negative impact upon the surrounding area was outweighed by the Applicant's argument that the gaming machines would enhance tourism in the area.

19) For these reasons the application for a Gaming Machine Licence is denied.

Richard O'Sullivan
CHAIRMAN

6 November 2007