

# NSW Independent Liquor & Gaming Authority

Our ref: DF25/038875

Mr Brett Tobin  
Hatzis Cusack Lawyers

4 June 2025

Dear Mr Tobin,

Application No.	1-9161247598
Applicant	Iris Hotels Wentworthville Operations Pty Ltd
Application for	Gaming Machine Threshold increase with a Class 1 Local Impact Assessment
Application date	3 October 2024
Decision date	19 February 2025
Licence name	Wentworthville Tavern
Trading hours	Monday to Saturday 7:00 AM – 12:00 AM Sunday 7:00 AM – 10:00 PM
Premises	385 Great Western Highway South Wentworthville NSW 2145
Legislation	Sections 3, 34, 35 and 36 of the <i>Gaming Machines Act 2001</i> Clauses 33, 34, 35, 37 and 39 of the <i>Gaming Machines Regulation 2019</i> Section 53 of the <i>Liquor Act 2007</i>

## Decision of the Independent Liquor & Gaming Authority Application for a Gaming Machine Threshold Increase and Class 1 Local Impact Assessment – Wentworthville Tavern

We **approve** the application for a Gaming Machine Threshold (**GMT**) increase under section 34(4) of the *Gaming Machines Act 2001* (the **Act**) and the class 1 Local Impact Assessment (**LIA**) under section 36(3) of the Act.

### Impact of *ILGA v Whitebull & Ors [2023] NSWCA 224*

The court in *ILGA v Whitebull & Ors [2023] NSWCA 224* (the **Whitebull decision**) confirmed that the Independent Liquor & Gaming Authority (the **Authority**) may take into account harm minimisation considerations when making a decision under section 34 of the Act.

It also confirmed the Authority's power to impose conditions in relation to the operation of gaming machines under section 53 of the *Liquor Act 2007* (the **Liquor Act**).

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The principles in the *Whitebull* decision underpin the Authority's decision-making under section 34 of the Act.

## Statement of reasons

We are satisfied that:

- the GMT increase application and LIA comply with the requirements of Part 4 Division 1 of the Act and Part 3 Division 3 of the *Gaming Machines Regulation 2019* (the **Regulation**);
- the LIA has demonstrated that gambling activities in the relevant venue are likely to be conducted in a responsible manner;
- the proposed increase in the gaming machine threshold for the relevant venue will provide a positive contribution towards the local community where the venue is situated;
- the relevant venue is not situated in the immediate vicinity of a school, hospital or place of public worship;
- the LIA has adequately addressed any community concerns arising out of the consultation process under the regulation; and
- it is otherwise appropriate that the LIA be approved.

## Our main findings

The local community for the purposes of this decision is the Wentworthville – Westmead Statistical Areas Level 2 (**SA2**). The broader community is the Local Government Area (**LGA**) of Cumberland.

The applicant has proposed to make a financial contribution of \$6,092,217.00 (**total amount**) to the Responsible Gambling Fund by way of five payments, the first due within 28 days of the hotel commencing to trade and then annually thereafter. The first payment is to be 10% of the total amount, the second payment is to be 15% of the total amount, the third payment is to be 20% of the total amount, the fourth payment is to be 25% of the total amount and the fifth payment is to be the remaining 30% of the total amount.

Factors which may suggest that the grant of the application may increase the harm associated with the misuse and abuse of gambling activities or fail to facilitate the balanced development, in the public interest, of the gaming industry include:

- the increase of the venue's gaming machine threshold from 0 to 20;
- the venue's location in a Band 2 (medium risk) SA2;
- the gaming intensity in the local and broader communities, measured by the average profit per gaming machine for the Wentworthville – Westmead SA2 (\$371,045) and Cumberland LGA (\$426,061), is higher than comparable venues (\$81,780);
- the Wentworthville – Westmead SA2 has some identified location factors including higher rates of people from culturally and linguistically diverse backgrounds, who are at an increased risk of harm; and
- the [NSW Gambling Survey 2019](#) report shows a higher rate of "at risk" gamblers in the venue's local health district (**LHD**) (22.5%) compared to NSW (19.5%).

Factors which may partially or fully mitigate against the above include:

- the venue does not propose post-midnight gaming;
- the NSW Gambling Survey 2019 report shows an average rate of problem gamblers in the venue's LHD (1.6%) compared to NSW (1.9%);
- the NSW Gambling Survey 2019 report shows a lower rate of gaming machine gambling participation in the venue's LHD (48%) compared to the NSW rate (53%); and

- the applicant has no objection to the proposed condition of having a Responsible Gambling Officer (**RGO**) on duty and monitoring the gaming machines of the venue when gaming machines are in operation.

### **The material we considered**

We considered the following material when making our decision:

- the application material;
- the liquor licence;
- the local impact assessment;
- the applicant's submission, including a declaration that stakeholders and the community were consulted in relation to the application;
- the gaming plan of management;
- conditions proposed by Liquor & Gaming NSW (**L&GNSW**) to be imposed on the liquor licence;
- venue map and images;
- the statement of reasons for the Authority's decision to partially approve the applicant's previous application for a hotel licence with minors' area authorisation in respect of the venue on 21 August 2024;
- data provided by L&GNSW pertaining to:
  - location factors for the LGA and SA2 where the venue is located;
  - local impact assessment calculation data; and
  - gaming participation and prevalence in the LHD compared to NSW; and
- L&GNSW compliance materials.

We also considered [Guideline 11](#) Class 1 Local Impact Assessment process guidelines.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

### **Opportunity for review**

The applicant and anyone who was notified of the application and made a submission, may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the website. There is a fee to lodge the application.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

### **If you have any questions**

Please contact Liquor & Gaming NSW at: [new.applications@liquorandgaming.nsw.gov.au](mailto:new.applications@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely,



Caroline Lamb

**Chairperson**

**Independent Liquor & Gaming Authority**

## Schedule 1: Licence conditions to be imposed – Wentworthville Tavern

No.	Condition to be imposed	Description
1.	Positive Contribution – New venue	<p>The venue is to make a financial contribution of \$6,092,217.00 to the Responsible Gambling Fund by way of five payments, the first due within 28 days of the hotel commencing to trade and then annually thereafter. The first payment is to be 10% of the total financial contribution amount, the second 15%, the third 20%, the fourth 25% and the fifth the remaining 30%.</p> <p>After two years of operating gaming machines, the applicant's total contribution may be recalculated as 15% of the average annual profit per gaming machine operated by the venue, multiplied by the GMT increase granted, multiplied by five, less any payments made in years 1 and 2, with any remaining balance then to be paid annually, in equal instalments over the remaining 3 years.</p> <p>The licensee is to advise the Authority and the Responsible Gambling Fund (RGF) of the venue's intended date to commence trading no less than 30 days prior to the venue commencing operations.</p>
2.	Responsible Gambling Officer (Gambling Contact Officer) – Non-Dedicated	<ol style="list-style-type: none"> <li>1. The licensee shall ensure that one Responsible Gambling Officer (Gambling Contact Officer), being a staff member who holds a current Responsible Conduct of Gambling (RCG) certificate, is on duty and monitoring the gaming machines of the venue whenever gaming machines are operating.</li> <li>2. The Officer's primary duties are to: <ol style="list-style-type: none"> <li>a. maintain the gambling incident register;</li> <li>b. make reasonable efforts to identify gaming machine players who display or engage in problematic gambling behaviour; and</li> <li>c. if any gaming machine player displays or engages in multiple problematic gambling behaviours as outlined in the Authority's Guideline 16, during a single trading day, then the Officer must (at least once during that trading day): <ol style="list-style-type: none"> <li>i. request that the player take a break from gaming machine play until the close of trade on that day or night (noting that a player who complies with a request to take a break may remain on the premises and consume other goods and services);</li> <li>ii. provide information about the self-exclusion scheme offered at the premises (being the scheme available pursuant to s 49 of the <i>Gaming Machines Act 2001</i>) and ask whether the player wishes to participate in that scheme; and</li> <li>iii. provide information about and access to problem gambling counselling.</li> </ol> </li> </ol> </li> </ol>

No.	Condition to be imposed	Description
		<p>3. This condition is not breached by:</p> <ul style="list-style-type: none"> <li>a. the Responsible Gambling Officer (Gambling Contact Officer) undertaking minor additional duties, so long as such duties do not detract from the Officer's primary duties; or</li> <li>b. the temporary absence of the Officer from the gaming machine areas, where such absence occurs in the ordinary course of their other duties or is by way of a routine break from work (such as a meal break or a bathroom break).</li> </ul> <p>At all times, the duty manager or other senior manager responsible for gaming machine operations will assist the Responsible Gambling Officer (Gambling Contact Officer) in carrying out the duties described in this condition.</p>