



Director-General of Licensing

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	The Cavenagh 12-16 Cavenagh Street Darwin NT 0800
Applicant:	SALSA HOLDINGS (NT) PTY LTD
Nominee:	Mr Ricki Scott
Submissions:	Nil
Legislation:	Section 41 <i>Gaming Machine Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	24 November 2015

Background

1. On 21 July 2015, Mr Michael Burns on behalf of Salsa holdings (NT) Pty Ltd ("the Applicant") applied for an increase in the number of gaming machines authorised for use at The Cavenagh ("the venue") 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 under section 41 of the Act.
3. 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.
4. Under section 41(1) of the Act, a licensee may apply to have the number of gaming machines authorised for use under the license 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.
5. The Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – PUBLIC HOTEL (number 80101040), which is defined under section 3 of the Act as a hotel liquor licence.
6. The Applicant currently holds Gaming Machine Licence No. GM260 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.
7. The application was accompanied by the prescribed application fee and the prescribed levy for the ten additional gaming machines applied for.
8. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by DWS Hospitality Specialists.

Consideration and Reasons

9. 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.*
10. 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

11. 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.
12. The Applicant currently holds Gaming Machine Licence No. GM260 and is authorised to operate ten gaming machines and currently does operate ten gaming machines on the premises. That is, the Applicant is currently operating gaming machines to the limit of its current authorisation.
13. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 1 licensed premise at 20. As the Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – PUBLIC HOTEL, 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.
14. 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.

Community Impact Analysis

15. 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

16. Information contained within the CIA indicates that the current floor space of the licensed premises is 682 square metres of which 79% of the area is used for bar and a beer garden, 16% is used for a bottle shop and 5% is utilised for gaming. The CIA states that these percentages will change to 8% of available floor space being used for gaming as a result of a reduction in the bar area.
17. The floor plans show that the gaming area is currently a discrete area within the premises and with proposed alterations, the discrete area will be expanded. I am satisfied that there is sufficient space to incorporate additional gaming machines if approved.

Suitability of Premises – primary activity

18. The CIA states that there is a mix of facilities at the venue including bars, a restaurant, a beer garden, a function room, 80 accommodation rooms, a bottle shop and a pool.
19. The CIA provides information regarding the venue's financial performance. In 2014, it is reported that 43% of the venue's revenue was derived from liquor, 51% derived from food and 6% derived from gaming. Of interest is that the CIA reports that gaming revenue has almost doubled from July 2014 to May 2015 with one of the contributing factors being the introduction of note acceptors in 2014.
20. The CIA advises that the venue has a "*diversified revenue split and does not rely strongly on gaming profits in order to run a profitable venue*". Additionally, the CIA states that an increase in gaming machines at the venue would allow it to grow its revenue stream however, it would still not have an over-reliance on gaming income.
21. It is also relevant to note that the income derived from accommodation, the bottle shop and wholesale beverage sales has not been included within the aforementioned revenue splits. This further demonstrates that gaming is but one of many activities utilised to generate income by the venue.
22. On the basis of the financial analysis provided, it appears that the vast majority of the venue's revenue is generated by activity other than that generated by the gaming machines and as such I am satisfied that the primary activity of the venue is not that of its gaming machines.

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

23. The Local Community Area ("LCA") agreed to with Licensing NT for use in the development of the CIA incorporates the suburbs of Darwin City, Fannie Bay, The Gardens, Larrakeyah and Stuart Park.
24. The LCA has a high population density which is expected for an inner city area and has a population of just under 15 000 consisting of more than 12 500 adults of which the age distribution shows that there is a higher concentration of persons aged 25-34 when compared to the rest of the Northern Territory. Statistical information obtained through the Australian Bureau of Statistics' 2011 Census Data shows that the LCA has a highly educated population with 37% of the population having obtained a bachelor degree or higher qualification. The CIA indicates that unemployment rates in the LCA are 2.2% in March 2015 and that this rate has declined from 2.4% in 2013. Further, that 47% of residents have a weekly income of \$1 250 or above.
25. 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 shows that the LCA is an area of relative social advantage.
26. 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 1 to 10 with 1 indicating that an area is in the bottom 10% of areas or in other words, the most disadvantaged and 10 indicating that the area is in the top 10% of areas thus being the most advantaged. Of the suburbs incorporated within the LCA, the decile scores range between 9 and 10 thereby indicating that the vast majority of the population within the LCA have a relatively high advantage in terms of access to material and social resources, and ability to participate in society in comparison to the overall population of the Northern Territory.
27. The CIA indicates that within the LCA there are a large number of venues including the SkyCity Casino that provide access to gaming machines. This is not surprising given that the venue is located within Darwin city. Also of note is that four of the venues also within the LCA (excluding the casino) have active applications with the Director-General for an increase in the number of gaming machines authorised for use as does a newly established venue that currently does not have any gaming machines and should all of these applications also be approved, the gaming machine density would increase.
28. It is evident that the 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 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 resident population living in the LCA does not mirror the profile of those most at-risk of experiencing harm from gambling.

29. Another consideration to take into account is that whilst the gaming machine density would increase should this and other similar applications be approved, the patron source for this venue and others in the Darwin city area is not restricted to just residents of the LCA. By its very nature, the Darwin city area attracts residents from the greater Darwin region as well as a high numbers of tourists and given these numbers are difficult to quantify, the actual gaming machine density may in fact be lower than current and projected figures if these additional persons were 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.
30. 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 including schools, churches, the Darwin Police station and several counselling and community services. The CIA advises that with respect to the counselling services, none of them are dedicated to providing counselling in relation to gambling addiction.
31. 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

32. 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, that *"62.8% of TCH visitors are non-problem gamblers, with 8.5% falling into a medium to high gambling risk category, and a further 28.7% were categorised as low problem gamblers."* The CIA also advises caution in relying on these statistics however, as the number of respondents to the survey used in formulating these figures was only 28 people. Given the extremely small survey sample size, these statistics cannot, in my view be afforded sufficient weight to persuade me to reject the application on these statistics alone.
33. The CIA also sets out the policy and procedures underpinning the responsible delivery of gaming services relevant to the venue 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.
34. The policies in place at the venue 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

35. With respect to the economic impact of the venue, the CIA states that the venue has made voluntary contributions to the community over the past 11 months of approximately \$28 000 to organisations such as the Starlight Children's Foundation, Alzheimer's Association, International Women's Day and the Tiwi Bombers Football Club. These contributions are in addition to the 10% of the gross monthly profit of the licenced premises paid by the Applicant to the Gaming Machine Community Benefit Fund.

36. The CIA states that the venue currently employs 56 local staff of which 22 are full-time employees. The venue anticipate that 3 additional full time employees staff will be required should the application be approved.
37. The CIA presents a large amount of data pertaining to tourism with these statistics showing that the LCA continues to attract both the business traveller and the leisure traveller alike.
38. The CIA reports that contact was made with 21 organisations, with eight organisations responding in July 2015 to establish the community's perceptions to the proposed increase in gaming machines. These organisations included the Aboriginal Employment Strategy, the North Australian Aboriginal Justice Agency, the NT Shelter Inc and the Uniting Church in Australia. Of those who participated, three believed that the application if approved, would have no impact whereas five believed that there would be a negative effect on the community. Of those who did not support the application, many comments were about the negative impacts of gambling generally as opposed to concerns about the venue in particular.
39. Whilst the concerns expressed by those organisations that did complete the Community Representative Feedback survey are noted and taken into account they cannot, in my view be afforded sufficient weight to persuade me to reject the application on these responses alone.

Written submissions in response to the application

40. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 7 August 2015. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification.
41. On 11 September 2015, a submission was received from Amity Community Services Inc, ("Amity"), however this falls outside of the allowable 30 day period within which to make a submission to the Director-General, under the Act. I have no discretion to extend the time in which a written submission may be accepted and as such I have not considered the content of that submission in determining this application.

Gross monthly profit of existing gaming machines operated on the premises

42. Statistical information held by Licensing NT indicates that for the majority of venues with gaming machines in the Northern Territory for the 2014/15 financial year, the average gross monthly profit is less than \$6 000 per machine. For this venue, the CIA records that the average gross monthly profit per machine is just over \$5 000. If this application is approved, the outer projections for 2016 are that the gross monthly profit will decrease to just under \$4 000 but by 2019 will have risen to just over \$4 000.
43. As explored earlier in this decision, on the basis of the financial analysis provided and Licensing NT data it is apparent that the majority of the venue's revenue is generated by activity other than that generated by the gaming machines. The revenue generated from gaming is 6% of total revenue with the combined liquor and food revenue being 94% which indicates that the venue is not solely reliant on the revenue raised through the gaming component of its operations.
44. Should the application be approved, the cost to the Applicant of installing ten additional gaming machines will be in the order of \$768 000 comprising the application fee and prescribed levy costs together with the costs of purchasing ten additional gaming machines.

45. Outer projections for the venue contained within the CIA indicate that with additional machines, gaming revenue is anticipated to increase to 16% of total revenue in 2019. The Financial Analysis provided within the CIA indicates that the venue is currently profitable and would still be a profitable enterprise even without any gaming machines.

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

46. The trading hours for the Tavern are from 10.00am to 2.00am the following day for each day of the week. No trading is permitted on Good Friday and Christmas Day.
47. These trading hours are consistent with other venues operating within the Darwin city area.

Size, layout and facilities of the premises

48. As discussed earlier in this decision, information contained throughout the CIA indicates that 5% of the current floor space is used for gaming and if authorisation for the additional gaming machines is approved, this will increase to 8%.
49. The Applicant advises that gaming area will continue to remain a discrete area within the venue and the focus of the venue will not change.

Other matters the Director-General considers relevant

50. 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 for hotels and taverns with existing gaming machines from ten to a maximum of 20 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.
51. 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.
52. The comprehensive CIA prepared for the purpose of this application is analysed in some considerable detail above and raises no issues specific to The Cavenagh that would persuade me to reject the application.
53. 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 gambling generally and the use of gaming machines specifically at the venue under consideration.
54. The CIA suggests that the organisations 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, the majority of those organisations do not support the application.
55. Whilst those comments and submissions 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 the venue.

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56. In addition, the Applicant and as evidenced by the Applicant's submissions in support of the application, including the content of the CIA, the Applicant intends to incorporate strategies aimed at reducing gaming-related harm if the application is approved.

Decision

57. 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 Salsa Holdings (NT) Pty Ltd and authorise the increase of the number of gaming machines located at The Cavenagh from the current limit of ten gaming machines to the maximum allowable for the holder of a public hotel liquor licence, namely a maximum of 20 gaming machines.
58. The additional approved ten gaming machines are required to be included in the schedule attached to the current 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.

Review of Decision

59. 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. An application under section 41 for 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 (NTCAT). Any application for review of this decision must be lodged within 28 days of the date of this decision. No valid submissions were received in response to the advertising of this application and as a result there are no persons eligible under the relevant legislation to seek a review before NTCAT, apart from the Applicant.



Cindy Bravos
Director-General of Licensing

24 November 2015