

Decision Notice

Matter:	Application for Gaming Machine Licence
Premises:	Gateway Tavern Gateway Shopping Centre Yarrowonga Road Palmerston NT
Applicant:	Little Cashy Pty Ltd and Dunstall Pty Ltd
Proposed Manager:	Mr Michael Coleman
Submissions:	Nil
Legislation:	Section 24 <i>Gaming Machine Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	12 July 2016

Background

1. By decision dated 12 April 2016 a delegate of Director-General of Licensing approved the grant of a tavern liquor licence for premises to be known as Gateway Tavern (“the Tavern”), to be located within the Gateway Shopping Centre in Yarrowonga Road, Palmerston. The application for a tavern liquor licence was lodged by Mr Justin Coleman and Mr Michael Coleman, Directors of Little Cashy Pty Ltd and Dunstall Pty Ltd respectively (“the Applicants”).
2. The Gateway Shopping Centre and the Gateway Tavern are currently under construction and the liquor licence was granted subject to a condition that it will not become operative until such time as the construction of the premises is complete and all necessary statutory approvals are obtained. The Gateway Shopping Centre is a \$340 million development situated in Palmerston and will constitute one of the largest entertainment, leisure and retail precincts in the Northern Territory. The Centre will include large retail outlets, Event Cinemas as well as 60 other specialist stores including a food court and cinema complex, an al fresco dining area and car parking for over 1,300 vehicles.
3. Concurrent with the application for a liquor licence the Applicants also lodged an application, pursuant to section 24 of the *Gaming Machine Act* (“the Act”), seeking a gaming machine licence to authorise the operation of 20 gaming machines at the Tavern.
4. Under section 24(1)(b) of the Act, a licensee of a hotel or tavern liquor licence may apply for the grant of a gaming machine licence. 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 2 of the Act.
5. The application was accompanied by the prescribed application fee. Pursuant to section 24(3)(q)(ii) of the Act, the application must also be accompanied by the prescribed levy for each gaming machine that the applicant seeks to have authorised for use under the licence. However, pursuant to regulation 31B(2) of the Regulations, the levy is nil if the total number of gaming machines that would be authorised for use under the applicant’s licence if the application were granted would not exceed the pre-July 2015 maximum number, which for a tavern licenced premise was ten. In this instance the Applicant has paid the levy for the ten gaming machines above the former maximum number.

6. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by DWS Hospitality Specialists.

Consideration and Reasons

7. 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.*
8. Additionally, section 25(3) of the Act prescribes the matters that the Director-General must consider when determining an application for a gaming machine licence. Relevant to this application those matters are:
- (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;*
 - (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;*
 - (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 Director-General 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 Director-General considers necessary.*
9. In respect of this application, section 25(13) of the Act sets out the matters the Director-General must take into account in determining the number of gaming machines authorised for use under a licence as follows:
- (a) *the number of gaming machines sought in the application made under section 24;*
 - (c) *the hours and days when the premises are open for the sale of liquor;*
 - (e) *the size, layout and facilities of the premises to which the application relates;*

- (f) *the size and layout of the proposed gaming machine areas;*
- (g) *the anticipated level of gaming on the premises; and*
- (h) *such other matters as the Director-General considers are relevant.*

Number of gaming machines

9. The Applicants are the holder of liquor licence number 80319065, issued under the *Liquor Act* and endorsed AUTHORITY – TAVERN, which is included in the definition of a hotel liquor licence under section 3 of the Act. Consequently the premises are considered to be Category 1 licensed premises pursuant to regulation 2(2)(a) of the Regulations.
10. Regulation 3 of the Regulations sets the maximum number of gaming machines allowable for Category 1 licensed premises at 20. As such, the Applicants are able to apply for 20 gaming machines and, if granted, I am satisfied that the number of gaming machines authorised for the Tavern will be within the statutory limit of 20 gaming machines.

Community Impact Analysis

11. 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

12. The CIA states the gaming area will occupy 52 square metres of a total floor space of the Tavern of 1,200 square metres, equating to approximately 4% of the total floor space of the premises. The CIA reports that venue is still in the planning phase however floor plans attached to the application indicate that the gaming area has been allocated a minimal space in comparison to other facilities such as beverage, food, functions and outdoor seating.

Suitability of Premises – primary activity

13. The CIA states that Tavern will provide patrons with a mix of beverage and restaurant services together with NT Keno, TAB operations and gaming. In addition, the venue will provide additional entertainment options for the local community as well as a social gathering and meeting space.
14. The CIA reports that the ground floor of the Tavern will be family friendly with 225 square metres of outdoor seating area. Entertainment will include Fox Sports covering the major sporting codes and background music will be piped to all areas of the Tavern. Live entertainment will be strictly limited to acoustic solo or duo acts within the main venue of the premises.

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

15. The Local Community Area (“LCA”) agreed to with Licensing NT for use in the development of the CIA incorporates the suburbs of Bakewell, Driver, Durack-Marlow’s Lagoon, Gray, Woodroffe, Rosebery-Bellamack, Palmerston North, Moulden and Howard Springs.

16. The LCA has a moderate population density which can be expected for a residential suburban area. At the time of the 2011 census the LCA had a population of 31,912 consisting of 22,471 adults with age distribution generally consistent with that of other Darwin and Northern Territory benchmarks. It should be noted that the statistics from the Australian Bureau of Statistics' 2011 Census Data are now somewhat dated and that Palmerston has consistently been rated as amongst the fastest growing cities Australia wide since the last census.
17. Applying the average annual population growth forecast of 1.94% per annum equates to a population of 35,132 in 2016, an increase of approximately 4,000 residents in the LCA since the 2011 census. The population of the LCA is expected to increase to 42,578 residents by 2026.
18. Statistical information shows that the LCA has demonstrated higher concentrations of younger residents when compared to the Greater Darwin Area with an estimated 30% of residents being under 17 years of age. In addition, the proportion of Aboriginal and Torres Strait Island residents in the LCA is slightly higher than within the greater Darwin area.
19. Statistical information obtained from this data shows that the LCA has higher proportion of people that have completed a certificate or diploma when compared to the Darwin Greater area. However, lower numbers of residents have completed bachelor degrees and above when compared to the Greater Darwin Area. The CIA indicates that the unemployment rate in the LCA as of March 2015 was 3.4% of the adult population which is lower than the NT benchmarks.
20. House hold incomes are generally on par with Darwin and the NT benchmarks however there is a much lower level of home ownership when compared to the Greater Darwin Area. This can probably be attributed to the LCA having a relatively young population with residents in their initial stages of servicing mortgages for their homes. A higher proportion of residents of the LCA are in the process of purchasing their own homes than in the Greater Darwin Area and slightly more people are renting their residences.
21. 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 predominantly is an area of high social advantage.
22. There are a number of ways to view the SEIFA scores, with one being through the decile score system where suburbs are ranked 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.
23. The overall SEIFA score for the LCA was 1,022, only marginally lower that of Greater Darwin which is assessed at 1,044, indicating that the LCA is in an area of relative social advantage. Of the suburbs included within the LCA, the decile scores range between one and ten, with the majority of the suburbs within the LCA being in the five to ten decile range. Moulden and Gray are rated as the most disadvantaged suburbs within the CIA with a decile rating of one.
24. In respect of this application the majority of the population within the LCA enjoy a relatively high advantage in terms of access to material and social resources and ability to participate in society. As noted above, Moulden and Gray are rated in the bottom 10% in terms of socio-economic advantage which is reflective of the higher unemployment rate and high instance of public housing in those suburbs.
25. The CIA indicates that within the LCA there are six other gaming venues, these being the Cazalys Palmerston Club, the Palmerston Golf Club, Arch Rivals Tavern, Palmerston Tavern, Palmerston Sports Club and Howard Springs Tavern. Since the publication of the CIA a further gaming machine licence has been issued for the Flynn Tavern which remains under construction but is expected to open for trade in the coming months.

26. It is evident that the accessibility to gaming machines by those people residing in the LCA will increase should this and any future applications be approved. However, the SEIFA decile scores, which identify that the LCA area is generally not regarded as an area of socio-economic disadvantage, also need 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 within the LCA does not mirror the profile of those most at-risk of experiencing harm from gambling.
27. The CIA states that the LCA saw a sizeable increase in metered wins from 2013 to 2014, increasing from \$12.1 million to \$14.5 million and concludes this is indicative of a strong demand for gaming in the local market. The gaming machine density, measured by the number of approved gaming machines per 10,000 adults, stood at 60 for the LCA in 2014. This is below the Darwin and Northern Territory levels of 62 and 64 respectively indicating that the LCA is slightly under-supplied with gaming machines when compared to the broader averages.
28. The CIA notes that gaming machine density has been declining since 2012, attributable to the significant increase in population in Palmerston and the previously imposed cap on gaming machine numbers. The metered win for the LCA per machine per day is over \$60 more for than that of the Greater Darwin benchmark indicating a strong demand for gaming within the LCA. The CIA states that growth in gaming demand in the LCA and Local Government Area is relatively strong.
29. 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 within the LCA that are potentially sensitive to gambling. The CIA reports that there are no gaming sensitive sites within a 200 to 400 metre radius of the Gateway Shopping Centre, with the closest being the Palmerston Water Park which is located approximately 590 metres north east of the Tavern. The CIA also reports that there are a number of shopping outlets in the wider 600 metre to 1.2 kilometre catchment of the Tavern as well as a food precinct and smaller scale shopping outlets.
30. The CIA concludes that given the lack of residential premises surrounding the site of the Tavern it is anticipated there will be little disturbance to the LCA residents if the gaming machine application is approved

Appropriateness of problem gambling risk management and responsible gambling strategies

31. The CIA reports that as the Tavern is a new establishment with no electronic gaming machines there is no information available on the special distribution of potential patrons and the associated level of problem gambling. Information compiled on the Palmerston LGA however indicates that 81.3% of the population are non-problem gamblers, 9.0% are low risk gamblers, 6.5% are moderate risk gamblers and high risk gamblers account for only 1.2% of the adult population.
32. The CIA also sets out the policy and procedures underpinning the responsible delivery of gaming services relevant to the venue in some detail. The CIA affirms the commitment of the Tavern's management to uphold the Code of Practice for Responsible Gaming, harm minimisation strategies and measures including fixed cash payout limits, restrictions on cheque cashing and the location of Automatic Teller Machines away from the gaming room. The CIA notes that the Tavern is not operational at present with the result it is not possible to identify the history of the premises in respect of management of problem gambling and the appropriate implementation of harm minimisation measures.
33. It should be noted however that the directors of the applicant companies have considerable experience in the management of licensed venues with gaming machine operations through the management of Shenannigans Irish Pub and Globies Sports Bar, both of which are located in the Darwin entertainment precinct. Neither of those premises has been the

subject of any disciplinary action or adverse comment in respect of the responsible provision of gaming services and the implementation of harm minimisation strategies and procedures.

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

34. The CIA states that the management of the Tavern intends to employ between 45 and 48 local residents to staff the premises. The CIA also predicts that the Tavern will directly assist the Community Benefit Fund via the 10% levy on gaming machine revenue and that the venue will also support minor community organisations with space for public meetings and general support for other community sectors. The CIA acknowledges that the value of the economic benefits derived by the community will not be known until the premises is open for trade and the business is properly developed.
35. The CIA presents information for the LCA relating to tourism however as the Tavern is still under construction it is not possible to identify the specific categories of clientele that will patronise the Tavern or the actual value of other benefits that may flow back to the community.

Written submissions in response to the application

36. The application was advertised in the NT News on Wednesday 9 December 2015 with the period for the lodgement of submissions closing on 8 January 2016. No submissions or objections were received in respect to this application during the prescribed period.
37. The CIA reports that 18 organisations were contacted in November 2015 to establish the community's perceptions to the grant of a gaming machine licence for the Tavern. Of the community organisations contacted eight organisations provided a response including the Palmerston City Council, St Luke's Anglican Church, Terrace Gardens Aged Care, Goodstart Palmerston, North Australian Aboriginal Justice Agency, Ruby Gaea Darwin Centre Against Rape, Darwin Psychology Services and Palmerston Recreational Centre. All of those who participated by responding to the survey provided by the authors of the CIA believed that there would be a negative effect on the community should the gaming machine licence be granted. Five of the respondents do not support the application whilst the remaining three were neutral in respect of whether or not the licence should be granted.

Gross monthly profit of existing gaming machines operated on the premises

38. As the Tavern is a new venue with no trading history there is no existing statistical data regarding revenue that will be derived from the gaming machine component of the business should this application be approved. The CIA projects that gaming revenue will account for 26.2% of revenue in the venue.
39. Should the application be approved, the cost to the Applicant of installing twenty gaming machines will be in the order of \$1,018,000 comprising the application fee and prescribed levy costs together with the costs of purchasing the gaming machines.

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

40. The proposed trading hours for the Tavern are from 10.00 am to 03:00 am the following day Sunday to Saturday. No trading is permitted on Good Friday and Christmas Day.

Other matters the Director-General considers relevant

41. 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 maximum number of gaming machines in hotels and taverns which now authorise a maximum of 20 gaming machines per venue. 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.

42. 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 the grant of a gaming machine licence. The comprehensive CIA prepared for the purpose of this application is analysed in some detail above and does not raise any issues specific to the Gateway Tavern that would result in the refusal of this application.
43. 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 intends to implement 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. In addition, the directors of the applicant companies have considerable experience in the management of licensed premises with gaming machines and have a proven track record in managing that aspect of the business in a responsible manner.
44. The CIA suggests that non-government community agencies who responded via the Community Representative Survey have concerns with the application believing the grant of an additional gaming machine licence in the Palmerston will have a negative effect on the community and, as a result, the majority of those organisations do not support the application. 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 Gateway Tavern.

Business reputation and financial stability of the applicant body corporate and its officers

45. The Gateway Tavern is currently under construction and not expected to commence trade until 2017. As a result the Tavern has no trading record on which to rely for the purposes of this application. However, the financial information provided in the confidential section of the CIA indicates that the personal and business assets of the applicant companies and their directors significantly exceed liabilities.
46. Taking account of the fact that business conducted at the Tavern is yet to commence significant reliance must be placed on the projected revenues for the venue, as included in the CIA. Those revenue projections indicate that the business will be financially successful and not overly reliant on income generated from gambling with the focus being on food, entertainment and beverage services.
47. The CIA states that the directors of the applicant companies are in the unique position of having extensive experience with the sale of alcohol in a shopping centre and entertainment and leisure precinct. The directors previously developed and operated Shenannigans Irish Pub in the Marion Shopping Centre in South Australia, being one of the first taverns in the country to operate in an entertainment precinct and shopping centre.

Fitness and propriety of the Applicant and persons able to influence the conduct of the business

48. Mr Justin Coleman is sole director of Little Cashy Pty Ltd and Mr Michael Coleman is sole director of Dunstall Pty Ltd. Both directors have submitted affidavits attesting that they are the only persons able to influence the conduct of the business under the liquor licence and for the gaming licence, should that be granted. In addition, Mr Justin Coleman has demonstrated over many years of experience in the hotel industry that he is an appropriate person to be appointed as manager of the Tavern under the liquor licence.

Decision

49. For the reasons set out above, and in accordance with section 25 of the Act I have determined to grant the application lodged by Little Cashy Pty Ltd and Dunstall Pty Ltd for a gaming machine licence authorising the use of 20 gaming machines to be located at the proposed Gateway Tavern.

50. The 20 gaming machines authorised by this decision will be included in the schedule attached to the licence in which each individual gaming machine is identified and authorised for use. The schedule will be prepared upon submission by the Applicant of the details pertaining to the 20 gaming machines once purchased.

Review of Decision

51. 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 25 of the Act for the grant of a gaming machine licence and a determination of the number of authorised gaming machines under section 25(12) of the Act are specified in the Schedule and are reviewable decisions. 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. Noting that no submissions were received by the Director-General in respect of this application, the affected persons are the applicant companies.



Cindy Bravos

Director-General of Licensing

12 July 2016