

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	Shenannigans Irish Pub 69 Mitchell Street Darwin NT 0800
Applicant:	Shenannigans Irish Pub Pty Ltd
Nominee:	Mr Steve Dugan
Submissions:	Amity Community Services Incorporated
Legislation:	Section 41 <i>Gaming Machine Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	23 November 2015

Background

1. On 14 July 2015, Mr Justin Coleman on behalf of Shenannigans Irish Pub Pty Ltd (“the Applicant”) applied for an increase in the number of gaming machines authorised for use at Shenannigans Irish Pub (“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 – TAVERN (number 80315480), which is defined under section 3 of the Act as a hotel liquor licence.
6. The Applicant currently holds Gaming Machine Licence No. GM243 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. It is noted in the documentation accompanying the application, that the proposal is to install five new gaming machines in 2016 and a further five in 2017 if this application is approved.
12. The Applicant currently holds Gaming Machine Licence No. GM243 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 – TAVERN, 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 premises is 226 square metres of which 30% of the area is used for bars, 35% is used for dining, 15% is utilised for gaming with the remaining 20% defined as being used for other. The CIA states that these percentages of floor space utilisation will not change following the planned refurbishment.
17. The floor plans show that the gaming area is a discrete area within the premises and 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 one public bar, one restaurant, a private room available for functions as well as Keno, TAB and sports entertainment. An examination of the floor plan of the venue shows that there is a relatively large alfresco dining area as well as a band stage area inside the venue.
19. The CIA comments that the venue “*holds an important place in both the local economy and local entertainment scene. The venue offers patrons a variety of entertainment options and done so under excellent and responsible venue management*”.
20. The CIA provides information regarding the venue’s financial performance. In the 2013/14 financial year, it is reported that 73% of the venue’s revenue was derived from liquor, 15% derived from food and 12% derived from gaming. The CIA advises that the venue has a “*low reliance on gaming*” as is evidenced that 88% of the revenue is derived from activity other than gaming.
21. 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

22. 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, Stuart Park, Woolner, Bayview and Parap.

23. The area has a high population density which can be expected for an inner city area. The LCA has a population of just under 20 000 consisting of more than 16 000 adults of which the age distribution shows that there is a higher concentration of persons aged 18-29 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 2.1% in 2014 and that this rate has declined from 2.3% in 2013. Further, that 34% of residents have a weekly income of \$1 250 or above.
24. The statistics indicate that there is a high level of residents renting their home compared to overall rates across the Northern Territory, however, the CIA concludes that this is attributable to the younger age of residents and a "*concentrated population of transient professionals who move to Darwin for career progression in managerial roles, and then move on, rather than locate permanently*". Whilst 12% of residents did not state their country of birth, statistical data indicates that 26% of those that did respond were born overseas. 4.3% of the LCA population identified themselves as being Aboriginal and or Torres Strait Islanders compared to 25.7% for the Northern Territory.
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 services. The CIA advises that with respect to these 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 "*88.2% of SIP visitors are non-problem gamblers, 11.8% falling into a gambling risk category*". The CIA indicates that of the respondents who indicated a prevalence towards problem gambling, 10.5% of the respondents were in the low to moderate risk category with the remaining 1.3% being identified as high risk problem gamblers. This compares with a rate of 2.3% for the greater local government area of Darwin. 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 60 people and was considered to be a low respondent rate.
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. Further information was sought from the Applicant in relation to this application and as a result, a copy of the venue's Responsible Gambling Incident Register was provided for the past 12 months. This register reports only one incident with that being a record of a self-exclusion notice. The lack of entries could raise concerns that incidents are not being properly recorded, alternatively it may simply be that there are no incidents to record as the management of the business conducted under the Gaming Machine Licence and the manner in which the Applicant conducts and manages the overall business of the premises may cause there to be few, if any incidents or concern in relation to gaming on the premises.
35. 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

36. With respect to the economic impact of the venue, the CIA states that the venue has *“donated generously to the local community”* through the provision of approximately \$35 000 to organisations such as the Waratah Netball Club, the Starlight Foundation, the NT Irish Association and Camp Quality. 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.
37. The CIA states that the venue currently employs 37 local staff and that they anticipate that 2.5 to 3 additional full time employees staff will be required should the application be approved. Additionally, the Applicant advises that local economy also benefits through the engagement of local cleaning and air conditioning contractors.
38. The CIA states that data from the Census of 2011 indicates that 22.8% of the persons present in the LCA on census night were visitors. The CIA also 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.
39. The CIA reports that contact was made successfully with eight organisations in May 2015 to establish the community’s perceptions to the proposed increase in gaming machines. These organisations included the Dawn House Women’s Shelter, North Australian Aboriginal Justice Agency, an elected member of the Darwin City Council and the Salvation Army. Of those who participated, one respondent believed that the application would have a positive impact whereas four believed that there would be a negative effect on the community, whilst three respondents did not identify any harms and were neutral to the application. Upon reviewing these responses, I note that a common theme among the respondents is that gaming machines target vulnerable groups.
40. A paper based survey was also undertaken within the venue with 17 responses received of which the majority of patrons were in support as long as the gaming room remained discrete from the main tavern area.
41. 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

42. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 5 August 2015. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification. One submission was received from Amity Community Services Inc, (“Amity”) with the submission being in the form of a response to the Community Representative Feedback survey in respect of the application.
43. The submission states that Amity has been working in the area of gambling for over two decades and their programs are underpinned by a public health model that considers the impact of gambling on the entire community and on all gamblers, not just ‘problem gamblers’. The model also focuses on prevention, rather than treatment alone.

44. Amity works predominately in the areas of prevention of and intervention in problem gambling areas by providing extensive training, education, community liaison and health promotion in consultation with the gambling industry. Amity provides its services throughout the Northern Territory with the aim of implementing harm minimisation strategies for safer gambling.
45. Amity does not support the application to increase the gaming machines at the venue, or generally throughout licensed venues and clubs in the Northern Territory community. Amity is of the view, based on the their review of the balance of research on the issue of gambling outcomes, that an increase in gaming machines in the community will have an overall negative effect on the health, social and economic welfare of at least a proportion of the population of the Northern Territory.
46. Amity submits that there is a plethora of problem gambling research that demonstrates the effects of problem gambling, including adverse effects on physical and mental health and wellbeing, financial stability, relationships, employment and legal issues. Amity submits that problem gambling has been linked to risk factors for family violence and elevated levels of suicide including an increase in accessing homelessness services in the Northern Territory.
47. Amity states that research further indicates that 27% of the adult population in the Northern Territory participate in the use of gaming machines and problem gamblers spend on average \$30 000 per annum. During 2012-13, Amity state that the average net loss by players in community venues (pubs & clubs) in the Northern Territory was \$141 per machine, per day equating to approximately \$50 000 per machine per year.
48. Amity submits that Darwin has a general population of 81 670, including persons below 18 years of age, with 1 191 gaming machines located in the hotels, clubs and the casino which equates to 14.6 gaming machines per 1 000 head of population. Amity states that in 2014, the Australasian Gaming Council indicated that the national average for gaming machines was 11 machines per 1 000 adults indicating a much higher gaming machine density in Darwin compared to the national average. Amity suggests there is a plethora of evidence that demonstrates communities experiencing widespread social and economic problems are those communities with a higher concentration of convenience gambling.
49. Amity also advise that as their primary focus is on service delivery, they do not have the resources to analyse client data specifically in relation to the venue and are therefore unable to comment on the number of individuals that have been counselled by Amity in relation to gambling related issues in the last 12 months.
50. Given that Amity's comments are of a generalised nature in response to their concerns with respect to gambling and its potential negative impacts on a wider community than that contained within the LCA, it is difficult to ascertain the aspects of their concern as they relate specifically to the venue the subject of this application other than Amity are unlikely to support any application for an increase in gaming machines, regardless of which venue may apply. I certainly acknowledge that Amity, like many organisations find allocating resources to submissions such as the one made, difficult however I am also mindful that in taking into account generalised statements in relation to the impact of gaming machines may also be considered by the Applicant as an unjust approach to the assessment of this application. As such, I note the generalised concerns raised by Amity however I am not of the view that these comments alone can be afforded sufficient weight to persuade me to reject the application before me.

Gross monthly profit of existing gaming machines operated on the premises

51. 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 under \$8 500. If this application is approved, the outer projections for 2016, the year in which the first five additional gaming machines would be installed is a drop in gross monthly profit to \$7 600 but following the installation of a further five gaming machines in 2017, the projections for 2019 are that the gross monthly profit per gaming machine will be just under \$8 500.
52. 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 12% of total revenue with the combined liquor and food revenue being 88% which indicates that the venue is not solely reliant on the revenue raised through the gaming component of its operations.
53. Should the application be approved, the cost to the Applicant of installing ten additional gaming machines will be in the order of \$750 000 comprising the application fee and prescribed levy costs together with the costs of purchasing ten additional gaming machines.
54. Outer projections for the venue contained within the CIA indicate that with additional machines, gaming revenue is anticipated to increase to 22.2% 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

55. 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.
56. Meals are to be available between the afternoon hours of 12.00pm and 2.00pm and then again between 6.00pm and 10.00pm of an evening with snacks to be available at all times the venue is open for trade.

Size, layout and facilities of the premises

57. As discussed earlier in this decision, information contained throughout the CIA indicates that 15% of the current floor space is used for gaming, 35% is used for dining and 30% for bars. The CIA states that these percentages of floor space utilisation will not change if authorisation for the additional gaming machines is approved.
58. 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

59. 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.

60. 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.
61. The comprehensive CIA prepared for the purpose of this application is analysed in some considerable detail above and raises no issues specific to Shenannigans Irish Pub that would persuade me to reject the application.
62. 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.
63. Amity submitted a well-researched and evidence based position paper. Amity clearly does not support the application, suggesting the Northern Territory is not underserved with gaming machines at present and an increase in the number of gaming machines is a reflection of increasing gaming revenue which will, in Amity's submission, have an overall negative health, social and economic impact on the community and the Northern Territory as a whole.
64. The CIA suggests non-government agencies 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.
65. 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.
66. 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

67. 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 Shenannigans Irish Pub Pty Ltd and authorise the increase of the number of gaming machines located at Shenannigans Irish Pub from the current limit of ten gaming machines to the maximum allowable for the holder of a tavern liquor licence, namely a maximum of 20 gaming machines.
68. 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

69. 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. Any application for review of this decision must be lodged within 28 days of the date of this decision. For the purpose of this decision, and in accordance with section 166B of the Act, the affected persons are the Applicant and Amity Community Services Incorporated.

Cindy Bravos
Director-General of Licensing

23 November 2015