

Director-General of Licensing

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	Buff Club. 57 Stuart Highway Darwin NT 0800
Applicant:	R.O.A.B. Club Inc.
Nominee:	Mr Peter Algie
Submissions:	Amity Community Services Inc.
Legislation:	Section 41 <i>Gaming Machine Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	22 February 2016

Background

1. On 12 October 2015, Mr Theodor Schadegg on behalf of the R.O.A.B. Club (Darwin) Inc. trading as the Buff Club ("the Applicant") applied for an increase in the number of gaming machines authorised for use at the Buff Club ("the Club") 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 2 licensed premise under section 41 of the Act. Regulation 2(2)(b) of the Regulations defines a Category 2 licensed premise as a premise for which a club liquor licence is in force at any particular time.
3. 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.
4. The Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – CLUB, which is defined under section 3 of the Act as a club liquor licence. The Applicant currently holds Gaming Machine Licence No. GM102 and is seeking to increase the number of gaming machines from its current level of 16 to a proposed new number of 45 gaming machines in two stages. If approved, the first stage involves installing of 14 new gaming machines which will take the total number of gaming machines to 30, followed by the installations of a further 15 gaming machines over the next few years.
5. The application was accompanied by the prescribed application fee. No levy is payable for the additional gaming machines as the total number of gaming machines that would be authorised should the application be approved is 45, which was the maximum number permissible for a club licensee prior to the recent amendments to the Act.
6. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by DWS Hospitality Specialists.

7. The Club's application to increase the number of gaming machines was advertised in the NT News on 27 November 2015. The objection period closed on Saturday 26 December 2015.

Consideration and Reasons

8. 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.*
9. 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

10. The Applicant seeks to increase the number of gaming machines from its current level of 16 to a proposed new number of 45 gaming machines, an increase of 29 gaming machines. The Applicant currently holds Gaming Machine Licence Number GM102 and is currently authorised to operate 16 gaming machines, well below the statutory maximum of 55 gaming machines for a venue holding a club liquor licence.
11. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 2 licensed premise at 55. As the Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – CLUB, which is defined under section 3 of the Act as a club liquor licence, the premises are considered to be a Category 2 licensed premise pursuant to 2(2)(b) of the Regulations.
12. As such, the Applicant is able to apply for an increase of 29 gaming machines and if granted, I am satisfied that the number of gaming machines on the premises will be below the statutory limit of 55 gaming machines.

Community Impact Analysis

13. 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

14. The CIA includes information in respect of floor space distribution and states that the gaming room currently occupies 7% of the Club's licensed area, with the bistro taking up 23%, dining 41% and the beer garden 29% of the total floor space.
15. Should this application be approved there will an extension to the existing gaming room to accommodate the additional gaming machines. However, this will only involve a slight extension into the hallway of the dining/TAB area. It is not anticipated that this will impact on the patrons in the venue in any significant way. There will be no increase in the size of the premises or the licensed area.

Suitability of Premises – primary activity

16. The CIA states that the Club provides a mix of facilities at the venue including bars, bistro, pool tables, as well as Keno, TAB and function areas. The Club offers two types of membership, that being social membership at \$10 and full membership at \$15 per annum. The main objective of the Club is to promote, encourage and assist social, literary, sporting, and athletic pursuits and any other lawful activities of its members.
17. The CIA provides information regarding the venue's financial performance. In the 2013/14 financial year, it is reported that 57.7% of the venue's revenue was derived from liquor and 42.3% of the Club's income is derived from gaming activity. No revenue is derived from food sales as the Club have appointed an external caterer under a rolling agreement. The CIA advises that the venue has experienced a substantial increase in gaming revenue over the last two years (up over 48%) and believe this can, in part, be attributed to note acceptors.
18. On the basis of the financial analysis provided, it is shows that that liquor is the major part of the Club's income stream, however, gaming is growing rapidly. In 2011/12 gaming machine revenue made up only 33.0% of the overall Club's revenue and by the 2014/15 financial year comprised approximately 42.5% of the Club's total revenue.

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

19. The Local Community Area ("LCA") agreed to with Licensing NT for use in the development of the CIA incorporates the suburbs of Stuart Park, Darwin City, Larrakeyah and Fannie Bay–The Gardens.

20. The area has a moderate to high population density which can be expected for suburban and inner city areas. The LCA has a population of 14 791 consisting of about 12 654 adults of which the age distribution is generally consistent with that of other Darwin and Northern Territory centres (it should be noted that these stats were based on the Australian Bureau of Statistics' 2011 Census Data, which is somewhat dated and recent reports shows the LCA now has a population of about 22 000, with substantial growth being experienced in the Darwin City area).
21. Statistical information obtained from this data shows that the LCA has higher proportion of people that have completed a bachelor degree when compared to the Darwin and NT benchmarks. The CIA indicates that unemployment rates in the LCA were 2.4%, as of March 2015, which is lower than both the Darwin and NT benchmarks.
22. Within the LCA 43% of residents have an individual weekly income between \$800 and \$1 999 and 11% above \$2 000, which is higher than the Darwin and NT benchmarks. The total household income is also higher than the above-mentioned bench marks. The LCA has a relatively high proportion of residents that are managers and professionals who are highly educated and in the highest income brackets, inferring that the LCA is an area of high socio-economic status.
23. The statistics indicate that there is a much lower level of home ownership or people purchasing their own homes when compared to the Darwin LCA and NT benchmarks. This is likely due to the relatively young age distribution and the inner city location of the LCA. There is a higher proportion of residents renting in the LCA when compared to the bench marks, which is reflective of the inner city presence in the LCA.
24. The CIA reports that the Club is located in a high earning area where residents have the capacity to spend on leisure experiences. Overall, the population of the LCA comprises young, well-educated adults working in white collar positions who are likely to have large amounts of disposable income. The neighbouring suburbs of Fannie Bay and The Gardens have an older population with much higher levels of home ownership and they too have higher levels of disposable income.
25. Whilst 13% of residents did not state their country of birth, statistical data indicates that 28% of those that did respond were born overseas, 9% were born in Asia, predominantly the Philippines. There were also 5% born in the UK and 3% born in NZ. 4.4% of the LCA's population identified themselves as being Aboriginal and or Torres Strait Islanders compared to 25.7% for the Northern Territory. This can be attributed to the LCA's inner city location when compared to the rural nature of the wider bench marks.
26. 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 high social advantage.
27. 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 5 and 10 (with the vast majority of the LCA being in the 9 to 10 range, the outer area of the LCA appears to include a very small part of Ludmilla which has a rating of 5). This indicates that the vast majority of the population within the LCA have a 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.

28. The LCA has an unemployment rate of 2.4% (Larrakeyah and Fannie Bay – The Gardens have only about 1% unemployment), much lower than the Darwin and Territory bench marks which are 3.1% and 4.1% respectively. The CIA claims this is positive for the venue as high levels of unemployment are linked to an increased likelihood of problem gambling.
29. The CIA indicates that within the LCA there are 17 gaming venues, includes the Buff Club, which can be attributed to the fact that the CBD and main Darwin tourism areas are within the LCA. These venues include Darwin Trailer Boat Club, Darwin Sailing Club, Darwin Bowls and Social Club, Skycity Casino, Quality Frontier Hotel, Top End Hotel, Squires Tavern, Darwin RSL, Ducks Nuts, Globies Tavern, Monsoons, Shenannigan's, The Cavenagh, The Deck Bar, The Fox Ale House (closed), The Victoria Hotel (closed) and Top End Hotel. A number of these venues have active applications with the Director-General for increase in the number of gaming machines and should these applications be approved, the gaming machine density would increase significantly.
30. 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.
31. 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 within a three kilometre radius the following 'at risk sites' which includes Amity Community Services, Top End Medical Centre, Stuart Park Surgery, Australian Red Cross, Cash and Treasure (Pawn Brokers), Good Start Early Learning, Parap Pre-School, St John's College, Stuart Park Primary School, Darwin Middle School, Darwin High School, Seventh Day Adventist Church, Uniting Church in Australia, Darwin Baptist Church, Missionaries of Charity, Christ Church Cathedral, Anglican Church of Australia, Anglicare NT, Larrakeyah Neighbourhood House Inc, Grow NT, Parap Pool, Wave Lagoon and the Pearl Retirement Resort.
32. The CIA advises that Amity Community Services provides counselling in relation to gambling addiction.
33. The venue currently holds a gaming machine licence and to date has not been subject to any complaints or disciplinary action in respect of the operation of gaming machines. 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

34. 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 84% of residents within the Northern Territory present as non-problem gamblers, with the remaining being of either low, moderate or high risk. Due to a low response rate (29 out of a catchment of 403), the CIA states that specific figures relating to the venue subject of this application are not available. Whilst this does not assist in the assessment of this application, I note that in a number of previous CIA's that I have reviewed in relation to applications submitted to the Director-General seeking authorisation to increase the number of gaming machines at venues, that the CIA's provided state that caution is suggested in relying on figures provided due to the low

level of respondents. As such I do not see that the lack of data in relation specifically to this venue can be considered negatively.

35. 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. These are also requirements that must be met to ensure the venue complies with gaming machine audits that are conducted by Licensing NT officers on a regular basis.
36. The CIA advises that the Club maintains a register of all self-excluded persons and provides staff with appropriate identification details on excluded patrons. There are currently 12 persons who have self-excluded from using the gaming machines at the Club. The Club also conducts regular staff meetings to discuss gaming related issues and has seven staff with accredited Responsible Service of Gambling certificates. One of those staff is always on-duty whilst the gaming machines are operational.
37. The Club has advised that they do not deal with any significant number of problem gambling related matters. Although this could raise concerns that incidents are not being properly recorded it is equally valid to conclude there are few gambling related incidents to record due to the responsible manner in which the gaming machines are managed at the Club.
38. The venue appears to be 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 the club's existing policies and 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

39. The CIA states that the venue currently employs 11 local staff and that they anticipate that if this application is granted that they will need to employ additional part time staff to cater for the increased patronage.
40. The CIA also presents a large amount of data pertaining to tourism with these statistics showing that the LCA continues to attract visitors to the area.
41. The CIA reports that 20 organisations were contacted in July 2015 to establish the community's perceptions to the proposed increase in gaming machines. Only nine organisations provided a response these included the Counselling Corner NT, Darwin Korean Presbyterian Church, Early Care Darwin, St Mary's Primary School, St Vincent De Paul Society NT, The Aboriginal Foundation NT, The Salvo's Men's Homeless Refuge, ET Milliken P/L and Amity Services Inc.
42. Of those who participated, all respondents believed that the application would have a negative impact on the community. Upon reviewing these responses, it is noted that a common theme among the respondents is that gambling has a negative effect and that the comments were made as general statements rather than specifically towards concerns against the Club the subject of this application.
43. Whilst the concerns expressed by those organisations that did complete the Community Representative Feedback survey should be noted and taken into account they cannot, in my view, given their generalised nature, be afforded significant weight in reaching a final determination on application.

Written submissions in response to the application

44. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on Wednesday 4 November 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 and a position paper.
45. 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.
46. 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.
47. Amity does not support the application to increase the gaming machines at the Club, or generally throughout licensed hotels and clubs in the Northern Territory community. Amity is of the view, based on 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.
48. 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.
49. 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.
50. 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.
51. 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 Club and are therefore unable to comment on the number of individuals who have been counselled by Amity in relation to gambling related issues in the last 12 months.
52. Amity also comments that in relation to the Club specifically, that they have provided training to some of the venue's staff in the past 12 months.

53. 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 Club 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. There is no doubt that Amity, like many organisations find allocating resources to submissions such as the one made difficult. However the concerns expressed by Amity are generalised in nature and refer to the negative impacts of gaming machines per se. As such the issues raised by Amity's submission can be given only limited weight in respect of this specific application.

Gross monthly profit of existing gaming machines operated on the premises

54. Statistical information held by Licensing NT indicates that for clubs with gaming machines in the Northern Territory the average gross monthly profit for the 2014-15 financial year was \$5 854 per machine. For this Club, the average gross monthly profit per machine is slightly under the Territory average and is at \$4 884. It should be noted that both the Buff Club and the other NT clubs have experienced considerable growth in gaming machine turnover over the last three years.
55. As explored earlier in this decision, on the basis of the financial analysis provided and Licensing NT data 42% of the club's revenue is generated by gaming machine activity.
56. Should the application be approved, the cost to the Applicant of installing 29 additional gaming machines will be in the order of \$750 000, which includes the purchase of gaming machines and installation costs.
57. The Financial Analysis provided within the confidential section of the CIA indicates that the venue is well managed and profitable. However, as is the case for the majority of community clubs, the Club relies heavily on profits generated from gaming machines for its continuing financial viability.

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

58. The trading hours for the Club are from 10.00am to 11.30pm Monday to Thursday, 10.00am to 2.00am the following day on Friday and Saturday and from 10.00am to 10.00pm on Sunday. Unlike the majority of licensed venues in the Darwin area, the Club has no restrictions on Good Friday and Christmas Day trading.

Size, layout and facilities of the premises

59. As discussed earlier in this report, the CIA includes information about floor space distribution percentages and it appears, from the information available, that the existing gaming room can accommodate the additional gaming machines being sought without the requirement for substantial building modifications.
60. The Applicant advises that the objectives of the Club will not change if the application is approved, the objectives being to promote, encourage and assist the social, literary, sporting, athletic and any other lawful activities of members.

Other matters the Director-General considers relevant

61. 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 authorised for use in clubs, which allows for a maximum of 55 gaming machines, up from maximum of 45 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.
62. 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 an increase in the authorised number of gaming machines.
63. The comprehensive CIA prepared for the purpose of this application is analysed in considerable detail above does not raise any issues specific indicating that the application for additional gaming machines by the Club should be refused.
64. 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 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 Club.
65. 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.
66. 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.
67. Whilst those comments and submissions are properly made and no doubt indicative of the views and concerns of the organisations represented, they do not provide any specific details of prospective harms or potential adverse community outcomes directly related to the Club.
68. In addition, the Applicant's submissions in support of the application, including the content of the CIA, indicates that the Club has incorporated strategies aimed at reducing gaming-related harm and will continue to do so in an appropriate manner if the application is approved.
69. When considering this application it must be taken into account that the cap on Territory gaming machine numbers had been in-place since 2008, a considerable period of time during which there has been a substantial increase in the region's population. It is unsurprising that once the cap was lifted new and existing venues would apply for additional gaming machine authorisations. It is also self-evident that the number of applications for new and additional gaming machine approvals will reduce once the venue cap is reached, namely 20 gaming machines for hotels and taverns and 55 for community clubs.

Decision

70. 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 the R.O.A.B. Club Inc. and authorise the increase of the number of gaming machines located at the Club from the current 16 machines to 45 gaming machines, an increase of 29 machines. It is noted that the Club intends to install an additional 14 gaming machines initially with the remaining 15 authorised machines to be installed at a later date.
71. The additional approved 29 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 14 gaming machines once they have been purchased. The same requirements will apply when the Club installs the remaining 15 gaming machines at a date in the future.

Review of Decision

72. 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. Amity Community Services Inc. lodged a submission in respect of this application. As a result the affected persons for the purpose of this decision are the Applicant and Amity Community Services Inc.



Cindy Bravos
Director-General of Licensing

22 February 2016