



## Director-General of Licensing

### Decision Notice

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<b>Matter:</b>	Application for Increase in Gaming Machines
<b>Premises:</b>	Beachfront Hotel 342 Casuarina Drive Nightcliff NT 0820
<b>Applicant:</b>	TROJANMEDE Pty Ltd
<b>Nominee:</b>	Mr Guy Dunne
<b>Submissions:</b>	Amity Community Services Incorporated
<b>Legislation:</b>	Section 41 <i>Gaming Machine Act</i>
<b>Decision of:</b>	Director-General of Licensing
<b>Date of Decision:</b>	6 November 2015

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### Background

1. On 22 June 2015, Mr Andrew Case on behalf of Trojanmede Pty Ltd ("the Applicant") applied for an increase in the number of gaming machines authorised for use at the Beachfront Hotel ("the Hotel") 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 80315200), which is defined under section 3 of the Act as a hotel liquor licence.
6. The Applicant currently holds Gaming Machine Licence No. GM187 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. GM187 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(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 throughout the CIA indicates that the current floor space of the premises is 1 708 square metres of which 44% of the area is used for bars, 46% is used for dining, 2% is utilised for gaming with the remaining 8% defined as being used for other. The CIA states that these percentages of floor space utilisation will not change following the planned refurbishment.
17. With respect to the gaming area, further information was sought from the Applicant in relation to the current and future gaming area layout. In response, an existing and proposed site plan was provided to the Director-General including the current and proposed gaming machine layout within the gaming area.
18. The requested plans show that the gaming area is a discrete area within the premises and that whilst the Applicant does not intend to increase the size of the gaming area or change its location should an additional ten gaming machines be authorised, it appears that with a change to the layout of gaming machines in the gaming area, that there is sufficient space to incorporate additional gaming machines if approved.

### Suitability of Premises – primary activity

19. The CIA states that the facilities at the venue incorporate a “*multitude of entertainment offerings*” such as a number of bars including Turtles Bar and Bistro, pool tables, darts, amusement machines and a juke box whilst the gaming room currently has ten gaming machines, TAB and Keno. Live entertainment is also provided which consists of local bands and entertainers. There is also a bottle shop as part of the premises. The CIA states that the linking of food, beverages and entertainment brings together a wide range of patrons.
20. The CIA provides information regarding the Hotel’s financial performance. It states that the Hotel’s revenue is mainly derived from on premise food and beverages but that it also attracts a high off premise revenue. The CIA advises that the Hotel is not solely reliant on the gaming component of its operations as this revenue only forms a part of the venue’s available entertainment options.
21. The CIA’s financial analysis indicates that in 2012 and 2013, 1% of the venue’s revenue was derived from gambling. The information in the CIA then states that for 2014, 95.2% of the venue’s revenue was derived from gambling. It is evident that this is an error and clarification was sought by the Director-General which resulted in the submission of an updated financial analysis for the venue. The updated figures indicate that 8% of overall revenue was generated through gaming in 2012, 7% in 2013 and 8% in 2014.

22. The updated figures which the Applicant advises are figures where GST has already been deducted for accounting purposes correlate to the gaming data held by Licensing NT.
23. On the basis of the financial analysis provided and Licensing NT data it is apparent 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**

24. The Local Community Area ("LCA") agreed to with Licensing NT for use in the development of the CIA incorporates the suburbs of Alawa, Brinkin-Nakara, Coconut Grove, Jingili, Millner, Nightcliff, Rapid Creek, Tiwi, Wagaman and Wanguri.
25. The CIA states that the LCA is a densely populated area having a population of over 25 000 consisting of more than 19 500 adults of which the age distribution is relatively even. Statistical information obtained through the Australian Bureau of Statistics' 2011 Census Data shows that the LCA has a highly educated population with 9% of the population having obtained a post graduate degree and 30% having obtained a bachelor degree, graduate diploma or graduate certificate. The CIA indicates that unemployment rates in the LCA are 3.2% in 2014 and that this rate has remained steady since 2010. Further, that the largest proportion of residents have a combined household income between \$1 500 and \$2 499 with 21% of the population owning their own home, and 33% in the process of purchasing their own home. 42% of the population are renting their home and the CIA comments that this is most likely due to the fact that 17% of the population are residents that are attending university. Whilst 11% of residents did not state their country of birth, statistical data indicates that 30% of those that did respond were born overseas with the majority having been born in Asia. 7.7% of the population identified themselves as being Aboriginal and or Torres Strait Islanders.
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 relative 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, there is a range of decile scores between 4 and 9, with 8 of the 10 suburbs having a score of 6 or more. Based on this information and that provided within the CIA, it appears that the vast majority of the population within the LCA have a relative 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 CIA indicates that within the LCA, there are four venues that provide access to gaming machines, these being the Casuarina All Sports Club, the Nightcliff Sports Club, the Airport Hotel and the Beachfront Hotel itself. The CIA further states that within the LCA and as at 2014 (using population projections of the Northern Territory Department of Treasury and Finance rather than the 2011 census data), there is a density of 41 gaming machines per 10 000 adults. Additionally, the CIA states that there are no indications of a clustering of gaming venues within the immediate area of the venue.

29. The Beachfront Hotel is somewhat isolated from other licensed venues that are authorised to operate gaming machines within the LCA, with the nearest venue being the Nightcliff Sports Club which is over one kilometre in distance from the venue. Should this application be approved and based on the same data set used by the CIA, the density of gaming machines would increase from 41 to 45 gaming machines per 10 000 adults. Also of note is that two of the three venues also within the LCA have active applications with the Director-General for an increase in the number of gaming machines authorised for use and should these applications also be approved, the gaming machine density would increase to 50 gaming machines per 10 000 adults.
30. With respect to this application, the venue is not in close proximity to other gaming venues in the LCA however whilst this may be the case, it is evident that the accessibility to gaming machines by those people residing in the area will increase should the application be approved. The SEIFA decile scores which identify that the LCA area is not regarded as a low socio-economic area 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 as do considerations around problem gambling risk management and responsible gambling strategies.
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 a number of sites including ten schools and early childcare facilities, two churches, several shopping options including Casuarina Square, several gambling help services such as Connect Counselling Services and Sommerville Community Services as well as several sporting venues. The CIA advises that there are no sensitive areas within 500m of the venue nor are there any sensitive areas within sight of the venue.
32. Whilst the CIA has not identified all the sensitive areas in the LCA such as Nightcliff Middle School, The Essington School, St Paul's Catholic School and the St Paul's Catholic Church, the venue is mostly surrounded by residential housing and there are several gambling help service providers nearby.

**Appropriateness of problem gambling risk management and responsible gambling strategies**

33. 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 "85.5% of BH visitors are non-problem gamblers, 9.1% are low risk and only 0.5% are high risk". The CIA advises caution in relying on these statistics however as the number of respondents to the survey used in formulating these figures was only 220 people and was considered low.
34. 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.
35. 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. This register includes 13 separate entries relating to incidents that occurred in the gaming room at the venue for the period 15 December 2013 to 14 August 2015 inclusive. The entries predominantly refer to patron complaints, payout disputes and security related incidents. None of those entries raise any concerns in respect of the management of the business

conducted under the Gaming Machine Licence or the manner in which the Applicant conducts and manages that component of the overall business of the premises.

36. In support of the Applicant's attention to the implementation of responsible gambling practices, two particular entries stand out as being targeted towards minimising gambling harm rather than simply addressing patron comfort and amenity. Those interventions included querying a patron regarding the amount he had spent and counselling and removing a patron who had left children in a vehicle at the rear of the premises.
37. The policies in place at the Beachfront Hotel 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**

38. With respect to the economic impact of the venue, the CIA states that the venue has assisted various organisations through donation and sponsorship but has limited records to support this. The CIA states that records do indicate that in 2014, the venue provided approximately \$48 000 through cash and in-kind donations to organisations such as the Nightcliff Dragons Rugby League Club, the UGLY Leukaemia Foundation and to Aiden Waits Illness Treatment. Additionally, the CIA states that the venue has also paid over \$300 000 into the Community Benefit Fund. Based on projections, the CIA states that donations to the community in 2015 will rise to \$49 700 and by 2019 will be \$82 600. Similarly, the projections in relation to payments to the Community Benefit Fund will rise progressively from \$109 300 in 2015 to approximately \$181 800 by 2019.
39. The CIA states that the venue currently employs 35 staff with most coming from within the LCA and that they anticipate that additional staff may be required should the application be approved although there is no further exploration of this within the CIA to indicate to what level further staff may be required.
40. The CIA states that data from the Census of 2011 indicates that 7.6% of the persons present in the LCA on census night were visitors. The CIA also presents a large amount of data pertaining to tourism however this data is of little value in assessing this application as the data relates to the Darwin region as a whole and is not able to be drilled down as to the impact of tourism on the LCA nor specifically in relation to the venue itself.
41. The CIA reports that contact was made with 20 organisations in May 2015 to establish the community's perceptions to the proposed increase in gaming machines and that eight responses were received. Six out of the eight responses did not support the application and indicated they believed there would be a negative effect on the community, whilst two respondents did not identify any harms and were neutral to the application. No respondents supported the application.
42. Upon reviewing these responses, I note that a common theme among the respondents is that gaming machines target vulnerable groups. I also note and with the upmost respect to those organisations that did make the effort of responding to the CIA's Community Representative Survey, the number of responses received represents only 40% of the organisations contacted with no response at all from the remaining 60%. Whilst it is not suggested that all community organisations that did not respond are positively in support of the application, it must be accepted that their concerns if any, were not of sufficient gravity to elicit a response to the survey.

43. Whilst the concerns expressed by the community organisations that did complete the 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**

44. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 1 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 position paper in respect of the application.
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 Beachfront Hotel, or generally throughout licensed venues 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 Beachfront Hotel 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.

52. 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**

53. 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 the Beachfront Hotel, Licensing NT records indicate that the average gross monthly profit per machine is just under \$10 000.
54. As explored earlier in this decision, on the basis of the financial analysis provided and Licensing NT data it is apparent that the vast majority of the venue's revenue is generated by activity other than that generated by the gaming machines.
55. 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.
56. Outer projections for the venue contained within the CIA indicate that with additional machines, gaming revenue is anticipated to increase to 10% of total revenue in 2017 further increasing to 12% by 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**

57. Whilst the liquor trading hours vary between the different areas of the Beachfront Hotel the trading hours are generally from 10.00 am to 12.00 midnight from Sunday to Wednesday and from 10.00 am to 2.00 am the following day from Thursday to Saturday. No trading is permitted on Good Friday and Christmas Day.
58. The trading hours are reflective of the hours applicable to most licensed premises holding a tavern authority and allowing for late night trading i.e. until 2.00 am. The trading hours for the Beachfront Hotel are limited to 12.00 midnight from Sunday to Wednesday inclusive due primarily to the premises being located in a residential suburb as opposed to those in the entertainment district of Mitchell Street in the Darwin Central Business District.

### **Size, layout and facilities of the premises**

59. As discussed earlier in this decision, information contained throughout the CIA indicates that 44% of the current floor space is used for bars, 46% is used for dining, 2% is utilised for gaming with the remaining 8% defined as being used for other. The CIA states that these percentages of floor space utilisation will not change following the planned refurbishment.
60. The Applicant advises that the additional ten gaming machines will be located in the existing gaming area and no material alterations, including extending the gaming floor footprint, will be required.



61. As also discussed earlier in this decision, it appears that with a change to the layout of gaming machines in the gaming area, that there is sufficient space to incorporate additional gaming machines if approved.

**Other matters the Director-General considers relevant**

62. 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.
63. 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.
64. The comprehensive CIA prepared for the purpose of this application is analysed in some considerable detail above and raises no issues specific to the Beachfront Hotel that would persuade me to reject the application.
65. 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.
66. 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.
67. 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.
68. 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 Beachfront Hotel premises.
69. In addition, the Applicant is known to have a good track record in venue management, both in terms of its existing liquor licence and the current gaming machine licence. 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

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 Trojanmede Pty Ltd and authorise the increase of the number of gaming machines located at the Beachfront Hotel 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.
71. 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

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. 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**

6 November 2015