

Director-General of Licensing

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	Lizards Bar & Restaurant 105 Mitchell Street, Darwin
Applicant:	Halikos Hospitality Pty Ltd
Nominee:	Mr Ashleigh Winn
Submissions:	Nil
Legislation:	Section 41 <i>Gaming Machine Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	18 May 2016

Background

1. On 28 January 2016, Mr Shane Dignan, Managing Director of the Halikos Group, made application on behalf of Halikos Hospitality Pty Ltd ("the Applicant") to increase the number of gaming machines authorised for use at the Lizards Bar & Restaurant ("the venue") pursuant to section 41 of the *Gaming Machine Act* ("the Act").
2. The Halikos Group is a successful Northern Territory company integrating six areas of operations including hospitality, property development, property management, construction, roofing and cladding, manufacturing and building supplies. The hospitality arm was established in 2000 and has an expanding portfolio of successful properties including hotels, serviced apartments, taverns/hotels and retail bottle shops. The Group currently operates the Novotel Darwin, the Frontier Hotel, One30 Esplanade, C2 Esplanade, Crab Claw Resort and H105 Mitchell which includes Lizards Bar & Restaurant.
3. Regulation 2(2)(b) of the *Gaming Machine Regulations* defines a Category 1 licensed premise as a premise for which a hotel liquor licence is in force at any particular time. Regulation 3(a) of 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 at 20 gaming machines.
4. Under section 41(1) of the Act, a licensee may apply to increase the number of gaming machines authorised for use under a gaming machine licence. The Director-General of Licensing ("Director-General") may grant or refuse such an application and in determining the application shall have regard to Part 3, Division 5 of the Act.
5. The Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – PUBLIC HOTEL, licence number 80100335, which is defined under section 3 of the *Liquor Act* as a hotel licence liquor licence. The Applicant currently holds Gaming Machine Licence No. GM262 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.

6. The application was accompanied by the prescribed application fee and the prescribed levy for the ten additional gaming machines sought by the Applicant. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by DWS Hospitality Specialists.
7. The Tavern's application was advertised in the NT News on 9 March 2016. The period for lodging submissions in respect of the application closed on 7 April 2016.

Consideration and Reasons

8. In determining an application for the grant of a gaming machine licence, the Director-General must have regard to the relevant provisions of the Act and Regulations, including but not limited to the statutory objects of the Act set out in section 2A 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 ten to a proposed new number of 20 gaming machines, an increase of ten gaming machines. The Applicant's stated reasons for requesting authority for an additional ten machines are part of a strategic plan aimed at meeting growing demand, improving business operations and subsequently securing the venue's trading position in the long-term.
11. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 1 licensed premise at twenty. As the Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – PUBLIC HOTEL, which is defined under section 3 of the Act as a hotel liquor licence, the premises are considered to be a Category 1 licensed premise pursuant to 2(2)(a) of the Regulations.
12. 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 twenty gaming machines.

13. It should be noted that the applicant proposes, should the application be approved, to install five machines in 2016 and the remaining five in 2017.

Community Impact Analysis

14. Pursuant to section 41A(2) of the Act, the CIA must provide details relevant 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

15. The CIA states that the gaming area comprises approximately 5% of the venue's total area. The floor plan attached to this application reveals that the ten additional machines will be able to be accommodated within the existing gaming area. The area occupied by the gaming room comprises a small area of the overall floor space and the ratio of the floor space of the gaming room compared to the other use areas is comparable to that of similar sized hotel venues offering gaming machine facilities.

Suitability of Premises – primary activity

16. The CIA states that there is a mix of facilities offered to patrons at the venue including bars, restaurant, pool tables, drive thru bottle shop, gaming machines, as well as Keno and TAB facilities.
17. The CIA provides information regarding the venue's financial performance. It should be noted that this venue was part of a \$65 million redevelopment that saw the venue closed from mid-March 2014 until October 2015. Records for the 2012/13 financial year show that gaming revenue accounted for approximately 5% of the venue's overall revenue. For the nine months during which the premises were open for trade in 2013/14 year gaming machine revenue accounted for 6% of gross profit with 85% of revenue being generated through liquor sales.
18. The CIA predicts that should the application be approved gaming machine revenue will account for approximately 9% of total revenue over the next few years. Again, the predicted revenue from gaming machine activity represents a relatively small proportion of the venue's overall revenue which is comparable to that of similar hotel venues.

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 includes the following suburbs, Stuart Park, Fannie Bay, The Gardens, Darwin City and Larrakeyah.
20. Information obtained from the 2011 Census Data shows the area has a population of approximately 14,800, with 86% being adults. However, this information is somewhat dated

and there has been population growth in the area since the 2011 census, particularly in the inner city, and the current population of the LCA is now estimated as being closer to 17,000 people.

21. The inner city Darwin precinct comprises a high proportion of affluent young professionals residing in rental accommodation. This group is an attractive demographic for clubs and hotels, as they are likely to have high disposable incomes and utilise regular dining and entertainment options. Suburbs such as Fannie Bay and Larrakeyah are generally regarded as being amongst the most affluent suburbs in the NT with high rates of home ownership and disposable incomes.
22. The LCA has a high population density with 1,409 people per square kilometre, compared to that of the Darwin Local Government Area ("LGA") of 654 and the NT overall which is 0.2 people per square kilometre. Those comparisons are consistent with those of other state and territory capital city CBD's where high rise developments are the norm. Only 4.4% of LCA's residents were identified as being Indigenous, Aboriginal and/or Torres Strait Islander, which is less than the Darwin LGA at 7.3% and much lower than the Northern Territory wide figure of 25.7%.
23. Statistical information obtained from this data shows that the LCA has a higher proportion of people with higher level qualifications such as bachelor degrees, graduate qualifications or post graduate degrees when compared to the Northern Territory benchmark. There is also a higher proportion of people employed in the managerial and professional categories compared to the broader benchmarks. Household incomes for the LCA were assessed as being higher than the other Territory benchmarks.
24. 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 indicates that the LCA is an area of high social advantage.
25. 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 one to ten with one indicating that an area is in the bottom 10% of areas in respect of socio economic advantage or, in other words, the most disadvantaged and ten indicating that the area is in the top 10% of areas thus being the most advantaged.
26. The overall SEIFA score for the LCA was 1,081 much higher than Greater Darwin which was 1,044, indicating that the LCA is in an area of relative social advantage. Of the suburbs incorporated within the LCA, the decile scores range between nine and ten, with the majority of the suburbs within the LCA being falling within the nine decile range, indicating suburbs of relatively high socio economic advantage.
27. The CIA indicates that within the LCA there are 14 other gaming venues, these being Darwin RSL Club, Buff Club, Darwin Bowls & Social Club, Darwin Trailer Boat Club, Ducks Nuts, Globies Tavern, Monsoons, Quality Frontier Hotel, Shenanigans Irish Pub, Squires Tavern, The Cavenagh, The Deck Bar, The Darwin Hotel and Skycity casino. A number of these venues have or are in the process of applying for additional machines.
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 within the LCA be approved. However, the SEIFA decile scores which identify that the LCA area is generally not regarded as an area of socio-economic disadvantage also need to be taken into consideration in determining whether an increase in accessibility to gaming machines within the LCA will lead to greater harm. It is evident from the information provided in the CIA that the profile of the

majority of residents living in the LCA does not mirror the profile of those most at-risk of experiencing harm from gambling.

29. In addition, whilst the gaming machine density would increase should this and other similar applications be approved, the patron source for this venue and others in this area is not restricted to just residents of the LCA. The LCA, which includes the Darwin CBD and the Skycity casino, does attract a large number of tourists and visitors with the result the actual gaming machine density may in fact be lower than current and projected figures if visitors to the LCA are 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 which included Grow NT, Clinic 34, Mitchell Street Child Care Centre, the Electoral Commission and the Melaleuca Refugee Centre located within 400 metres of the venue. None of these sites are engaged in the provision of specific problem gambling assistance, such as emergency relief or counselling.
31. Within the 400 metre to one kilometre radius of the venue there are a number of other gambling sensitive sites that include gambling help service providers and counsellors, several churches, a number of emergency service providers, two schools and several community organisations. This is consistent with the NT Planning Scheme which states that the Central Business District is zoned for a diverse range of activities that include administrative, judicial, professional, office, entertainment, cultural, residential and other businesses.
32. It should be noted that the venue has co-existed with all these sites for many years without causing any apparent harm to the businesses or locality. The venue is also located within the central business, cultural and entertainment district alongside numerous other gaming venues with the result it could be argued that an additional ten machines will have little impact on the sites identified as being gambling sensitive. The venue currently holds a gaming machine licence and on the basis of the information available above, including the content of the CIA I am satisfied that the venue's location continues to be suitable for the operation of gaming machines.
33. The venue opens onto Mitchell and Daly Streets in the heart of the business and entertainment precinct of Darwin which is a very popular tourist and leisure destination attracting high numbers of locals, interstate and international visitors.

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 residents being of either low, moderate or high risk.
35. Due to a low response rate the CIA states that specific figures relating to the venue subject of this application are not available and suggests the use of caution in relying on figures provided due to the low level of respondents. 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 in existence at the venue. These are also requirements that must be met to ensure the venue complies with gaming machine audits conducted by Licensing NT officers on a periodic basis.

36. 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 for the past six months was provided. The register shows a number of incidents being recorded, however most were for anti-social behaviour and being rude to staff. Only one gambling related incident was recorded involving a patron requesting to be placed on a self-exclusion ban for six months. Whilst the lack of entries in the incident register could raise concerns that incidents are not being properly recorded the alternative conclusion is that there are no gambling related incidents to record due to the manner in which the Applicant conducts and manages the overall business of the premises and, in particular, its gaming activity.
37. 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

38. The CIA states that the venue currently employs 34 staff and it is anticipated that, should this application be approved, there will be a need to employ an additional two full-time staff to ensure the safe, efficient and responsible administration of gaming facilities.
39. The CIA also presents a large volume of data pertaining to tourism with these statistics indicating that Darwin City is a core tourism destination and accounts for 79% of overall visitor numbers to the Northern Territory resulting in a strong demand for leisure and entertainment options in the area.
40. The CIA reports that attempts were made to contact 41 key entities to ascertain their views on the potential impact of this application within the LCA. Only eight entities responded, with three of the participants being neutral to the application and five unsupportive, on the grounds an increase in gaming machines in the area is expected to have a negative impact on the community leading to increased problem gambling.
41. While 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 the context of assessing this particular application and venue. The CIA states that the operators of the venue support community organisations through donations and sponsorship. As of the 2014/15 financial year donations and sponsorships were recorded as just over \$500,00, funded by revenues generated by existing gaming machines and other revenue streams

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 Wednesday 9 March 2016. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification.
43. No submissions in respect of this application were received during the prescribed period.

Gross monthly profit of existing gaming machines operated on the premises

44. Statistical information held by Licensing NT indicates that hotels and taverns with gaming machines in the Northern Territory for the 2014/15 financial year, average gross monthly

profit per gaming machine was \$6,468. This venue has been in operation for approximately six months since the redevelopment of the premises and Licensing NT records show that the gaming machines have averaged \$5,883 gross monthly profit per machine during this period. As noted in this decision notice, on the basis of the financial analysis provided within the CIA and Licensing NT data it is apparent that only around 5% of the venue's revenue is generated by gaming machine activity. However, it is predicted that this will increase over the next few years.

45. Should the application be approved, the cost to the Applicant of installing ten additional gaming machines will be in the order of \$250,000, for the purchase of the gaming machines, plus the application fee of \$518,000. The financial analysis included within the CIA indicates that the venue is currently profitable and, unlike many other community gaming venues, does not rely heavily on profits generated from gaming machines.

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

46. The general trading hours for the venue are from 10.00 am to 02.00 am the following day seven days per week. The Sports Bar and Restaurant have are authorised for extended trading until 4.00 am on Fridays and Saturdays. No trading is permitted in Christmas Day or Good Friday. Those hours are similar to those of other hotels operating in the Darwin CBD.

Size, layout and facilities of the premises

47. The venue has sufficient space in its current gaming room to accommodate the additional machines requested and there will be no requirement for alterations to either the existing licensed area or within the gaming room. The Applicant advises that the focus of the venue will not change and that the premises will continue to provide a wide range of services to meet the leisure interest and wellbeing of guests seeking to use its facilities, including the new Lizards Restaurant, sports bar, TAB and Keno facilities and other forms of social entertainment.
48. 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 in taverns and hotels up to a maximum of 20 machines, up from the former limit of ten machines per venue. At the time of introducing the amendments, the Minister for Racing, Gaming and Licensing noted that the arbitrary Territory-wide cap was abolished in favour of a rigorous community impact assessment process for new applications and for applications seeking additional gaming machines.
49. 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. The comprehensive CIA prepared for the purpose of this application is analysed in considerable detail above and appears not to have raised any issues specific as to why the Lizards Bar & Restaurant would not be eligible for additional gaming machines.
50. 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 venue under consideration.
51. 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, those organisations do not support the application.

52. Whilst all of these comments are properly made and no doubt indicative of the views of the organisations represented, most do not provide any specific details of prospective harms or potential adverse community outcomes directly related to the venue. Of note, in this case of the eight organisations who responded to the survey conducted by the authors of the CIA five were against the application whilst three were neutral in their responses.
53. In addition the Applicant, as evidenced by the Applicant's submissions in support of the application including the content of the CIA, intends to incorporate strategies aimed at reducing gaming-related harm if the application is approved. The CIA reports that the management of the venue have developed stringent responsible service of gambling and other harm minimisation policies to mitigate any adverse effects its business may have on its patrons, staff and the wider community.
54. 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 period of some eight years during which the region that experienced a substantial increase in population.

Decision

55. 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 Halikos Hospitality Pty Ltd and authorise the increase in the number of gaming machines located at the Lizards Bar & Restaurant from the current limit of ten gaming machines to the maximum allowable for the holder of a hotel liquor licence, namely a maximum of 20 gaming machines.
56. The additional approved ten gaming machines are required to be included in the schedule attached to the gaming machine 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 once installed.

Review of Decision

57. 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. As no submissions were received in respect of this application there are no affected persons as defined by section 166B of the Act, apart from the Applicant.



Cindy Bravos
Director-General of Licensing

18 May 2016