

A/ Deputy Director-General (Operations)

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	Nightcliff Sports Club 11 Camphor Street Nightcliff NT 0810
Applicant:	Nightcliff Sports Club Inc.
Nominee:	Mr Daniel Clarkson
Submissions:	Amity Community Services Incorporated
Legislation:	Section 41 <i>Gaming Machine Act</i>
Decision of:	A/Deputy Director-General (Operations)
Date of Decision:	24 August 2016

Background

1. On 3 June 2016, Mr Daniel Clarkson and Mr Brian Thomas, Authorised Executive Officers of Nightcliff Sports Club Inc. ("the Applicant") applied for an increase in the number of gaming machines authorised for use at the Nightcliff Sports Club ("the venue") pursuant to section 41 of the *Gaming Machine Act* ("the Act").
2. Regulation 3(b) of the Gaming Machine Regulations ("the Regulations") sets the maximum number of gaming machines that may be authorised for Category 2 licensed premises under section 41 of the Act.
3. Regulation 2(2)(b) of the Regulations defines Category 2 licensed premises as premises for which a club 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 – CLUB (INCORPORATED) (number 81401342), which is defined under section 3 of the Act as a club liquor licence.
6. The Applicant currently holds Gaming Machine Licence No. GM101 and is seeking to increase the number of gaming machines from its current level of 22 to a proposed new number of 45 gaming machines.
7. The application was accompanied by the prescribed application fee and no levy is payable.
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 22 to a proposed new number of 45 gaming machines, an increase of 23 machines. The current maximum allowable for this Applicant is 55 machines.
12. The Applicant currently holds Gaming Machine Licence No. GM101.
13. 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 (INCORPORATED), which is defined under section 3 of the Act as a club liquor licence, the premises are considered to be a Category 21 licensed premise pursuant to 2(2)(b) of the Regulations.
14. As such, the Applicant is able to apply for an increase of 23 gaming machines and if granted, I am satisfied that the number of gaming machines on the premises would be within the statutory limit of 55 gaming machines.

Community Impact Analysis

15. Pursuant to section 41A(2) of the Act, the CIA must provide details pertaining to:
- (a) *the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;*
 - (b) *the suitability of the premises to which the application relates having regard to the primary activity conducted at the premises;*
 - (c) *the suitability of the location to which the application relates having regard to the population of the local area, the proximity of the premises to other gaming venues and the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers;*
 - (d) *the appropriateness of problem gambling risk management and responsible gambling strategies;*
 - (e) *economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism.*

Suitability of Premises – size, layout and facilities

16. Information contained within the CIA indicates that the current gaming area occupies 5% of the total floor space. The CIA states that if approved there will only be a 2% increase in the floor space dedicated to gaming.
17. The proposed changes are minor in nature.

Suitability of Premises – primary activity

18. The CIA states there is a mix of facilities at the venue including a bar, bistro, kids room, function and facility hire, pool tables and jukebox, lawn bowling, KENO and TAB.
19. The club has been in existence for over 40 years and been rebuilt and renovated several times. It is affiliated with 11 sporting clubs and has provided over \$466K in cash or kind donations to these clubs in the 2014-2015 financial year.
20. The CIA provides information regarding the venue's financial performance. In 2013 the net profit was \$124K, 2014 - \$127K and \$284K in 2015. These figures are for gaming and beverages only; the food operation is leased to a private entity that pays a lease. Kitchen sales however were recorded by the lessee at \$300K for the last 12 months. Accordingly bar sales and gaming generally contribute an equal amount to the venue (approx. 48%).
21. It is expected the additional machines will return a slightly higher contribution through gaming taking the mix to over 50% by 2019 and the Applicant projects net profit at that time of \$403K.

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

22. For the purpose of the CIA the Local Community Area ("LCA") agreed with Licensing NT for use in the development of the CIA includes the following areas: Nightcliff, Rapid Creek, Coconut Grove, Millner and Jingli.
23. The 2011 population census identified 14,055 people residing in the LCA of which 11,095 were adults. This information is almost five years old, however it may be

A/Deputy Director-General (Operations) Decision Notice

considered the LCA is an established area and that the total population and adult ration would not have altered significantly in the past five years. The LCA is more densely populated than the Darwin LGA. The density within the LCA is 1,849 persons per square kilometre, whereas the Darwin LGA is 654 persons. The suburbs of Nightcliff and Coconut Grove are major residential area of the region and consequently are the most densely populated.

24. The LCA has a wide spread of age demographics with a higher incidence of residents aged 25 – 74 when compared to the wider benchmark, except for the 45-54 age bracket which is similar.
29. The LCA includes a lower proportion of Indigenous residents than the overall figures for Greater Darwin. This may lessen the impact or propensity for pathological gambling as it was accepted by the Productivity Commission Inquiry Report 2010 that Indigenous populations are more likely to be pathological gamblers.
30. The LCA has a high proportion of people with higher lever qualifications and the education profile is consistent with the age demographics of the LCA.
31. Weekly household incomes for the LCA are spread across the eight major income streams reported on. Those figures being: <\$300 (4%), \$300 - \$600 (10%), \$600 to \$999 (12%), \$1,000 - \$1,499 (15%), \$1,500 - \$2,499 (23%), \$2,500 - \$3,499 (15%) and \$3,500 + (8%).
32. The Australian Bureau of Statistics' Socio Economic Indexes for Areas ("SEIFA") 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 only marginally below that of the Greater Darwin Area indicating that the LCA is an area of relative social advantage. The suburb of Coconut Grove is the least advantaged in the LCA in terms of socio economic advantage, a reflection of the higher unemployment rate in that suburb of 17.2%.
35. The CIA states that at the time the report was prepared there were two other gaming venues in the area. Those venues are the Beachfront Hotel with ten gaming machines and the Airport Tavern also with ten gaming machines. Subsequent to the report both premises have had their gaming machine licenses increased to 20 machines each in late 2015 and early 2016. In total there are presently 62 gaming machines authorised for the three licensed premises within the LCA. The approval of this application would take the overall number in the LCA to 85.
37. In the LCA 27% of residents reported as being non-Australian, the majority of these being from Asia, the United Kingdom and New Zealand. However 12% of the population did not state their country of origin.
38. The Australian Bureau of Statistics' Socio-Economic Indexes for Areas ("SEIFA") 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 SEIFA analysis indicates that the LCA is an area of relative social advantage.

Appropriateness of problem gambling risk management and responsible gambling strategies

40. The 2014 report 'Gambling Harm in the Northern Territory: An Atlas of Venue Catchments', prepared for the Community Benefit Committee in May 2014, indicates that 84% of residents within the Northern Territory present as non-problem gamblers, with the remaining being either low, medium or high risk.
41. Due to a low response rate of 81 out of a catchment of 1,165 the CIA states that specific figures relating to the venue are not available. Whilst this does not necessarily assist in the assessment of the application, previous considerations have taken a cautious approach to relying on figures provided due to the low level of respondents.
42. In terms of the risk of problem gambling at the Club, the CIA reports that the venue has in place a compliant and meaningful policy and operational framework for harm minimisation. The Club follows the expectations of the code of practice for gambling in a responsible manner and in line with community expectations. Practices identified in the code have been adopted by the Club to assist in the minimisation of harm to consumers who may be adversely affected by gambling.
43. 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 requirements must be met to comply with the audits conducted by Licensing NT personnel.
44. The Club maintains a responsible gambling incident register which records action taken by staff to ensure that the standards set out in the code are maintained. The Club has adopted and implemented exclusion processes, via self and Club exclusions. The CIA states that the Club's responsible gaming mission statement is on display in the gaming room and gambling warning posters are also prominently displayed. Lifeline referral cards are located throughout the venue and in particular the gaming room.
45. In the view of the authors of the CIA, the Club appears to follow the strict processes for self-exclusion and takes appropriate steps to maintain compliance with the self-exclusion provisions contained in the code of practice for responsible gambling.
46. Presently there are five persons recorded as self-excluding and it is submitted the Applicant records incidents in accordance with the requirements. It is further submitted there are generally very few incidents at the premises; however the register does record 16 entries which demonstrates the register is being used.
46. It should also be noted that the Club has not been the subject of any recent or relevant disciplinary action or complaint in respect of the operation of its gaming machines.
47. The venue currently holds a gaming machine licence and on the basis of the information available above, I am satisfied that the venue's location continues to be suitable for the operation of gaming machines.

A/Deputy Director-General (Operations) Decision Notice

54. The policies in place at the venue at present are compliant with the *NT Code of Practice for Responsible Gambling (2016)* 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

55. The CIA states the venue currently employs 25 staff. It is anticipated a further three personnel will be employed in the event this application is approved.
56. The CIA reports 21 organisations were contacted to ascertain their views on the potential impact of the application within the LCA. Eight organisations responded, all suggesting there would be a negative impact from this application's approval.
57. The community organisations that did not respond are listed in the CIA.
58. Whilst the concerns expressed by those organisations that did complete the Community Representative Feedback survey are noted and taken into account they cannot, in my view be afforded sufficient weight to persuade me to reject the application on these responses alone.
59. A patron survey was conducted with seven being returned, all of which were positive responses in support of the application.

Written submissions in response to the application

60. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 1 July 2016. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification.
61. No submissions were received as a result of the public advertising. Despite this the author is aware of a general submission that has been received from Amity Community Services Inc ("Amity"), for other applications.
62. That 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.
63. 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.
64. As there was no specific submission in relation to this application by Amity, their opposition to increasing gaming machines can only be general in nature and afforded the appropriate weight in consideration of this matter. Amity has clearly expressed their view is, that an increase in gaming machines in the Northern Territory will have an overall negative effect on the health, social and economic welfare of at least a proportion of the overall population.

A/Deputy Director-General (Operations) Decision Notice

65. 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.
66. 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.
67. Amity also advise that as their primary focus is on service delivery, they do not have the resources to analyse client data specifically in relation to the venue and are therefore unable to comment on the number of individuals that have been counselled by Amity in relation to gambling related issues in the last 12 months.
68. Clearly Amity's comments are general in nature with respect to their concerns about gambling and its potential negative impacts on a wider community. Further, they have made no specific submissions in relation to this application or the premises. It may however be accepted 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

69. 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 \$5,950 per machine. The Nightcliff Sports Club records a slightly higher average per machine of \$6,529.
70. The financial analysis provided with the CIA indicates the Applicant is in a strong financial position and is capable of financing the purchase of additional machines.

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

71. The current trading hours for the venue are Sunday, 10:00hrs to 22:00hrs, Monday to Wednesday, 10:00hrs to 23:30hrs, Thursday 10:00hrs to 01:30hrs the following day and Friday and Saturday, 10:00hrs to 02:00hrs the following day
72. The trading hours are consistent with the authorised trading hours for sporting based community clubs holding a club liquor licence.

Size, layout and facilities of the premises

73. The Applicant has stated there are only minor alterations required to facilitate this increase and they will not constitute material alterations.

Other matters the Director-General considers relevant

74. 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 clubs with existing gaming machines from 45 to a maximum of 55 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.
75. 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.
76. The comprehensive CIA prepared for the purpose of this application has been analysed in considerable detail. No issues arise which would preclude the approval of this application.
77. 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.
78. Whilst noting no specific objections were lodged Amity has submitted previously a well-researched and evidence based position paper. Amity clearly does not support any applications, 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.
79. The Applicant has evidenced their previous adherence to gaming laws and regulation, suggesting an adherence to the requirements.
80. There has been no adverse comments or reports received from Licensing NT departmental personnel in relation to the operation of these premises.

Decision

81. For the reasons set out above, and in accordance with section 41(3) of the Act I have determined to grant this application lodged by Nightcliff Sports Club Inc and authorise the increase of the number of gaming machines located at the Nightcliff Sports Club from the current limit of 22 gaming machines to 45 machines. This will not take the Applicant over the statutory limit of 55 machines for a club liquor licensee.
82. The additional approved 23 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

83. Section 8 of the *Licensing (Director-General) Act* prescribes a delegate decision is a decision, under any Act, of the Director-General that is made by a delegate of the Director-General. The Director-General delegated the determination of applications made under Section 41 of the *Gaming Machine Act* by instrument to the person from time to time holding, acting in or performing the duties of the position in the Department of Business specified in Schedule 2 of that instrument. This decision was made by a person referred to in that schedule. Section 10 of the *Licensing (Director-General) Act* provides that an affected person for a delegate decision may apply to the Director-General for a review of the decision. This application for review must be made within 28 days after written notice of the delegate decision is given to the affected person, or within any additional time that the Director-General allows. Section 9 of the *Licensing (Director-General) Act* prescribes an affected person for a delegate decision to be the applicant for the increase in gaming machines and a person who made a submission, complaint or objection (however described) during the process that resulted in the decision being made.
84. Accordingly the affected persons in relation to this matter are Nightcliff Sport Club Inc. and Amity Community Services Incorporated.



Mark Wood
A/Deputy Director-General (Operations)

24 August 2016