



## Director-General of Licensing

### Decision Notice

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<b>Matter:</b>	Application for Increase in Gaming Machines
<b>Premises:</b>	Parap Tavern 15 Parap Road PARAP NT 0820
<b>Applicant:</b>	Australian Leisure and Hospitality Group Pty Ltd
<b>Nominee:</b>	Mr Steven Green
<b>Submissions:</b>	Nil
<b>Legislation:</b>	Section 41 <i>Gaming Machine Act</i>
<b>Decision of:</b>	Director-General of Licensing
<b>Date of Decision:</b>	11 December 2015

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### Background

1. On 28 August 2015, Australian Leisure and Hospitality Group Pty Ltd ("the Applicant") applied for an increase in the number of gaming machines authorised for use at Parap Tavern ("the Tavern") 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 application was accompanied by the prescribed application fee and the prescribed levy for the ten additional gaming machines applied for. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by HWL Ebsworth, Lawyers.

### Consideration and Reasons

6. 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.*

7. 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*

(c) *such other matters as the Director-General considers are relevant.*

### **Increased number of gaming machines**

8. 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 is currently authorised to operate ten gaming machines on the premises, the maximum number permitted under its current authorisation.

9. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 1 licensed premise at 20. The Applicant is the holder of liquor licence number 80315250, issued under the Liquor Act endorsed AUTHORITY - TAVERN, which is defined under section 3 of the Act as a hotel liquor licence. Consequently the premises are considered to be Category 1 licensed premises pursuant to regulation 2(2)(a) of the Regulations.

10. 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**

11. 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**

12. Information contained within the CIA states that the Tavern has operated under a liquor licence authorising the sale of liquor to the public since prior to World War II and a gaming machine licence since the later 1990's.
13. A refurbishment of the structure and interior design of the venue is proposed to accommodate the additional ten gaming machines should this application be approved. The floor plans for the proposed alterations to the premises show that the gaming room as a discrete area within the premises and that there is sufficient space to incorporate additional gaming machines if approved.

### **Suitability of Premises - primary activity**

14. The Tavern is a medium sized venue situated on a relatively large site in the suburb of Parap. The Tavern offers a range of facilities typical of a suburban tavern, including bars, a drive through bottle shop, restaurants and the existing gaming room situated at the centre and towards the rear of the premises. The CIA describes the venue as dated however renovation of the premises is proposed. The Tavern has been a prominent feature of the Parap area since 1937 and continued to be operated as a family business up to its sale to the Applicant in October 2014.
15. In addition, the Tavern conducts live entertainment with local and interstate acts, singers and musicians as well as providing televised entertainment covering major sporting events and the like, the existing ten gaming machines together with TAB and Keno facilities.
16. The CIA reports that the current layout of the venue has gradually grown and been transformed since it was significantly damaged during Cyclone Tracy in 1974. The restaurant operating at the Tavern has been awarded the NT Gold Plate for Best Bistro three times and received an Australian Hotels Association Award for Best Bistro in Australia. The restaurant has also won the NT Gold Plate for Best Public Hotel Dining on two occasions.
17. The CIA states that the Tavern has been an economic force in the Parap area since opening in the 1930's. The Applicant favours local suppliers in its procurement policy thereby enhancing local business and providing direct employment benefits to the wider community. The Tavern Manager, Mr Green also states that at the busier times it is common for the gaming room to become proportionally busier.
18. In a statement annexed to the CIA, Mr Green, notes that the customer grouping of the premises includes trades men and women, office workers, retail business staff, public servants, shop attendants and retirees. Customer numbers increase when the iconic Parap Markets are operating on Saturdays and in the evenings, especially weekends, the restaurant attracts additional customers.
19. The financial data included as an annexure to the CIA indicates that the Tavern is in a strong financial position, with strong income figures across the bar, food and gaming income streams. For the 2014/15 financial year revenue from gaming machine activity accounted for 22.47% of the Tavern's total revenue, commensurate with the range of services offered by the Tavern to its clients and comparable to the ratio applicable at like venues.

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

20. The Tavern is located on a short commercial strip of Parap Road and within the primary residential suburb of Parap. The CIA notes that the Tavern has proven to be suitable as licensed premises for the sale of liquor in a hotel style business for over 75 years and in the conduct of gaming machine activity since the late 1990's. Parap is primarily a residential suburb and is in close proximity to the suburbs of Fannie Bay and Ludmilla. Parap is a well-known and recognised suburb in the Darwin community with locals and visitors alike attracted to the area on Saturdays when the Parap Markets operate in the nearby Parap Shopping Village. The site of the markets is within 300 to 400 metres of the Tavern and the Manager of the venue notes that the Tavern enjoys additional trade on market days with many people frequenting the markets also visiting the Tavern, including tourists,
21. The Local Community Area ("LCA") for the Tavern has been identified as the Parap Area. For the purpose of the analysis required to be included in the CIA. The 2011 census indicated there were 1 976 people residing in Parap comprising 1 555 adults. Aboriginal and Torres Strait people make up 6.1% of the population.
22. The CIA notes that the population of Parap had increased by 3.7% from the time of the 2011 census until 2012. The CIA reports that the rate of population growth declined from 4.7% on 2012/13 to 4.1% in 2013/14 and that the current population is estimated as being between 2 200 and 2 300 people. The median age of residents of Parap is 35 years.
23. So far as employment is concerned, the CIA notes that as of the 2011 census date 71.5% of adult residents were employed full time, 20.3% were employed part time and 2.3% were unemployed. Also at the time of the census, the average weekly income for residents over 15 years of age was \$1 051 with 11% of households having a weekly income of less than \$600 and 25.2% with a weekly income of more than \$3 000.
24. The CIA includes 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 the SEIFA rating for Parap was 1083, falling within the 9<sup>th</sup> decile of advantage/disadvantage, which gives the suburb the rating of 1846<sup>th</sup> Australia wide and 55<sup>th</sup> in the NT in terms of comparative socio economic advantage.
25. The CIA concludes from the SEIFA assessment that the Parap area has a relatively low incidence of disadvantage according to the Australian Bureau of Statistics census data.
26. There are no other gaming machine venues in the Parap area. As a result gaming machine density per 10 000 head of population, assessed against an estimated population of 2 000 people, equates to 5 gaming machines per 10 000 residents, well below the averages for the Greater Darwin Area and for the Territory overall. If the within application is approved the gaming machines density will increase to 10 gaming machines per 10 000 residents, still considerably lower than the benchmarks for the Greater Darwin Area and the NT.
27. Allowing that there are no other gaming machine venues in the Parap area, the issue of clustering or proliferation of gaming machines does not arise.
28. 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. The CIA identifies a number of gambling sensitive sites within the area in which the Tavern is located, including Amity Community Services Inc., Cash & Treasure pawn brokers, Local Super NT, the Parap Primary School and Pre-school, Parap Family centre and the Parap shopping centre.

29. Allowing that the Tavern has operated gaming machines at the venue since the late 1990's it is not anticipated that the addition of ten gaming machines located at the Tavern will have a material impact of the local community or surrounding residents, including the identified sensitive sites.
30. The CIA in respect of potential impact on the community notes that to date the Tavern has not adversely affected the amenity of the Parap area and there is no evidence to suggest that this is likely to change in the future. The CIA notes that in respect of the community organisations consulted in respect of this application, none identified any current problems with the manner in which the business under the gaming machine licence has been conducted at the Parap Tavern.
31. The Tavern currently holds a gaming machine licence and has done so for some considerable time. On the basis of the available information and the material presented in the CIA, I am satisfied that the venue's location continues to be suitable for the operation of gaming machines.

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

32. The CIA reports that Young Doran Markham (2014) research of problem gambling by NT residents for the purpose of the 2014 report 'Gambling Harm in the Northern Territory: An Atlas of Venue Catchments' confirms that problem gamblers make up a small percentage in the number of gamblers but account for 30% of the total gambling expenditure. Approximately 600 000 Australians play gaming machines weekly, equating to 4% of the adult population, and of that group 15% are considered to be problem gamblers who spent around 40% of the total spending on gaming machines.
33. The CIA also states that the indicated that Young Doran Markham (2014) research found that 73.8% of customers of the Parap Tavern were considered to be non problem gamblers, 6.6% are considered low risk, 16.4% were moderate risk and 3.3% were considered to be high risk problem gamblers. Those figures must be viewed with some caution due to the low response rate of the survey conducted.
34. The CIA states that the Applicant supports the proposition that gambling can be harmful to players who are not able to control their commitment of time or money when playing gaming machines. The Applicant has in place a responsible gambling policy, published on its national website.
35. Mr Green states that the Applicant is committed to promoting responsible gambling and that all five duty managers hold a Responsible Gaming Certificate and that six employees of the Tavern hold Machine Manager's Licences. Mr Green's opinion customers who regularly visit the Tavern regularly engage with the gaming machines as a part only of their customer experience, if at all.
36. The CIA states that the Applicant demonstrates a proactive approach to the management of the gambling elements of its business. Measures currently in place include periodic and specific staff training, participation in the self-exclusion program.
37. Of significance, the CIA reports that the Applicant has committed to install pre-commitment technology in all of its venues that have gaming machines throughout Australia and that pre-commitment is the cornerstone of the Applicant's responsible gambling plan. Mr Green states that it is his understanding that the applicant's intention is to have pre-commitment functionality within the Tavern and all of its other venues in the Northern Territory by the end of 2015. Posters will be displayed in the vicinity of the gaming room to inform clients of the availability of pre-commitment technology.

38. The Tavern has in place a responsible gambling incident register and ensures recording of action taken by staff in respect of enforcement of the code of conduct for responsible gambling. An inspection of samples from the incident register indicate that the Tavern staff take a proactive and responsible approach to their obligations in dealing with customers utilising the gaming machines.

**Economic impact – contribution to the community, employment creation and significance/reliance of the venue to or on tourism**

39. The CIA includes the Tavern's financial data from October 2014, when the Applicant purchased the Tavern, to 30 June 2015, indicating that the Tavern has trading profitably since the purchase and transfer of the liquor licence. Allowing that the Applicant is a subsidiary of a major Australian company, there are no concerns in respect of the Applicant's financial capacity to purchase and install ten additional gaming machines should this application be approved.
40. The CIA reports that there has been a steady growth in gaming revenue at the Tavern over the past three years, demonstrating a demand for that form of entertainment. The Tavern has generated significant taxes and contributions to the Community Benefit Fund over the same period.
41. The Applicant estimates that if the application is approved there will be a 35% increase in turnover in 2015/16 from the previous financial year.
42. In terms of employment, the Tavern currently employs 28 permanent full time or casual staff with most of the staff cross trained over the areas of gaming, restaurant and bars. The Applicant intends to employ an additional three or more staff as needs require and if the additional gaming machines are approved. The CIA reports that most staff employed at the Tavern are from the Parap, Fannie Bay and Ludmilla areas with the remainder residing in Darwin's northern suburbs.
43. The CIA states that Tavern contributes to various charities and community groups, including Gaming Help, on both the national and Darwin level. Given the relatively short time in which the Applicant has operated the tavern the CIA refers to the Applicant's contributions to the community in interstate jurisdictions where its involvement in the hotel industry has existed for a longer period. The CIA indicates that the Applicant makes significant contributions to charitable organisations from its gaming revenue interstate, including Bravehearts (Queensland), Good Friday Appeal (Victoria) and Ronald McDonald House (South Australia) to name a few. It is anticipated that the Applicant's Darwin venues will provide for similar assistance to NT based organisations as the business under the new ownership increases with time.
44. The CIA reports that the applicant has a mutually beneficial relationship with a number of sporting clubs who use the venue for social functions and fund raising activities, noting that some of the clubs that use the venue do not have club facilities which makes the Tavern a convenient local venue.
45. In respect of the net economic impact, the CIA states that the Tavern is a significant contributor to the local economy as is apparent from the vast list of businesses who supply goods and services to the venue and the employment of a significant number of local residents.

**Written submissions in response to the application**

46. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on Wednesday 7 October 2015. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification. No submissions were received within the statutory period.

47. The author of the CIA did however conduct community consultation with targeted community representatives. The methodology applied in seeking community opinion was to contact community groups by email or telephone followed by a written introduction and the provision of a response form provided to assist the community organisations to respond to the relevant questions posed.
48. Amity Community Services Inc., NT Shelter and St Vincent de Paul Society (NT) Inc. provided formal written responses to the author of the CIA. Those responses are included in full as annexures to the CIA.
49. The response from Amity states clearly that it opposes the increase in gaming machines at the Parap Tavern due to the potential for additional harm to be incurred by problem gamblers. Amity also contended that the appropriate LCA for the assessment of the application is the Darwin Local Government Area and not the suburb of Parap. In that regard it is noted that the scope of the LCA was agreed between the author of the CIA and officers of Licensing NT to be the discrete suburb of Parap on the basis that gaming machines are not such a significant attraction that users are likely to travel significant distances to use gaming machines when gaming venues are located closer to their place of residence.
50. The submission from St Vincent de Paul Society (NT) Inc. opposes the application and enclosed the Society's National Policy statement on Harm Minimisation in the Poker Machine Industry, published in December 2010. That policy statement includes reference to pre-commitment technologies and policies aimed at reducing the prospect of harm to potential problem gamblers. In that regard the Applicant's commitment to introduce pre-commitment technology to its Northern Territory venues is significant, more so as that technology is not mandated by any NT law, guideline or policy.
51. The response from NT Shelter properly addresses the harm issues associated with gaming machines and problem gambling, an issue that is well known and document in a plethora of research papers. However, that submission is of a general nature in respect of potential harms and does not identify any existing or potential harms specific to the Parap Tavern.

### **Gross monthly profit of existing gaming machines operated on the premises**

52. The CIA reports that there has been a steady growth in gaming revenue at the Tavern over the past three years, demonstrating a demand for that form of entertainment. The Tavern has generated significant taxes and contributions to the Community Benefit Fund over the same period.
53. The Applicant estimates that if the application is approved there will be a 35% increase in turnover in 2015/16 from the previous financial year.
54. The Financial Analysis provided within the CIA indicates that the venue is currently profitable and would still be a profitable enterprise even without the revenue derived from gaming machines and days when the premises are open for the sale of liquor.
55. The trading hours for the Tavern vary for the different areas within the premises. The general trading hours for the Tavern are from 10.00am to 23.59pm on Sundays and from 10.00am to 2.00am the following day from Monday to Saturday with no trading permitted on Good Friday and Christmas Day. Those hours are typical of those applicable to Taverns in the Darwin region.

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

56. This issue is discussed earlier in this decision and the ratio of floor space allocated to the gaming room in comparison to the other public areas of the Tavern is reasonable and commensurate with that of a tavern offering gaming machine activity.

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

57. 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 in 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.
58. 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.
59. The fact that the Tavern is now owned by a national company with a clear strategy for the management of gaming machines is also objectively a significant development in terms of the implementation of responsible gambling practices and procedures.
60. The comprehensive CIA prepared for the purpose of this application is analysed in some detail above and raises no issues specific to the Parap Tavern that would persuade me to reject the application.
61. 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 Parap Tavern.
62. The CIA notes that non-government community welfare agencies who responded via the 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. Whilst those comments and submissions are properly made and no doubt indicative of the views of the organisations represented, they do not provide any specific details of prospective harms or potential adverse community outcomes directly related to the venue under consideration.
63. In addition, as evidenced by the Applicant's submissions in support of the application, including the content of the CIA, the Applicant intends to maintain strategies aimed at reducing gaming-related harm if the application is approved. Of great significance in that regard is the Applicant's stated objective to introduce pre-commitment to its venues in the Northern Territory where gaming machine activity is offered to clients. Allowing that pre-commitment technology is not mandated by the Act or the existing code of conduct for the responsible service of gambling that initiative on the part of the applicant is recognised and applauded.

## **Decision**

64. 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 Australian Leisure and Hospitality Group Pty Ltd and authorise the increase of the number of gaming machines located at the Parap Tavern 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.
65. 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 they are purchased.



## Review of Decision

66. 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 1668 of the Act, apart from the Applicant.



**Cindy Bravos**  
**Director-General of Licensing**

11 December 2015