



Director-General of Licensing

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	Cazalys Palmerston Club Inc. 10 Temple Terrace Palmerston NT 0830
Applicant:	Cazalys Palmerston Club Inc.
Nominee:	Mr Noel Fahey
Submissions:	Amity Community Services Inc.
Legislation:	Section 41 <i>Gaming Machine Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	27 November 2015

Background

1. Mr Noel Fahey on behalf of Cazalys Palmerston Club Inc. ("the Applicant") has applied for an increase in the number of gaming machines authorised for use at the Applicant's premises ("the Club") 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 a Category 2 licensed premise under section 41(5) of the Act at 55. Regulation 2(2)(b) of the Regulations defines a Category 2 licensed premise as a premise for which a club liquor licence is in place at the time of the application.
3. Under section 41(1) of the Act, a licensee may apply for an increase in the number of gaming machines authorised for use under the 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 2 of the Act.
4. The Applicant is seeking authorisation for the addition of ten gaming machines for use under the licence which would increase the number of gaming machines at the premises to the maximum number permitted under the Act.
5. Pursuant to section 41(2)(f) of the Act, the application must be accompanied by the application fee and the prescribed levy for each additional gaming machine that the applicant seeks to have authorised for use under the licence. The prescribed fee and levy have been received from the Applicant. The application was also accompanied by the required Community Impact Analysis ("CIA") prepared by DWS Hospitality Specialists.

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

8. In addition, section 41(2)(ca) of the Act provides that where the applicant for an increase in gaming machines is a club the application must contain details of the extent to which the club's profits have been allocated or distributed:
 - (i) *toward development of the club's neighbourhood; and*
 - (ii) *as donations to or funding for community, recreation or service organisations operating in the club's neighbourhood,*

Increased number of gaming machines

9. The Applicant seeks to increase the number of gaming machines from its current level of 45 to a proposed new number of 55 gaming machines, an increase of ten gaming machines. The Applicant currently holds Gaming Machine Licence No. GM169 and is authorised to operate 45 gaming machines, the maximum number permissible prior to recent amendments to the Act.

10. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 2 licensed premise at 55. The Applicant is the holder of a liquor licence number 81416400 issued under the *Liquor Act* and endorsed AUTHORITY – CLUB (INCORPORATED), which is defined under section 3 of the Act as a club liquor licence, as a result the premises are considered to be Category 2 licensed premises pursuant to 2(2)(b) of the Regulations.

11. As such, the Applicant is able to apply for an increase of ten gaming machines and, if granted, the number of gaming machines on the premises would be within the statutory limit of 55 gaming machines for Category 2 premises.

Community Impact Analysis

12. 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

13. The CIA identifies that the total floor space of the premises is 904 square metres. Should the application be approved the breakdown of floor space usage will be 22% of the total area used for bars, 25% used for dining, 22% for the gaming room and 32% used for other purposes. The additional space required to accommodate an additional ten gaming machines is proposed to be achieved by a reduction in the floor space utilised for the dining area.
14. The current percentage of floor space allocated to the gaming room is 17% of total floor area. The premises will require some internal modifications to allow for the increase in the area of the gaming room. The proposed modifications are detailed in plans lodged by the Applicant. The ratio of gaming machine area to other areas will alter should the application be approved however the allocation of 21% of total floor space to a gaming room within a club premise is comparable to similar venues with 45 gaming machines. In the circumstances an increase in the gaming area of 4% of total floor space is reasonable and commensurate with the proposal for an additional ten gaming machines.

Suitability of Premises – primary activity

15. The Club opened in 1999 with its constitution identifying the primary objectives being to promote, encourage and facilitate AFL football and any other sport and sporting code. The Club has experienced 77% growth in membership between 2013 and 2015 with current membership stated as 6 467 members. That membership growth has been positively impacted by the amalgamation with the Palmerston Golf Club and the introduction of \$1.00 social memberships.
16. The Club is located in the Palmerston retail precinct and close to what is currently the largest shopping centre in Palmerston. The Club is also located near to the Gateway shopping centre, a \$300 million development currently under construction.

17. The CIA states that since opening in 1999 the club has become a multi-award winning venue having won Australian Hotels Association awards for Best Club Bistro Dining, Best Club Bar Presentation and Service and Best Overall Large Club amongst numerous other awards. The Club incorporates a variety of patron facilities including the Club Bar and Bistro Bar, pool tables, TAB and Keno facilities and a drive through bottle shop.
18. The Club is situated in the commercial area of Palmerston and there are no residential properties within 200 metres of the venue. On that basis the CIA anticipates there will be little disturbance to the local residents if the application for additional gaming machines is approved.
19. The analysis of revenue and expenditure includes a breakdown of the club's major income streams over the previous three years. That analysis indicates that in 2014 60.8% of the Club's income was derived from gaming, 35.9% from the sale of liquor and 3.3% from other income sources. The Club is trading profitably and has done so over the previous 3 years.
20. Clearly the percentage of revenue derived from gaming is significant, especially in comparison to the income from gaming machines achieved by hotels and taverns. The reliance on gaming revenue is not unusual and is comparable to other club venues that offer a similar range of facilities to members and guests.
21. The CIA concludes that the Club is a strong and profitable community club entity that has developed a successful business model over time and that this has significantly funded its community program to date.

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") for this application was agreed to include the Palmerston suburbs of Bakewell, Driver, Durack-Marlow Lagoon, Gray, Woodroffe, Rosebery-Bellamack, Palmerston and Moulden.
23. The 2011 population census recorded 27 614 people residing in the LCA of whom 19 014 were adults. The LCA is one of the more densely populated areas in the Northern Territory and Palmerston was at one stage the fastest growing area in Australia in terms of population increase. The current population of the LCA is significantly higher than that recorded in the 2011 census.
24. The proportion of Aboriginal residents in the LCA is higher than that recorded for Greater Darwin and the Darwin Local Government Area with the suburb of Moulden recording 19.1% of residents identifying as being of Aboriginal or Torres Strait descent. The household income in the LCA is consistent with the benchmark regions and the LCA has less unemployment than the Territory average, averaging 3.4% to 3.6% over 2013 and 2014.
25. The LCA has a lower percentage of residents fully owning their own homes but higher instances of residents in the process of purchasing their homes in comparison to the benchmarks.
26. The Australian Bureau of Statistics' Socio-Economic Indexes for Areas ("SEIFA") is a tool used to assess the relative social advantage and disadvantage for particular localities or suburbs. The decile scores for suburbs included in the LCA ranges from 10 (Marlow Lagoon) to 3 (Moulden and Gray) with 10 representing suburbs with the least socio economic disadvantage.

27. According to the CIA the SEIFA analysis shows that the LCA is marginally below that of the Darwin Local Government Area and, overall, indicates that the LCA is an area of relative social advantage. The suburbs of Moulden and Gray are the least advantaged within the LCA which is reflective of the higher unemployment rates in these suburbs.
28. As required by section 41A(2)(c) of the Act, the CIA reports that there are a number of at risk sites within 200 metres of the Club, the St Vincent De Paul Society shop and several shopping areas. The Palmerston Health Precinct is located approximately 300 metres from the Club. The greater Palmerston area includes the complete range of sites classified as at risk sites, including numerous schools, places of worship, medical centres, pawn shops and child care centres.
29. The CIA states that although a number of sensitive sites have been identified within the 200 metre catchment of the Club it should be acknowledged that the Club has a long history in the area and has demonstrated strong policies to minimise harm in the local community.
30. At the time the CIA was prepared there were 130 gaming machines authorised for use within the LCA with the majority of 90 being located at the Cazalys Palmerston Club and the Palmerston Sports Club, representing a market share of 88.2%. Gaming Machine density for the LCA, measured by the number of machines per 10 000 adult residents, was 65 machines per 10 000 adult residents, a figure significantly lower than that for the Greater Darwin Area of 142 machines per 10 000 adult residents. That number would increase to 69 gaming machines per 10 000 adults were this application to be approved and will increase further if other applications under consideration for the Palmerston area are all approved. Even if all current applications and applications relating to proposed premises are approved the overall ratio of gaming machines per 10 000 head of population will remain well below that of the Greater Darwin Area.
31. The CIA reports that metered win in the LCA has increased over the past three years despite there being the same number of machines in play, indicating that there is an increase in demand for gaming within the LCA. Specifically, metered win per machine per day has increased over the past three years in the LCA which the CIA suggests indicates a strong demand in the LCA. The CIA notes the close proximity of the Club to the Palmerston Sports Club and states that that there are no indications of clustering within the immediate area of the Club and that the current gaming machine density is far below the Greater Darwin and NT average.

Appropriateness of problem gambling risk management and responsible gambling strategies

32. 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 75.6% of patrons are non-problem gamblers, 11.5% are low risk and 4.5% are high risk. However, it must be noted that the survey results were compiled from a low base of only 156 respondents or 7% of the defined catchment for the Club and, as a consequence, the results may be subject to significant fluctuation.
33. In terms of the risk of problem gambling at the Club, the CIA reports that the venue appears to have in place a compliant and meaningful policy and operational framework for harm minimisation. The Club follows the expectation 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.

34. In addition, the club has implemented its own internal policies relating to gaming machine usage including permitting only one gaming machine to be used at the same time by one person, a limit on the reservation of gaming machines of three minutes and a policy of refusal to payout on cancelled credit or jackpots.
35. 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 exclusion, with nine self-exclusions in place at the time the CIA was prepared.
36. 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.

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

37. Based on a review of the strong earnings results the Club has been able to achieve a growing revenue and profit over a number of years. It is anticipated that the Club will continue to grow its revenue from gaming turnover and thereby increase the contributions to community based organisations and projects that are currently supported.
38. The CIA reports that in favourable conditions it is anticipated that with the additional gaming machines community contributions will reach in excess of \$5 000 per gaming machine. The additional community contributions will support the Club's objectives of enhancing sport participation in the local community area.
39. Over the past 3 years the Club has consistently provided 10% of its gaming revenue to the community. The Club's contribution in 2014 equated to \$4 000 per gaming machine representing total cash and in kind contributions of \$347 092. The Club provides support and assistance to the majority of teams competing in the AFL NT competition as well as to the major Palmerston sporting organisations such as cricket, netball, basketball and rugby. The Club also provides financial assistance to charitable organisations such as Legacy Ladies, Kiwanis Club, Girl Guides NT and similar entities.
40. The Club has indicated that should approval be granted for the additional gaming machines it will need to employ two to three additional staff as well as an increase in the current hours worked by casual staff. Currently all staff employed at the Club are engaged from the local area which assists in reducing the level of unemployment in Palmerston.

Written submissions in response to the application

41. As required by section 41B of the Act, the application was advertised in the Northern Territory News on 6 August 2015. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification.
42. On 4 September 2015 Mr Bernard Dwyer, on behalf of Amity Community Services Inc., lodged a written submission titled "Position Paper on increasing gaming machines for venues in Palmerston" in respect of the within application.
43. Mr Dwyer states that Amity has been working in the area of gambling for over two decades and their programs are underpinned by the Public Health Model. 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 Territory with the aim of implementing harm minimisation strategies for safer gambling.

44. Amity does not support an increase in the number of gaming machines in the Palmerston area and is of the view, based on 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 NT.
45. 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 people accessing homelessness services in the NT.
46. Amity submits that aside from the identified harms to the community arising from gambling, evidence indicates that a clear, albeit complex relationship exists between increasing availability and/or density of gambling opportunities and increased levels of associated problems.
47. Amity's submission refers to the recommendation of the Productivity Commission's 2010 reporting that applications for increased gaming machines should be assessed on the basis of the net detriment to the Community. The submission queries industry's argument, as evidenced in Community Impact Analysis reports in the public domain, that increased gaming revenue over the past few years is indicative of a demand for more gaming machines. The submission notes that in the NT player expenditure has increased over the last 12 months and contends that gross profit is actually net player loss.
48. Amity submits that the average net player loss in community venues in the NT was \$159.69 per machine per day, an increase from the net player loss in the previous year of \$141 and representing a 12% increase, indicative of an increase in harms. Amity suggests that decreasing density of gaming machines is likely to significantly reduce gambling harms.
49. Amity also notes that catchment areas for gambling venues often extend further than has previously been predicted and may lead to the understatement of density in some areas. Amity is of the view the evidence demonstrates that communities experiencing widespread social and economic problems are those communities that have higher concentrations of convenience gambling venues.
50. Amity estimates that the potential exists for gaming machines in the Palmerston area to increase from the current 132 machines to 195 machines, an increase of 66%. Amity submits that the Territory is well served by existing gaming machine numbers and further increases will place the NT even higher above the per capita national average exposing Territorians to greater gambling related risks. Amity concludes by noting that the Territory has increasing player losses and a high density of gaming machines that both research and experience shows will increase harms experienced by the community.
51. The authors of the CIA conducted community consultation with targeted community representatives. Of the eight community representatives who responded via the survey issued by the authors of the CIA all considered that they expected the increase in gaming machines to have a negative impact on the community. Seven of the eight respondents do not support the application with one respondent in support.
52. The CIA reports that a survey of patrons indicated that those who completed the survey were supportive of the application, stating that the increase in the number of gaming machines will most likely not impact the community in any way.

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.
54. The CIA reports that, based on strong earnings results, the Club has been able to achieve a growing revenue and profit for a number of years. It is anticipated that the Club will continue to grow its revenue through the gaming sector, thereby increasing the amounts payable to community support and benefits.
55. As noted elsewhere, the Club is currently donating approximately \$5 012 per gaming machine to the local community. This figure is projected to rise to \$5 468 should the application be approved. As would be expected for community club offering gaming machine activity, it is apparent that the revenue generated by the gaming machines comprises a significant proportion of the Club's overall income.
56. Should the application be approved, the cost to the Applicant of installing ten additional gaming machines will be in the order of \$350 000 comprising the application fee and prescribed levy costs, together with the costs of purchasing the additional gaming machines.
57. The CIA reports that the Club has seen a steady increase in gaming revenue since 2012. Revenue from gaming is currently 58.5% of overall income and this is expected to increase to 60.6% should the application be approved.

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

58. The Club's current trading hours are 10.00am to 12.00 midnight from Sunday to Wednesday and from 10.00am to 2.00am from Thursday to Saturday. Those trading hours are consistent with the authorised trading hours for premises holding a club liquor licence.

Other matters the Director-General considers relevant

59. 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 allow community clubs to apply for an increase in the number of gaming machines for community clubs with existing gaming machines from 45 to the new maximum of 55 gaming machines.
60. The Application presented by the management of the Club is compliant with the relevant provisions of the Act. The CIA accompanying the application addresses all the matters the Director-General is required to take into account in assessing an application of this type. The CIA raises no issues specific to the Cazalys Palmerston Club Inc. that would persuade the Director-General that the application should be refused. The application, including the CIA, meets the requirements of the Act in relation to an increase in the authorised number of gaming machines.
61. The potential harms associated with gaming machines and gambling in general are well known within the wider community. The potential for gaming machine related harm is properly articulated in the submission received from Amity. However in this instance I am satisfied that the Applicant has appropriate policies and procedures in place 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. The fact that the Club has been in operation for many years without attracting any adverse comment or regulatory action in respect of its gaming offerings is testimony to the manner in which the management of the Club meets its obligations in respect of responsible service of gambling and the minimisation of associated harms.

Decision

62. For the reasons set out above, and in accordance with section 41(3) of the Act I have determined to grant the application lodged by the Cazalys Palmerston Club Inc. and authorise the increase of the number of gaming machines located at the Club from the current limit of 45 gaming machines to the current maximum allowable for the holder of a club liquor licence, namely a maximum of 55 gaming machines.
63. 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 once purchased.

Review of Decision

64. 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. For the purpose of this decision the affected persons are the Applicant and Amity Community Services Inc.



Cindy Bravos
Director-General of Licensing

27 November 2015