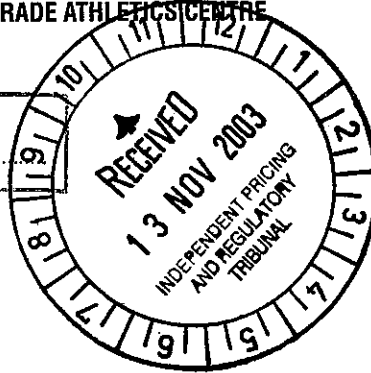




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10 November 2003

Gambling Harm Minimisation
Independent Pricing and Regulatory Tribunal
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Dear Sir or Madam

Review into Gambling Harm Minimisation Measures - Prohibition on Gaming Machines in Hotels and Clubs in Shopping Centres

Please find enclosed our submission to the above Review.

We understand that the "prohibition on gaming machines in hotels and clubs in shopping centres", as a key government policy, is expressly excluded from the Review's terms of reference, and as such falls outside those measures listed in Table 1 of the IPART Issues Paper. However, just as the "requirement to undertake a Social Impact Assessment for additional gaming machines in hotels and clubs" is also excluded from the Review, the terms of reference relating to the latter exclusion state that "the inquiry may investigate measures for improving the current process". It is in this context and following representations to Government that it was suggested the measures for improving the current process for the "prohibition on gaming machines in hotels and clubs in shopping centres" might be similarly investigated by the Tribunal as part of the current Review.

Our submission relates to the apparent ambiguities which arise when section 60 of the Gaming Machines Act is read in conjunction with the definition of a "retail shopping centre" under the Retail Leases Act. The meaning of parts of section 5 of the Retail Leases Act are also unclear to us. Our concerns regarding the possibility of there being different interpretations of these two pieces of legislation remain despite obtaining two separate legal opinions on the matter and discussions with the Minister's office and the Department of Gaming and Racing. It is this inability to get clarification which is of most concern, as it is directly preventing us from taking up several commercial/development opportunities."

We are happy to elaborate on the points raised in this submission, as required.

Yours faithfully
Mingara Recreation Club Ltd

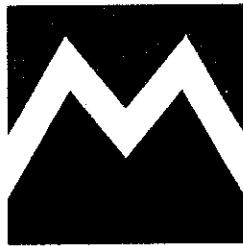
Paul Barnett
Chief Executive Officer



Submission to:

***The Independent Pricing and Regulatory Tribunal
of New South Wales'***
Review into Gambling Harm Minimisation Measures

Prepared by:



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10 November 2003

1.0 Executive Summary

This submission relates to the process associated with the Gambling Harm Minimisation Measure which specifically deals with the "prohibition of gaming machines in hotels and clubs in shopping centres". Our aim is to bring to the Tribunal's attention the unintended consequences which we believe arise when section 60 of the Gaming Machines Act is read in conjunction with parts of the Retail Leases Act.

Whilst we are fully supportive of prohibiting hotels and clubs from operating gaming machines in retail shopping centres, we are not supportive of such a prohibition if a "retail shopping centre" notionally comes into existence by the presence of more than four outlets, which may or may not truly be of a retail nature, on a club's site. To that end, we don't believe that a member of the public would consider the presence of outlets such as a hairdresser, bottle shop, souvenir shop, ice cream shop and pharmacy at a registered club to mean that that club is a "retail shopping centre".

The specific issues raised in this submission relate to the interpretation/unintended consequences of:

- The Gaming Machines Act 2001 - Section 60;
- The Retail Leases Act 1994 - Schedule 1; Section 3 Definition; Section 5 Exclusions; and
- Gaming Machines Regulation 2002 - Sections 138 and 138A.

We believe that a refining of section 60 of the Gaming Machines Act would preserve the intent of the legislation without hindering the commercial opportunities which clubs are seeking in an effort to reduce their reliance on gaming revenues. Section 60 (5), in particular, has unclear consequences.

Sections 138 and 138A of the Gaming Machines Act present an avenue for further exclusions from the definition of a "retail shopping centre" which is initially provided by section 3 of the Retail Leases Act then adopted by the Gaming Machines Act.

We also believe that recognition of the highly-regulated environment in which clubs already operate is warranted, in order that certain premises, such as cafes and restaurants which are currently prescribed uses under the Retail Leases Act, would be excluded when counting the number of premises which comprise a "retail shopping centre" on a club's site.

2.0 Introduction

This submission is being made in our capacity as a gambling provider and addresses our concerns regarding the interpretation, but not the presumed intent, of the legislation underpinning the Gambling Harm Minimisation Measure which deals with the "prohibition on gaming machines in hotels and clubs in shopping centres".

Whilst this prohibition is expressly excluded from the Review's terms of reference, we are hopeful that the Tribunal will see fit to investigate ways in which the process associated with the prohibition can be improved, in the same way that investigation of the process associated with the "requirement to undertake a Social Impact Assessment for additional gaming machines in hotels and clubs" is within the Review's ambit.

The types of concerns which we raise in this submission indicate to us that any investigation into the process associated with the "prohibition on gaming machines in hotels and clubs in shopping centres" would initially focus on a review of the current relevant legislation. To that end, the comments in item 4 of this paper are intended to bring to the Tribunal's attention what we consider to be the unintended consequences of section 60 (5), in particular, of the Gaming Machines Act (GMA), when it is read in conjunction with the Retail Leases Act (RLA).

We believe that a refining of section 60 of the GMA would preserve the intent of the legislation without hindering the commercial opportunities which clubs are seeking in an effort to reduce their reliance on gaming revenues.

3.0 Background

Mingara Recreation Club, located on the New South Wales Central Coast, is the State's largest registered club outside the Sydney metropolitan area. We were incorporated in 1979, and currently employ some 200 staff.

In 1996, we moved to a formerly vacant 44 hectare site on which we had constructed the registered club's premises and a leisure centre which combines an indoor aquatic centre and gymnasium. A regional athletics centre, with a full complement of track and field facilities, was added to the site in 2000. With only half of our site currently developed, we have documented a master plan which depicts future development opportunities such as an additional restaurant, bottle shop, motel, golf course and small-scale commercial premises, the uses for the latter potentially extending to a pharmacy, beauty therapy outlet and medical suite. Each of these initiatives is being planned in a bid to reduce our reliance on gaming as our primary source of revenue.

We support 23 sub and affiliated sporting clubs and each year exceed our legislated Community Development Support obligations. We currently have 528 gaming machines and are in the process of shedding machines to bring us to our capped limit of 485 machines within the legislated time-frame (i.e. by April 2007).

4.0 Specific Issues

4.1 Gaming Machines Act - Section 60

We fully support what we believe to be the intention of section 60 of the GMA, namely, that gaming machines are prohibited in retail shopping centres, if the definition of a "retail shopping centre" means a shopping centre of the type that the general public would identify as such, i.e. Stockland / Westfield / Lend Lease (and similar) managed venues or other clusters of retail premises which people go to for the purpose of retail shopping. We don't believe, however, that a member of the public would consider the presence of outlets such as a hairdresser, bottle shop, souvenir shop, ice cream shop and pharmacy at a registered club to mean that that club is a "retail shopping centre". We hold this view regardless of whether these types of outlets, which are all prescribed uses under the RLA, are located within a club's defined premises or elsewhere on its site.

Section 60 of the GMA and the RLA's definition of a "retail shopping centre" (section 3) are provided as Appendices 1 and 2, respectively. Schedule 1 to the RLA, which sets out the uses prescribed under that Act, is provided as Appendix 3.

4.1.1 Section 60 (1) (a)

Under section 60 (1) (a), a retail shopping centre is said to include "any adjoining building", however we are unclear as to the definition of "adjoining", in respect to whether it means near to, next to, contiguous or non-contiguous to or even across a car park from.

Sub section (c) of the RLA's definition of a "retail shopping centre" states the need for "the premises [to be] located in the one building or in 2 or more buildings that are either adjoining or separated only by common areas or other areas owned by the owner of the retail shops." In this respect, we are unsure whether a business, the use of which is prescribed by the RLA and which is subject to a lease or licence from a club, would be considered to be "adjoining" a club's premises if it were located on the same site but outside the club's defined premises, say, in a pro-shop on a golf course, or in the foyer of a motel.

4.1.2 Section 60 (1) (b)

The interpretation of section 60 (1) (b) of the GMA is potentially impacted by section 5 of the RLA. For example, something "declared to be a retail shopping centre" may be excluded from the operation of the RLA. Refer our comments under item 4.2.3.1.

4.1.3 Sections 60 (2) and (3)

As a capped venue, we cannot apply for additional gaming machines. However, should we fall within the RLA's definition of a "retail shopping centre", by having more than four "premises" which are carrying on any of the uses prescribed by Schedule 1 of that Act, then section 60 (2) may be triggered. Even as a capped venue, we do not know if we can rely on section 60 (3), despite having obtained legal advice.

4.1.4 Section 60 (5)

The possible interpretation of section 60 (5), when read in conjunction with the RLA, is our major concern, which also remains despite obtaining legal advice. Again, despite being a capped venue, we are concerned that section 60 (5) could be triggered by an application for a premises' redefinition, not just an application to increase the number of gaming machines.

We believe that section 60 (5) could be interpreted as meaning that a club is at risk of losing all of its poker machine authorisations if its premises are deemed to be within or adjacent to a "retail shopping centre", as defined by the RLA, even if it is only as a result of the presence of more than four outlets, which are prescribed uses under the RLA, that a "retail shopping centre" is deemed to have been created on a club's site.

Whilst we are not arguing against the prohibition of gaming machines in genuine retail shopping centres, we are seeking clarification of what such "centres" are and how they are deemed to come into existence. If the legislation was unambiguous, we could readily say that we have no objection to being prohibited from literally moving or extending our registered club premises into an existing retail shopping centre (i.e. operating gaming from a Westfield-type shopping centre), which seems to be the legitimate concern underpinning section 60 (5). However, we are particularly concerned that we could inadvertently become a "retail shopping centre" if we were to have more than four outlets of the type prescribed by the RLA.

We are also unclear about what "being moved or extending to" means and also what "any authorisation to keep approved gaming machines in that part of the premises of the club ceases" means – i.e. how much, if any, of a club's authority to keep gaming machines would cease - all of it or only the authorisations corresponding to the number of machines which would be housed in the new area (if any)? If "that part" means only the part of the premises that has been moved or extended, would existing authorisations therefore be preserved in other parts of the building?

4.2 Retail Leases Act

4.2.1 Schedule 1

Schedule 1 to the RLA includes reference to "restaurants, cafeterias, coffee lounges and other eating places" as being a "retail shop business".

We originally operated our café and buffet restaurant when we opened our current premises in 1996. We subsequently outsourced both, which are within our defined premises, via licence agreements. When they were operated by us, we don't believe the café and restaurant would have been businesses captured by Schedule 1 to the RLA, however as we no longer operate them, they may be. We, or, in this case, third parties, provide food and beverage facilities to our members and their guests, just as we provide entertainment, recreation and gaming facilities, and it would seem to us that whether the operators of food and beverage facilities in a registered club are the club itself or a third party is irrelevant for the purpose of the RLA's definition of a "retail shopping centre".

4.2.2 Definition of a Retail Shopping Centre – Section 3

Sub section (d) of the definition states "the cluster of premises is promoted as, or generally regarded as constituting, a shopping centre, shopping mall, shopping court or shopping arcade". What "promoted as, or generally regarded as" means is unclear to us. Whilst we know that we do not promote our club premises as being a shopping centre, and we don't believe anyone would generally regard our premises as being a shopping centre/mall/court or arcade, we have been unable to get definitive advice as to what may constitute such promotion or general regard. For example, if a club had more than four "retail" outlets, would that be sufficient for legislators or others to regard those premises as a shopping centre?

4.2.3 Exclusions from the Operation of the Retail Leases Act – Section 5

The exclusions from the operation of the RLA, via section 5 of that Act, are provided as Appendix 4.

4.2.3.1 Section 5 (a)

We are unsure whether the exclusion of "shops that have a lettable area of 1,000 square metres or more" from the operation of the RLA means that they are excluded when counting the number of retail premises which together form a "cluster of premises", which in turn constitute a shopping centre/mall/court or arcade under sub section (d) of the RLA's definition of a retail shopping centre.

In other words, whilst such premises may be excluded from the operation of the RLA, we do not know if they are excluded from the RLA's definition of a retail shopping centre which is then relied upon by the GMA's section 60 (1). We have had conflicting advice on this particular issue.

4.2.3.2 Section 5 (b)

Section 5 (b) could be considered ambiguous in the context of our concerns raised in 4.2.1, above. For example, we are uncertain whether outsourced catering operations, depending on the commercial arrangement entered into, could be excluded from the operation of the RLA via section 5 (b). Specifically, we are unsure of the type of commercial arrangement which would allow a business to qualify as being "used wholly or predominantly for the carrying on of a business by the lessee on behalf of the lessor". For example, by contractually shedding all obligations to a third party, could a business still be said to be operated "on behalf of the lessor"? Using the earlier café/restaurant example, and despite the likelihood that the type of food and beverages being provided to members and their guests is the same or similar regardless of the provider (i.e. a club or third party), it seems that simply by having a third party operator provide these facilities a club could be at risk of being considered a "retail shopping centre" if they had just three more "retail" outlets (i.e. a total of five outlets including a café and restaurant).

As with all of the queries raised via this submission, our uncertainties remain despite obtaining legal advice on the matter.

4.3 Gaming Machines Regulation 2002 – Section 138A

Section 138A hinges on the interpretation of the GMA's definition of a "retail shopping centre", and whilst it gives relief to clubs which have less than 40 "shops" on their sites, the need for those shops to have existed as at 18 October 2002 provides us with no relief, in that it does not allow us to take up the future small-scale development opportunities listed in item 3.0 of this paper.

Sections 138 and 138A are provided as Appendix 5.

5.0 Recommendations

5.1 GMA - Definition of Retail Shopping Centre

To resolve the ambiguities between the GMA and the RLA, we consider, as a possible outcome of the Tribunal's Review, that section 60 (1) of the GMA could be re-drafted to provide a hotel and club-specific definition of the term "retail shopping centre". We believe such a definition is warranted wholly by reference to the intentions of the GMA, not by reference to the RLA.

Failing this, an avenue would be required whereby individual applications could be made to the Licensing Court/Liquor Administration Board or other body to clarify whether the specific location and site circumstances for a club/hotel warranted their exclusion from a blanket "retail shopping centre" definition. This is likely to become a lengthy, costly and repetitive exercise and does not provide the industry-wide solution that could be delivered were the perceived ambiguities in the interpretation of the legislation addressed.

5.2 GMA - Consequences under Section 60 (2), (3) and (5)

The consequences arising from the application of section 60 (2), (3) and (5) of the GMA need to be considered, with these sub-sections ideally re-drafted to remove the concerns raised in items 4.1.3 and 4.1.4 of this paper.

5.3 Exclusions under Section 60 (1) of the GMA

Clubs already operate in a highly-regulated environment which controls the access of minors and other patrons to their venues. We therefore question whether a use prescribed by the RLA is necessarily relevant in a club environment.

Section 60 (1) (b) of the GMA provides for certain exclusions to the definition of a "retail shopping centre". We believe that operations carried out by a third party within a club's defined premises, and indeed elsewhere on a club's site, should similarly be excluded from the definition of a "retail shopping centre". In this way, the outsourcing of café/restaurant operations which were once operated by a club would not impact that club's status as a "retail shopping centre", as those operations would not be considered a prescribed use under the RLA.

Failing such an exclusion, the Licensing Court or Liquor Administration Board could approve applications for "tenants" on a club's site prior to clubs entering into licence/lease agreements, however this also becomes a lengthy and costly exercise if undertaken on each occasion that such an agreement is contemplated.

5.4 Gaming Machines Regulation 2002 – Section 138

Section 138 of the Gaming Machines Regulation 2002 provides for certain exclusions from the GMA's definition of a "retail shopping centre". The additional exclusion of "retail shops" within a club's defined premises and elsewhere on its site may be appropriate. By suggesting an additional exclusion, we are highlighting the difference between retail shops which operate from a club's site versus clubs which operate from retail shopping centres.

6.0 Conclusion

Legal advice was obtained on all of the concerns raised in this submission, however that advice was inconclusive due to the perceived ambiguities which arise when the GMA and RLA are read together. If the GMA was re-drafted to provide clarity, the way would be made clearer for clubs to seek diversification opportunities and thereby reduce their reliance on gaming revenues.

The recommendations made in item 5 of this paper go some way, we believe, to providing the sought-after clarification. A re-drafting of the legislation to remove the perceived ambiguities is our preference, however failing that, even if clubs were required to make an application to the Licensing Court or other body each time a commercial arrangement with a third party was contemplated, that process, whilst expensive, time-consuming and repetitive, would at least provide a certain environment for clubs within which they could most effectively operate to benefit their members and communities.

We reiterate that we are fully supportive of the legislation if a prohibition from gaming in "retail shopping centres" is its intention, but not if a "retail shopping centre" notionally comes into existence by the presence of more than four outlets, which may or may not truly be of a retail nature, on a club's site.

Gaming Machines Act 2001 – Section 60

Gaming Machines Act

S.60 - Gaming machines not permitted in retail shopping centres

(1) In this section:

"retail shopping centre" means a retail shopping centre within the meaning of the *Retail Leases Act 1994*, and includes:

- (a) any adjoining building, or
- (b) anything declared to be a retail shopping centre by the regulations,

but does not include anything excluded from this definition by the regulations.

(2) An approved gaming machine cannot be authorised to be kept in a hotel or registered club:

- (a) that is part of a retail shopping centre or proposed retail shopping centre, or
- (b) that was part of a retail shopping centre within the previous 12 months.

(3) Subsection (2) does not apply to an authorisation that does not result in an increase in the total number of approved gaming machines authorised to be kept in the hotel or registered club.

(4) If an application is granted under the *Liquor Act 1982* for the removal of a hotelier's licence to premises that are part of a retail shopping centre or proposed retail shopping centre, any authorisation to keep approved gaming machines in the hotel ceases.

(5) If an application is granted under the *Registered Clubs Act 1976* that results in any part of a registered club being moved or extending to a retail shopping centre or proposed retail shopping centre, any authorisation to keep approved gaming machines in that part of the premises of the club ceases.

Extract Retail Leases Act 1994 – Section 3

Retail Leases Act 1994 – Sect 3 Definitions

In this Act:

retail shop means premises that:

- (a) are used wholly or predominantly for the carrying on of one or more of the businesses specified in Schedule 1 (whether or not in a retail shopping centre), or
- (b) are used for the carrying on of any business (whether or not a business specified in Schedule 1) in a retail shopping centre.

Note. Section 5 limits the retail shops to which this Act applies

retail shop lease or *lease* means any agreement under which a person grants or agrees to grant to another person for value a right of occupation of premises for the purpose of the use of the premises as a retail shop:

- (a) whether or not the right is a right of exclusive occupation, and
- (b) whether the agreement is express or implied, and
- (c) whether the agreement is oral or in writing, or partly oral and partly in writing.

Note. Section 6 limits the retail shop leases to which this Act applies

retail shopping centre means a cluster of premises that has all of the following attributes:

- (a) at least 5 of the premises are used wholly or predominantly for the carrying on of one or more of the businesses specified in Schedule 1,
- (b) the premises are all owned by the same person, or have (or would if leased have) the same lessor or the same head lessor, or comprise lots within a single strata plan under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*,
- (c) the premises are located in the one building or in 2 or more buildings that are either adjoining or separated only by common areas or other areas owned by the owner of the retail shops,
- (d) the cluster of premises is promoted as, or generally regarded as constituting, a shopping centre, shopping mall, shopping court or shopping arcade.

Retail Leases Act 1994 – Schedule 1

Schedule 1---Retail shop businesses

(Section 3)

Antique shops
Art galleries
Art supplies shops
Arts and crafts shops
Barbecue equipment shops
Barbers
Beauticians
Beauty therapists
Beauty shops
Beach wear shops
Beer, wine and spirit shops (except where goods are for consumption on the premises)
Bicycle shops
Bicycle accessories shops
Biscuit bar shops
Bookshops
Boot and shoe repairers
Bridal wear sales and hire shops
Building supplies shops
Business machines and equipment shops
Butcher shops
Cake shops
Camping equipment shops
Cards shops
Carpet shops
Cigarette shops
Clock shops
Coins and coin collections shops
Confectionery shops
Convenience food shops
Cookie shops
Copper fitting shops
Cosmetics shops
Costumes and formal wear hire shops
Curtain shops
Delicatessen shops
Department stores
Dinnerware shops
Disposals shops
Drapery shops
Dry cleaners
Duty free shops
Electrical appliance shops
Electronic equipment and supplies shops
Engravers
Equestrian wear shops
Equipment hire shops
Fast food shops

Schedule 1---Retail shop businesses (continued)

Fast-photo processors
Floor covering shops
Florist shops
Flower shops
Fruit and vegetable shops
Fruit juice shops
Furniture shops
Games and hobbies shops
General stores
Gift shops
Gift-wrapping shops
Grocery shops
Greengrocer shops
Haberdashery shops
Hairdressers
Hardware shops
Health food shops
Hearing aid shops
Hot bread kitchen shops
Hot water system shops
Household appliance shops
Household fixtures and fittings shops
Ice cream shops
Interior decoration shops
Jewellery shops
Key cutting shops
Kitchenware shops
Leather goods shops
Lighting shops
Linen shops
Lingerie shops
Lottery agencies
Manchester shops
Martial arts supplies shops
Mixed business shops
Motor vehicle and motor cycle accessories shops (excluding tyre shops and batteries shops)
Music shops
Newsagency shops
Nick-nack shops
Nut bar shops
Optometrists
Organ shops
Paint and paper shops
Pastry shops
Pet shops
Pharmacy shops
Photographic equipment and supplies shops
Picture frames shops
Plumbing supplies shops
Pools and spas shops
Poultry shops (whether fresh or frozen poultry or both fresh and frozen poultry)

Schedule 1---Retail shop businesses (continued)

Precious stones shops
Prints and posters shops
Restaurants, cafeterias, coffee lounges and other eating places
Rock shops
Rubber stamp supply shops
Seafood shops
Second-hand goods shops
Shoe shops
Shops selling or engaged in providing any 1 or more of the following goods or services in relation to men and boys:
 accessories, caps, clothing, clothing alterations, sunshades
Shops selling or engaged in providing any 1 or more of the following goods or services in relation to women, girls and infants:
 accessories, baby wear, bags, caps, clothing, clothing alterations, sunshades
Shops selling any 1 or more of the following goods:
 cassettes, musical instruments, prerecorded tapes, records
Silverware shops
Sleepware shops
Smallgoods shops
Snack bars
Soft drink shops
Soft furnishing shops
Souvenir shops
Sporting goods shops
Stamps and stamp collection shops (whether for purchase or sale or both)
Stationery shops
Supermarkets
Surfboard shops
Surfing accessories shops
Takeaway food shops
Television, video equipment and other household appliances hire shops
Tobacconists shops
Toy shops
Umbrella shops
Underwear shops
Variety stores
Video tape and prerecorded music libraries
Vitamin shops
Wall decorations shops
Watch shops
Writing materials shops
And other business as may from time to time be prescribed by the regulations.

Retail Leases Act 1994 – Section 5

Retail Leases Act

S. 5 - Certain retail shops excluded from the operation of this Act

This Act does not apply to any of the following retail shops:

- (a) shops that have a lettable area of 1,000 square metres or more,
- (b) shops that are used wholly or predominantly for the carrying on of a business by the lessee on behalf of the lessor,
- (c) any shop within premises where the principal business carried on on those premises is the operation of a cinema, bowling alley or skating rink and the shop is operated by the person who operates the cinema, bowling alley or skating rink,
- (d) any premises in an office tower that forms part of a retail shopping centre,
- (e) premises of a class or description prescribed by the regulations as exempt from this Act.

Gaming Machines Regulation 2002 - Sections 138 & 138A

GAMING MACHINES REGULATION 2002 - SECT 138

Exclusion of Sydney CBD from definition of "retail shopping centre"

138 Exclusion of Sydney CBD from definition of "retail shopping centre"

- (1) A retail shopping centre that fronts onto any part of the boundary specified in Schedule 2 (Sydney Central Business District) or that is situated within the boundary specified in that Schedule is excluded from the definition of *retail shopping centre* in section 60 of the Act.
- (2) For the purposes of this clause, a retail shopping centre that fronts onto any part of the boundary specified in Schedule 2 includes a retail shopping centre built over water that is joined to any part of the Sydney Harbour waterfront that is part of the boundary.

GAMING MACHINES REGULATION 2002 - SECT 138A

Exclusion of retail shopping centres with less than 40 shops

138A Exclusion of retail shopping centres with less than 40 shops

- (1) A retail shopping centre is excluded from the definition of "retail shopping centre" in section 60 of the Act if:
 - (a) the retail shopping centre comprises less than 40 shops, and
 - (b) the retail shopping centre contains or adjoins no more than one hotel or one registered club (or no more than one of each), and
 - (c) any such hotel or registered club:
 - (i) was part of (or was adjoining) the retail shopping centre as at 18 October 2002, or
 - (ii) has become part of (or has become adjoining to) the retail shopping centre as a result of the granting of an application under the *Liquor Act 1982* or the *Registered Clubs Act 1976* (being an application that was made on or before 28 March 2000 but not determined by that date).
- (2) If an application to which Division 1 of Part 4 of the Act applies is made with respect to a hotel or registered club that is or becomes part of a retail shopping centre that is excluded under subclause (1) from the operation of section 60 of the Act, a class 2 social impact assessment is required to be provided in connection with the application.
- (3) Subclause (2) has effect despite anything to the contrary in section 34 (2) of the Act or clause 33 (2) of this Regulation.