

A/ Deputy Director-General (Operations)

Decision Notice

Matter:	Application for Increase in Gaming Machines
Premises:	Katherine Hotel Cnr Giles Street and Katherine Terrace Katherine NT 0850
Applicant:	Deemat Pty Ltd
Dual Nominees:	Mrs Cassandra Harney and Mr Robert Harney
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 25 May 2016, Mrs Cassandra Harney and Mr Robert Harney on behalf of Deemat Pty Ltd ("the Applicant") applied for an increase in the number of gaming machines authorised for use at Katherine Hotel ("the premises") 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 Category 1 licensed premises under section 41 of the Act.
3. Regulation 2(2)(a)(i) of the Regulations defines Category 1 licensed premises as premises 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 Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – PUBLIC HOTEL (number 80101789), which is defined under section 3 of the Act as a hotel liquor licence.
6. The Applicant currently holds Gaming Machine Licence No. GM181 and is seeking to increase the number of gaming machines from its current level of ten to a proposed new number of 14 gaming machines.
7. The application was accompanied by the prescribed application fee and the prescribed levy for the four additional gaming machines applied for.

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8. The application was not accompanied by a Community Impact Analysis ("CIA") as the number of additional machines sought is below the prescribed level upon which a CIA is triggered.
9. Section 41A(1)(a) of the Act requires a CIA when the number of additional machines sought to be authorised for use under the licence is 5 machines or more. Further, the Director-General determined on 4 June 2016 not to exercise the discretionary requirement for a CIA pursuant to section 41A(1)(c).

Consideration and Reasons

10. 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.*
11. 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

12. The Applicant seeks to increase the number of gaming machines from its current level of ten to a proposed new number of 14 gaming machines, an increase of four gaming machines.
13. The Applicant currently holds Gaming Machine Licence No. GM181 and is authorised to operate ten gaming machines and currently does operate ten gaming machines on the premises. That is, the Applicant is currently operating gaming machines to the limit of its current authorisation.
14. Regulation 3 of the Regulations sets the maximum number of gaming machines for a Category 1 licensed premise at 20. As the Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – PUBLIC HOTEL, which is defined under section 3 of the Act as a hotel liquor licence, the premises are considered to be a Category 1 licensed premise pursuant to 2(2)(a) of the Regulations.

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15. 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

16. As written earlier, there is no statutory requirement for a CIA and the Director-General determined on 4 June 2016 not to exercise a discretionary provision to require one.
17. It was however submitted by the Applicant there had been a recent closure of the Katherine Sports and Recreation Club which was licensed for 19 gaming machines. Accordingly this reduced the overall number of machines in Katherine.
18. Another Katherine licensee has sought to increase their gaming machines, an application that was submitted at the same time as this application. That application required a CIA as both premises are within close proximity it may be of assistance later in the consideration of this current application. Any reference to a CIA therefore is the CIA of the Katherine Country Club.

Suitability of Premises – size, layout and facilities

19. The existing gaming machine area is on two raised platforms within the Front Bar of the premises adjacent to the dance floor and bathroom entry both of which they frame in an “L” shape design. On the opposite side of the dance floor it is a vacant and unused area which is where the Applicant intends to place the additional machines, against on a similar raised platform to the existing structures.
20. The floor plans show that the gaming area is a discrete area within the premises and that there is sufficient space to incorporate additional gaming machines if approved.

Suitability of Premises – primary activity

21. The premises' primary focus is on liquor sales, gaming machines and KENO. There is no dining area and no provision of food save for a light menu available in the Cocktail Bar in another area.
22. The premises is also considered one of the main takeaway liquor outlets, accordingly the sale of liquor for both on and away from the premises consumption is the primary revenue source and will continue to be so.
23. The addition sought is four gaming machines which may be considered unlikely to substantially alter the revenue streams of the premises.

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

24. The Local Community Area (“LCA”) agreed to with Licensing NT for use in the development of a CIA for any venue in Katherine is the sole census SA2 of Katherine.

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25. Information obtained from the 2011 Census Data shows the LCA area has a population of about 9,549 with 6,834 being adults. This information is almost 5 years old but it can be reasonably considered that the LCA is an established area and that the total population and adult ratio would not alter significantly in the past 5 years. The LCA is more densely populated than the Katherine LGA with most people living within the Katherine LCA when compared with the Katherine LGA encompassing large portions of uninhabited land spread across the Census SA2 areas of Elsey, Gulf, and Victoria River with many parts of the KLGA being 100's of kilometres from the Katherine township.
26. The LCA has a wide spread of age demographics with a slightly higher proportion of residents aged 55-64 and 65 – 74 indicating the presence of an aging population. The LCA also shows a much lower proportion of residents aged 19 – 24 in comparison to other benchmarks, with typically the 19 – 24 age bracket more likely to frequent bars and taverns rather than a club. The profile of the LCA is more suited to a family oriented venue. The low proportion of 19 – 24 year old is positive from a harm minimisation perspective. Research conducted by the Victorian Responsible Gambling Foundation (2015) suggests that the 19 – 24 year old market is more likely than other age groups to develop problem gambling behaviours. That said, it is noted that 30% of the population is aged 1 – 18 year old and will be exposed to gambling machines in the future.
27. The LCA has a population density with 1.2 people per square kilometre, compared to the Darwin LGA of 651 and the NT which is 0.2. This is however vastly skewed due to the LCA covering an area of 7,444 square kilometres, much of which is uninhabited with most of the population residing in the Katherine township and nearby areas.
28. 24.2% of LCA's residents were identified as being Indigenous (Aboriginal and/or Torres Strait Islander) which is more than the Greater Darwin area LGA of 8.1 % and slightly lower than the Northern Territory wide figure of 25.7%. The Katherine LGA area however has a much higher percentage of 50.2% recorded. It must be noted that the LGA area covers a vast and expansive area of the NT with the indigenous population spread throughout.
29. The proportion of indigenous residents in the LCA is at an approximate same level as that of the NT. Research shows that the Indigenous population are more likely to be pathological gamblers compared to non-Indigenous people (refer The Productivity Commission Inquiry Report 2010). The LCA's slightly lower Indigenous profile could lower the risk associated with problem gambling in the catchment area but it is well noted that the indigenous population does move within the LGA for various family and cultural reasons and can also be affected by seasonal weather patterns.
30. Statistical information obtained from this data shows that the LCA has a very low proportion of people with higher level qualifications such as bachelor degrees, graduate qualifications or post graduate degrees. People with postgraduate degree are recorded as 3%, Graduate Diploma and Graduate Certificate 3%, Bachelor Degree 16%, Advanced Diploma and Diploma 12%, Certificate 38% with the remaining 28% inadequately described or not stated. It is suggested that this lower level of education may be linked to the mining industry where a lower level

of education is required with more emphasis on vehicle licence qualifications and WHS Certificates.

31. Weekly house hold incomes for the LCA is spread across 8 major income streams with 16% of the population recorded as “other” and not defined. Of the remaining seven income levels, they are recorded as follows; <\$300 6%, \$300 - \$600 10%, \$600 – \$999 12%, \$1,000 - \$1,499 14 %, \$1,500 – \$2,499 24%, \$2,500 - \$3,499 15% and \$3,500+ 4%. This income is attributed to the occupational profile and mining and agriculture industry nature of the LCA with individual incomes much higher than other areas. The LGA and NT Outback areas receive community support payments but this is not heavily apparent in the Katherine township. Over half of the Katherine residents earn \$800 - \$1,999 per week indicating high level of disposable income.
32. 11% of the LCA residents reported as being non-Australian, the majority of these being from Asia, the United Kingdom and New Zealand. However 10% of the population did not state their country of origin.
33. 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 medium social advantage. The SA2 areas of Elsey, Victoria River and Daly all show a low social advantage decile.
34. There are a number of ways to view the scores from the SEIFA, with one being through the decile score system where a ranking is given from 1 to 10 with 1 indicating that an area is in the bottom 10% of areas or in other words, the most disadvantaged and 10 indicating that the area is in the top 10% of areas thus being the most advantaged.
35. The overall SEIFA score for the LCA was 944 below that of Greater Darwin which was 1,044, and below Litchfield LCA which was 1,032. The LCA score of 944 is higher than the Katherine LGA score of 752.
36. The area also has an unemployment rate of 2.6%, which is lower than the NT rate of 4.3%. The unemployment rate has fluctuated between 1.5% and 3.4% over the past few years. It is acknowledged that unemployment rates can vary over time due to a range of economic factors.
37. Within the LCA there are three other gaming venues in the area, they being the Katherine Country Club, Stuart Hotel and the Katherine Club. It is noted that the Katherine Sports & Recreation Club has closed and those gaming machines disposed of. Some of these premises have or are in the process of applying for additional gaming machines. Whilst the Katherine Sports & Recreation Club was approved for 19 gaming machines, by the disposal of these machines, and proposed increases at other venues, the total number of gaming machines in the LCA is expected to see no change or a slight overall increase in the number of machines in the area.

38. It is evident that the accessibility to gaming machines by people residing in the LCA will remain approximately the same, albeit at different levels at the different venues, should this and other similar applications be approved. However, the SEIFA decile scores which identify that the LCA area is generally not regarded as an area of socio-economic deprivation also needs to be taken into consideration in determining whether an increase in accessibility to gaming machines within the LCA will lead to greater harm. It would appear that the profile of the majority of residents living in the LCA does not mirror the profile of those most at-risk of experiencing harm from gambling.
39. Another consideration to take into account is that whilst the gaming machine density may remain stable at the moment should this and other similar applications be approved, the patron source for this venue and others in this area is not restricted to just residents of the LCA. This venue is well patronised by local residents and visitors to the town however this is unlikely to with the increase of machines. Given there is no dining at the premises few tourists or the like attend the premises. Considerations around problem gambling risk management and responsible gambling strategies implemented by the venue must also be taken into account.
40. Pursuant to 41A(2)(c) of the Act, the CIA must provide details with respect to the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers. In this case, it is submitted by the CIA there are no sensitive sites in close proximity to the venue. Noting of course, there was no CIA required for this application, the analysis is purely for assistance in determining the matter.
41. In the wider LCA there are a number of schools, churches, sporting venues, pawn brokers, shopping centres, community centres and there are two aged care facilities in the LCA. This is all typical of a regional town such as Katherine. There are two organisations within the LCA that specialise in gambling issues, they being Somerville Financial Counselling and Anglicare Financial Counselling.
42. 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.

Appropriateness of problem gambling risk management and responsible gambling strategies

43. The CIA quotes the 2014 report 'Gambling Harm in the Northern Territory: An Atlas of Venue Catchments' which was a report prepared for the Community Benefit Committee through the Department of Business in May 2014, submits that 84% of residents within the Northern Territory present as non-problem gamblers, with the remaining being within the scale of risk.
44. No figures are available for these premises as there was no site specific analysis done of these premises.
45. The Katherine Hotel has policies and procedures underpinning the responsible delivery of gaming services relevant to the venue. Harm minimisation strategies and measures including exclusion provisions, cash limits, restrictions on cheque chasing and the location of the automatic teller machine away from the gaming room are in existence in the premises. These are also requirements that must be met to ensure the premises comply with gaming machine audits conducted by Licensing NT officers.

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46. Further information was sought from the Applicant in relation to this application and as a result, a copy of the venue's Responsible Gambling Incident Register was provided. There are no persons recorded as self-excluded and two incidents noted. Both incidents resulted in women being banned for 12 months from July 2015 for tampering with a gaming machine.
47. Another complaint was noted by a patron in April 2016 after a machine had been serviced, this related to a change in the jackpot which was resolved. Also, it was noted in May 2016 that a drunk patron had entered the premises and was removed as they attempted to play the gaming machines. There are few entries and the lack of entries could raise concerns that incidents are not being properly recorded, alternatively it may simply be that there has been so few incidents to record. It is submitted the management of the business conducted under the Gaming Machine Licence and the manner in which the Applicant conducts and manages the overall business of the premises may cause there to be few, if any incidents or concern in relation to gaming on the premises.
48. The gaming area is under the constant, uninterrupted view of the bar staff which affords a higher degree of oversight not necessarily possible in other premises.
49. 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

50. With respect to the economic impact of the venue, in the absence of a CIA the venue submits it has provided financial support to a number of sporting groups and organisations in Katherine. They have had to reduce this support of late as in "...the last 18 months with the government interventions on the business we have not been in a financial position to continue with the same level of sponsorship our venue has been known for throughout the community".
51. It was further submitted "...we will be seeking at the first available opportunity to sponsor (football teams)" as well as a number of other events and organisations. For completeness the "interventions" referred to by the Applicant is the Point of Sale Interventions by Police at the bottle shop which has had a significant impact on takeaway liquor sales. This impact has not been quantitated however is accepted as correct.
52. Given the nature of this application it is unlikely additional staff will need to be employed to service the gaming machines.

Written submissions in response to the application

53. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 22 June 2016. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification.
54. 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.
55. 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.
56. 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.
57. 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.
58. 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.
59. 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.

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60. 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.
61. 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

62. 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 Katherine Hotel records that the average gross monthly profit per machine is \$5,679, which is slightly under the Northern Territory average of \$5,950 per machine.
63. In the event this application is approved, the outer projections for 2016, the year in which the four additional gaming machines would be installed, is the cost to the Applicant of the additional machines will be approximately \$100,000.
64. No other financial analysis was provided with this application.

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

65. The trading hours for the premises are:
- Garden Bar 10:00 – 00:30hrs the following day, Sunday to Thursday;
10:00 – 02:00hrs, Friday and Saturday;
- Kirbys Sports Bar 10:00 – 00:30hrs the following day, Sunday to Wednesday;
10:00 – 02:00hrs the following day, Thursday and Saturday;
- The Wine and Cocktail Bar 12:00 – 00:30hrs the following day, Sunday;
15:00 to 00:30hrs Monday to Thursday and
12:00 to 02:00 Friday and Saturday.

No trading is permitted on Good Friday and Christmas Day in the Garden Bar.

Size, layout and facilities of the premises

66. The premises advise there will be no additional expansion of the premises and that the facilities will eventually stay as they are currently.

67. The Applicant advises that gaming area will continue to remain a discrete area within the venue and the focus of the venue will not change.

Other matters the Director-General considers relevant

68. 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 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.
69. 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.
70. There was no requirement for a comprehensive CIA that would persuade me to reject the application.
71. 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.
72. Whilst noting no specific objections was 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.
73. The Applicant has evidenced their previous adherence to gaming laws and regulation, suggesting an adherence to the requirements.
74. There has been no adverse comments or reports received from Licensing NT departmental personnel in relation to the operation of these premises.

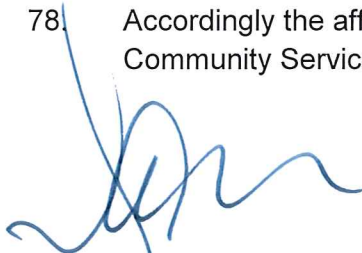
Decision

75. 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 Deemat Pty Ltd and authorise the increase of the number of gaming machines located at Katherine Hotel from the current limit of ten gaming machines to 14 as particularised in this application. It is noted the licensee will remain under the maximum allowable for the holder of a Public Hotel liquor licence, namely a maximum of 20 gaming machines.

76. The additional approved four 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

77. 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.
78. Accordingly the affected persons in relation to this matter are Deemat Pty Ltd and Amity Community Services Incorporated.



Mark Wood
A/Deputy Director-General (Operations)

24 August 2016