

## Director-General of Licensing

### Decision Notice

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<b>Matter:</b>	Application for Increase in Gaming Machines
<b>Premises:</b>	Karama Plaza Tavern Karama Shopping Plaza Kalymnos Drive Karama NT 0812
<b>Applicant:</b>	KTLP Enterprises Pty Ltd
<b>Dual Nominees:</b>	Mr Peter La Pira and Ms Patricia Holyoake
<b>Submissions:</b>	Amity Community Services Inc
<b>Legislation:</b>	Section 41 <i>Gaming Machine Act</i>
<b>Decision of:</b>	Director-General of Licensing
<b>Date of Decision:</b>	24 November 2015

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### Background

1. On 7 July 2015, Mr Peter La Pira on behalf of KTLP Enterprises Pty Ltd (“the Applicant”) applied for an increase in the number of gaming machine authorised for use at the Karama Plaza 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(5) of the Act at 20. 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.
3. Under section 41(4) 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 5 of the Act.
4. The Applicant is the holder of a licence issued under the *Liquor Act* endorsed AUTHORITY – TAVERN (number 80304474), which is defined under section 3 of the Act as a hotel liquor licence.
5. The Applicant is seeking authorisation for the addition of ten gaming machines for use under the licence.
6. The application was accompanied by the prescribed application fee. Pursuant to section 41(2)(f) of the Act, the application must also be accompanied by the prescribed levy for each 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

7. 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.*
  
8. 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

9. 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.
10. The Applicant currently holds Gaming Machine Licence No. GM124 and is authorised to operate ten gaming machines, the maximum number permissible prior to recent amendments to the Act.
11. 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 – TAVERN, 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)(i) of the Regulations.
12. 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 for Category 1 venues.

## Community Impact Analysis

13. 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

14. The CIA indicates that the total floor space of the premises is 947 square metres of which 38% of the area is used for bars, 23% is used for dining, 3% is utilised for gaming with the remaining 35% defined as being used for other including the bottle shop. The CIA states that the percentage of floor space used for gaming purposes should the application be approved will increase to 5%.
15. The floor plans submitted with the CIA indicate that the premises will undergo material alterations to allow for the increase in the number of gaming machines. Even with the increase of the gaming room area to 5% of the total floor area of the premises, the ratio of gaming machine area to other areas remains at the lower end of the scale.

### Suitability of Premises – primary activity

16. The CIA states that the facilities at the venue incorporate a mix of facilities covering liquor, gaming and catering facilities. The Tavern includes two bar areas, a dining room, a bottle shop and the current gaming room.
17. The CIA provides information regarding the Tavern's financial performance. It states that the Tavern's revenue is mainly derived from on premise food and beverages but that it also attracts a high off premise revenue. The CIA advises that the Tavern is not solely reliant on the gaming component of its operations as this revenue only forms a part of the venue's available entertainment options.
18. The CIA's financial analysis indicates that for the 2014 financial year 51% of total revenue was derived from the sale of liquor, 21% from gaming, 5.6% from the sale of food and 21% from other revenue streams. Financials provided to me in the CIA demonstrate that the Tavern is a profitable establishment.
19. An assessment of the financial analysis provided within the CIA and Licensing NT data indicates that the revenue derived from gaming is at the high end of the scale in comparison to similar venues however the ratio is not such as to cause significant concern that the Tavern is overly reliant on gaming revenue or that gaming is the principal source of income for the business.

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

20. For the purpose of the CIA, and as agreed by Licensing NT, the Local Community Area ("LCA") for the subject application includes the suburbs of Karama and Malak-Marrara. Karama is identified as a working class suburb situated to the north of Darwin and close to the Darwin Airport, Darwin Golf Club and sporting facilities located at Marrara.
21. Census data identifies a population in the LCA of 9 600 residents of whom 6 800 are adults. There is a larger proportion of Aboriginal residents in the LCA in comparison to Greater Darwin and the Darwin Local Government Area. The household income in the LCA is lower than the benchmark regions with 25% of residents of the LCA earning less than \$1 000 per week. In addition, the LCA records lower instances by comparison of combined household incomes exceeding \$2 500 per week. The LCA has a higher instance of unemployment in comparison to the Northern Territory average with unemployment rates sitting in the low 4% range in recent years. However, a recent decline in unemployment figures for the LCA in question is contrary to the general trend in the Territory overall.
22. Approximately 40% of residents of the LCA are purchasing their own home, a figure above that for the benchmark for Greater Darwin. However the LCA includes a higher proportion of government owned housing in comparison to other northern Darwin suburbs.
23. The CIA also contains 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 that the SEIFA analysis shows that the LCA is an area of relative social disadvantage, consistent with the description of the suburb of Karama and reflective of the lower income and higher proportion of government owned housing within the LCA. Within the subject LCA, the decile score for Karama is rated at four which is on the negative side of relative social disadvantage. The decile score for Malak-Marrara is slightly higher at five.
24. Section 41A(2)(c) of the Act provides that the CIA must provide details with respect to the proximity of the premises to gambling / gaming sensitive areas. The CIA identifies that the Tavern is located within a shopping complex and in close proximity to the Karama Childcare Centre as well as the Karama Primary School and the Uniting church. The CIA states that given the nature of the gaming sensitive sites and the fact that the Tavern is already operating, including currently offering electronic gaming, it is unlikely that the addition of 10 gaming machines would significantly impact on the surrounding area.
25. As of April 2015 there are 83 approved gaming machines in the LCA, inclusive of those at the Tavern. The Karama Plaza Tavern is the only hotel located in the LCA. The largest gaming venue in proximity to the subject premises is St Mary's Football Club which has authorisation for 30 gaming machines closely followed by the PINT Club, also located at Marrara, with 24 gaming machines. Incorporated associations (clubs) account for 88% of the gaming machines currently authorised within the LCA.
26. In respect of proliferation of gaming machines within the LCA, the CIA concludes that there is no indication of clustering of gaming machines within the immediate area of the Karama Plaza Tavern and the machine density for the subject LCA is far below the Territory average. The CIA also states that the demand at the Tavern is strong with metered wins over four times of that recorded at other gaming venues within the LCA indicating that there is a clear demand for additional gaming machines within the venue.

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

27. 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 the level of problem gambling for the subject venue is approximately 7.5% which falls at the higher end of the scale. However, it must be noted that the survey results were compiled from a low base of only 40 respondents and, as such, the results may be subject to error either up or down.
28. Against that risk, the CIA assessed that the Applicant appears to have a compliant and meaningful policy and operational framework for harm minimisation. Measures already in place in that regard include a responsible gaming mission statement, the prominent posting of gambling warning notices within the gaming room and the ready availability of Amity referral cards in the gaming room and toilets.
29. The CIA notes that complaint handling procedures are appropriately documented and that staff engaged in gaming room activities are required to undertake gaming training on awareness and responsible gambling mechanisms. The venue has adopted and implemented the Licensing NT exclusion processes for problem gamblers. Appropriate separation exists between the gaming room and ATM's located at the venue.
30. The CIA indicates no areas of specific concern in terms of the risk management of problem gamblers or the responsible gambling strategies currently in place at the venue.

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

31. The CIA states that the Applicant has demonstrated a strong commitment to the community through in kind and cash donations over previous years and it is expected that this situation will continue should the application be approved.
32. Whilst the offering of additional financial benefits to community organisations is not mandatory or recorded in full, the Applicant does provide donations by way of cash and in kind offerings to local organisations. The amount of donations for 2015 is estimated at \$230 000 with that amount expected to increase to \$250 000 in 2016.
33. Current and projected contributions to the community, both by cash and in kind donations, are considered elsewhere in this decision.
34. The authors of the CIA conducted community consultation with targeted community representatives. Of the nine community representatives who responded to the authors of the CIA, two considered that they did not expect the increase in gaming machines to have any impact at all. Seven of the respondents believe there will be a negative impact due to the lower socio-economic status of the LCA and the above average aboriginal population. Those respondents also expressed concerns regarding the potential impact on families and disadvantaged people with the local area.
35. One of the respondents supported the application and a further respondent supported the additional of 5 gaming machines.

**Written submissions in response to the application**

36. As required by section 41B of the Act, notification of the application was advertised in the Northern Territory News on 7 August 2015. Pursuant to the Act, a written submission may be made to the Director-General within 30 days of the notification.

37. One submission was received from Amity Community Services Inc, ("Amity") with the submission being in the form of a response to the Community Representative Feedback survey in respect of the application.
38. The submission states that Amity is a non-government agency that has been working in the area of gambling for the past 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.
39. Amity does not support the application to increase the gaming machines at the venue, or generally throughout the Northern Territory community. Amity is of the view, based on their review 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 Northern Territory.
40. 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.
41. Amity submits that Darwin has a general population of 81 670, including persons below 18 years of age, with 1 191 gaming machines located in the hotels, clubs and the casino which equates to 14.6 gaming machines per 1 000 head of population. Amity states that in 2014, the Australasian Gaming Council indicated that the national average for gaming machines was 11 machines per 1 000 adults indicating a much higher gaming machine density in Darwin compared to the national average. Amity suggests there is a plethora of evidence that demonstrates communities experiencing widespread social and economic problems are those communities with a higher concentration of convenience gambling.
42. 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.
43. Amity also comments that in relation to the venue specifically, that they have little community liaison and no training with staff at the venue over the past 12 months.
44. Given that Amity's comments are of a generalised nature in response to their concerns with respect to gambling and its potential negative impacts on a wider community than that contained within the LCA, it is difficult to ascertain the aspects of their concern as they relate specifically to the venue the subject of this application other than Amity are unlikely to support any application for an increase in gaming machines, regardless of which venue may apply. I 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**

45. 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. For the Karama Plaza Tavern, Licensing NT records indicate that the average gross monthly profit per machine is just above \$16 000.
46. As explored earlier in this decision, on the basis of the financial analysis provided and Licensing NT data it is apparent that the vast majority of the venue's revenue is generated by activity other than that generated by the gaming machines.
47. Should the application be approved, the cost to the Applicant of installing ten additional gaming machines will be in the order of \$750 000 comprising the application fee and prescribed levy costs together with the costs of purchasing ten additional gaming machines.
48. Projections for the venue contained within the CIA indicate that with additional machines, gaming revenue is anticipated to increase. The Financial Analysis provided within the CIA indicates that the venue is currently profitable and would still be a profitable enterprise even without any gaming machines.

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

49. Whilst the liquor trading hours vary between the different areas of the Karama Plaza Tavern the trading hours are generally from 10.00am to 10.00pm on Sundays, 10.00am to 11.00pm on Mondays, Tuesday and Wednesdays and from 10.00am to 11.59pm on Thursdays, Fridays and Saturdays.
50. The trading hours are consistent with the authorised trading hours for premises holding a tavern licence.

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

51. 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.
52. The Applicant in this instance has presented a compliant application and a comprehensive CIA which, as expected of professional consultants, 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 Karama Plaza Tavern that would satisfy 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.
53. The potential harms associated with gaming machines and gambling in general have been the topic of considerable discussion at local and at the national level Australia wide. Two matters are of some concern, namely the relatively low socio-economic standing of this LCA in comparison to other neighbourhoods in the Greater Darwin Area and the relatively high aboriginal population within the Karama and Malak suburbs, again in comparison to other Darwin suburbs.

54. However in noting those statistical facts and the potential for increased gambling related harm within the 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.
55. The Karama Plaza Tavern commenced business in 1990 with the Tavern forming part of a retail centre development incorporating a supermarket. The applicant has a good record in venue management, both in terms of its existing liquor licence and the current gaming machine licence, and has not been the subject of any significant investigations instigated by Licensing NT. I am satisfied that the Applicant, on the basis of the application itself and the contents of the CIA, will incorporate strategies aimed at reducing gaming-related harm if the application is approved. I regard that to be of some considerable significance given the concerns raised through the community consultation in respect of the socio-economic status of the LCA and the relative disadvantage of the area in comparison to other Darwin suburbs.

## **Decision**

56. 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 KTLP Enterprises Pty Ltd and authorise the increase of the number of gaming machines located at the Karama Plaza 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.
57. 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.

## **Review of Decision**

58. 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. For the purpose of this decision, and in accordance with section 166B of the Act, the affected persons are the Applicant and Amity Community Services Incorporated.



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

24 November 2015