

## Decision and reasons for decision

In the matter of an application by A.P.D. Group Pty Ltd under section 3.4.18 of the *Gambling Regulation Act 2003* for approval of an amendment to its venue operator licence to vary the number of electronic gaming machines at Valley Inn Hotel, 120 Fyans Street, South Geelong, from twenty-nine to forty-four.

<b>Commission</b>	<b>Fran Thorn, Chair (presiding)</b> <b>Dr Ron Ben-David, Deputy Chair</b> <b>Chris O'Neill APM, Commissioner</b>
<b>Date of hearing</b>	10 October 2024
<b>Date of decision</b>	6 November 2024
<b>Date of reasons</b>	6 November 2024
<b>Appearances</b>	James Stoller as counsel assisting, instructed by April Corker Stephanie Mann for the Applicant, instructed by BSP Lawyers
<b>Decision</b>	The Application is granted subject to the conditions set out in Appendix C.
<b>Signed</b>	
	<b>Fran Thorn</b>
	Chair

## Reasons for decision

### Introduction

- 1) By application dated 27 May 2024, A.P.D. Group Pty Ltd (**Applicant**) applied to the Victorian Gambling and Casino Control Commission (**Commission**) for an amendment to its venue operator licence to vary the number of electronic gaming machines (**EGMs**) at the Valley Inn Hotel, located at 120 Fyans Street, South Geelong (**Premises; Application**).
- 2) The responsible authority is the City of Greater Geelong (the **Council**). The *Gambling Regulation Act 2003* (**GR Act**) requires that the Council be informed of the Application and be given the opportunity to make a submission. The Council was informed of the Application but elected not to make a submission.
- 3) The Commission held a public hearing into the Application on 10 October 2024. The material put before the Commission, both before and during the hearing, is described in Annexure A.
- 4) The Commission has determined to grant the Application, having concluded that the statutory preconditions for approval are met and that no discretionary basis exists for refusing the Application.
- 5) Central to the Commission's decision is its finding that the net economic and social impact of the approval of the Application does not represent a detriment, as contemplated by section 3.4.20(1) of the GR Act, to the well-being of the municipal district in which the premises are located. A table setting out relevant factors is set out in Annexure B. This finding is based on the Commission's assessment that if the Application is approved, the Applicant will conduct its EGM operations in accordance with good practice for the responsible service of gambling and in a way that minimises the risks of gambling related harm to a level that is as low as is reasonably practicable. The harm minimisation measures proposed, or agreed to, by the Applicant will be enforced by the licence conditions imposed by the Commission in approving the Application. Those conditions are detailed in Annexure C.
- 6) A summary of the reasons for the Commission's decision is set out below.

## Legislation and the Commission's task

### The Commission's mandated objectives and the main objectives of the *Gambling Regulation Act 2003*

- 7) The Commission is established under the *Victorian Gambling and Casino Control Commission Act 2011* (Vic) (**VGCCC Act**). The VGCCC Act provides that the objectives of the Commission relevantly include:
  - a. to maintain and administer systems for the licensing, supervision, and control of gambling businesses for the purpose of fostering responsible gambling conducted or operated by the gambling business;<sup>1</sup>
  - b. to ensure that management and operation of gambling businesses remain free from criminal influence and exploitation,<sup>2</sup> and ensuring that gambling conducted or operated by a gambling business are conducted and operated honestly;<sup>3</sup> and
  - c. to minimise gambling harm and problem gambling.<sup>4</sup>

<sup>1</sup> VGCCC Act, s 8A(a)(iii).

<sup>2</sup> VGCCC Act, s 8A(a)(i).

<sup>3</sup> VGCCC Act, s 8A(a)(ii).

<sup>4</sup> VGCCC Act, s 8A(b).

- 8) The Commission must determine the Application in accordance with the relevant provisions of the GR Act and the objectives of the Commission.
- 9) The objectives of the Commission reflect the main objectives of the GR Act which include to foster responsible gambling to:<sup>5</sup>
  - a. minimise harm caused by problem gambling; and
  - b. accommodate those who gamble without harming themselves or others.
- 10) In addition, the purposes of the GR Act include ensuring that management of gaming equipment is free from criminal influence and exploitation,<sup>6</sup> and that gambling permitted under the GR Act is conducted honestly and that management is free from criminal influence and exploitation.<sup>7</sup>
- 11) The main objectives of the GR Act are reflected in the provisions that regulate gaming machines in Chapter 3 of the GR Act. Section 3.1.1 of the GR Act sets out the purpose of Chapter 3 which mirrors the main objectives of the GR Act with respect to fostering responsible gambling.

### Relevant considerations under the GR Act

- 12) The Application is made pursuant to section 3.4.18 of the GR Act.
- 13) Section 3.4.20 of the GR Act is titled “Consideration and making of an amendment”. It provides relevantly:
  - (1) Without limiting the matters which the Commission may consider in deciding whether to make a proposed amendment, the Commission must not amend a venue operator's licence unless—
    - (a) the Commission is satisfied that the amendment of the licence does not conflict with a direction, if any, given under section 3.2.3; and
    - (b) if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the regional limit or municipal limit for gaming machines for the region or municipal district in which the approved venue is located will not be exceeded by the making of the amendment; and
    - (c) if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the net economic and social impact of the amendment will not be detrimental to the well-being of the community of the municipal district in which the approved venue is located; and

...
  - (2) The Commission must decide whether to make the proposed amendment, either with or without changes from that originally proposed, and must notify the venue operator of its decision.
 

...
  - (3) An amendment may be made subject to any conditions that the Commission thinks fit.
- 14) Section 3.4.20(1)(c) sets out the “no net detriment” test. It applies to the Commission’s determination of the Application because the proposed amendment will result in an increase to the number of EGMs at the Premises. The relevant legal principles regulating the application of the no net

<sup>5</sup> GR Act, s 1.1(2)(a).

<sup>6</sup> GR Act, s 1.1(2)(c).

<sup>7</sup> GR Act, s 1.1(2)(d).

detriment test are well settled and have been helpfully set out by the Victorian Civil and Administrative Tribunal<sup>8</sup> and by the Court of Appeal.<sup>9</sup>

- 15) The authorities establish that the no net detriment test requires the Commission to be positively satisfied that there is no net detriment arising from the approval of the Application through positively and objectively establishing that the net economic and social impact will not be detrimental. The municipal district means the district under the Council.<sup>10</sup>

### Determination of the Application

- 16) If the Commission determines that the statutory preconditions set out in s 3.4.20(1) have not been met, the Application must be refused. However, the Commission retains a discretion as to whether to grant approval even if satisfied of those preconditions.<sup>11</sup>
- 17) In exercising its discretion, the Commission must have regard to the purposes of the GR Act, and particularly the purposes of Chapter 3. The Commission may also have regard to factors such as policy considerations drawn from the GR Act as a whole.<sup>12</sup> However, if all mandatory considerations under the GR Act are met, the Commission's discretion would ordinarily favour approval, other than in rare or exceptional cases.<sup>13</sup>

## Background and summary of application

### The Applicant and the proposal for the Premises

- 18) In 2021, the Applicant applied to the Commission for an amendment to its venue operator licence to vary the number of EGMs at the Premises from 29 to 39. That application was refused in 2022. In its 2022 decision, the Commission determined the 2021 application satisfied the no net detriment test. However, it refused the 2021 application in the exercise of its discretion.<sup>14</sup> It did so, in summary, because the Applicant had failed to comply with previous licence conditions requiring it to make community contributions.
- 19) The Commission considers that its 2022 decision is entirely irrelevant to the Application. The task for the Commission is to consider the Application on its own merits, on the current evidence before it, and having regard to the current statutory scheme. It has determined the Application without any preconceptions based on the 2022 decision. The Commission notes the evidence of the Applicant that it has made all community contributions required of it to date and has made further voluntary contributions since the 2022 decision was made. In those circumstances, and absent of any other evidence of the Applicant failing to comply with its licence conditions, the Applicant's historic non-

<sup>8</sup> *Branbeau Pty Ltd v Victorian Commission for Gaming Regulation* [2005] VCAT 2606 at paragraph 51; *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275 at paragraph 352 and *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation* [2013] VCAT 101 at paragraph 52.

<sup>9</sup> *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2008] VSCA 45 at paragraph 43

<sup>10</sup> The GR Act, under section 1.3, provides that municipal district has the same meaning as in the *Local Government Act 2020* (Vic). Section 3 of the *Local Government Act 2020* (Vic) defines municipal district to mean "the district under the local government of a Council".

<sup>11</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation* [2013] VCAT 101, [97]; *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32], *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [126].

<sup>12</sup> See *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation* [2013] VCAT 101, [99], *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32], and *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [26].

<sup>13</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation* [2013] VCAT 101, [98].

<sup>14</sup> A.P.D Group Pty Ltd at Valley Inn Hotel (EGM – Increase) [2021] VGCCC (26 April 2022).

compliance with conditions relating to community contributions is not a matter which has been given weight by the Commission in deciding this Application. Similarly, the fact that the 2021 application met the no net detriment test has had no bearing on the Commission's consideration of the no net detriment test in deciding this Application.

- 20) The Applicant has adduced evidence in support of its submission that if the Application is approved (but not otherwise):
- a. it will undertake a redevelopment of the Premises which includes the introduction of a function area and a rooftop deck, as well as an increase in the size of the gaming room;
  - b. approximately \$936,000 in complementary expenditure will be incurred at the Premises;
  - c. the Applicant will make \$50,000 of annual community contributions, with:
    - i. \$40,000 to be allocated to the Power in You Project (PIYP), a South Geelong support service which assists marginalised individuals dealing with social issues (including drug, gambling and alcohol addictions);
    - ii. \$10,000 to a "community chest" to be distributed as directed by a committee.

## Reasons for decision

- 21) In the circumstances, the Commission cannot grant the Application, under section 3.4.20(1) of the GR Act, unless it is satisfied of the following:<sup>15</sup>
- a. the regional limit will not be exceeded; and
  - b. the no net detriment test is satisfied.
- 22) For the reasons set out below, the Commission is satisfied of each of these matters.

### Section 3.4.20(1)(b) of the GR Act: the regional limit will not be exceeded

- 23) There are currently 1,345 EGMs operating in the City of Greater Geelong and 30 EGMs operating in the Borough of Queenscliff.
- 24) The regional limit (for the City of Greater and Borough of Queenscliff combined) is 1,421.
- 25) If the Application is approved, there will be 1,390 EGMs in the combined local government areas.
- 26) Thus, the regional limit will not be exceeded if the Application is granted.

### Section 3.4.20(1)(c) of the GR Act: the no net detriment test is satisfied

- 27) Most of the evidence adduced by the Applicant, and the materials prepared for the Commission by its staff, address the no net detriment test.
- 28) For the reasons set out below, the Commission considers that the net impact of approving the Application on the well-being of the community will be neutral. It follows that the no net detriment test has been satisfied.
- 29) The critical evidence of the Applicant in respect of the no net detriment test is the Social and Economic Impact Report prepared by Hayley Vinecombe (**Ratio Report**). Ms Vinecombe, who gave evidence at hearing, opined that granting the Application would have a slightly positive net social and economic impact on the community. While the Commission has not adopted this view, it provides only a summary of its reasons below, in circumstances where it nonetheless concludes that the no net detriment test is satisfied.

<sup>15</sup> The Commission notes that there is no relevant "direction" in force that would require consideration under section 3.4.20(1)(a) of the GR Act.

- 30) The opinions in the Ratio Report were informed by an expert report of SW Accountants and Advisors (**SW Report**). The SW Report was authored by Mr Tim Stillwell, who gave evidence before the Commission. The critical opinions expressed in the SW Report were that:
- a. total player losses at the Premises from the granting of the Application were likely to be in the range of \$550,558 - \$672,904, with an estimated total player loss of \$611,731 in the first full year of the additional machines' operation.
  - b. 50% of total player losses at the Premises would likely be new gambling expenditure, with the other 50% being expenditure transferred from other EGM premises in the LGA. Thus, that there would likely be a total of \$305,865.50 of new gambling expenditure attributable to the Application being granted.
- 31) On the question of likely total player losses at the Premises if the Application were granted, the Commission also considered an intelligence report, prepared by Commission staff. The intelligence report opined that likely total additional player loss from the granting of the Application would be between \$1,400,000 and \$2,100,000, with an estimated 50% of that expenditure being transferred from other EGM premises.
- 32) The Commission prefers the estimates in the intelligence report to those in the SW Report. It does not consider the estimates in the SW Report to be reliable, for the following three reasons.
- 33) First, of the four premises contained in the SW Report's "empirical sample group",<sup>16</sup> three installed additional EGMs over ten years' ago, in 2012 or 2013. Given the passage of time since those premises installed additional EGMs; the changing market for EGMs over that time; and the significantly different regulatory environment that exists now to that in place in 2012, the Commission does not consider that this empirical sample group is sufficiently analogous to the Applicant's position to enable a meaningful comparison. This flaw in the SW Report renders the conclusions it reaches as unreliable.
- 34) Secondly, Mr Eastmure and Ms Wakeling (witnesses with day-to-day experience of the operation of the Premises) both gave evidence of their opinion that there is significant unmet demand for EGMs at the Premises. The effect of that evidence was that currently, because of a lack of available (and/or desirable) EGMs at the Premises at certain times during its operations, individuals who might otherwise gamble on EGMs at the Premises do not do so. Having regard to that opinion evidence, the Commission rejects a key assumption underpinning the SW Report's analysis: that NMR will not remain static (or improve) once the new machines are introduced. On the contrary, the Commission considers that NMR will likely exceed current levels in the near term.
- 35) Thirdly, the Commission considers the venues contained in the intelligence report as comparative venues<sup>17</sup> are more similar to the Premises than those considered in the SW Report.<sup>18</sup> It follows that the intelligence report provides a more reliable estimate of likely future total player losses.
- 36) It follows that the Commission prefers the intelligence report's estimate of \$1,400,000 as the total likely figure of annual additional total player loss likely to ensue if the Application is granted, and concludes that approximately \$700,000 of this figure is likely attributable to new gambling expenditure. The consequence of this finding is that the risk of gambling related harm from granting the Application is higher than contended for by the Applicant, as discussed at paragraphs 42 – 44 below.

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<sup>16</sup> That is, those described at appendix 6 of the SW Report, Hearing Book p 142.

<sup>17</sup> That is, those described in the table on p 4 of the intelligence report, Hearing Book p 413.

<sup>18</sup> That is, those described at appendix 6 of the SW Report, Hearing Book p 142.

- 37) In assessing the no net detriment test, the Commission has considered each of the Applicant's claimed benefits<sup>19</sup> and the potential disbenefits identified by the Commission.
- 38) While many other features have been considered, in the Commission's view, only three have anything other than a neutral impact on the relevant community as a whole:
  - a. the money spent on new facilities and the availability of new facilities if the Application is granted will confer a nil-to-marginal benefit on the community;
  - b. the community contributions will confer a negligible benefit on the community;
  - c. the social and economic disbenefits related to the residual risk of gambling related harm will have a marginal impact on the community (see paragraphs 42 - 44). The Commission notes, as set out at paragraph 45 below, that its conclusion of marginal disbenefit is only made having regard to the harm minimisation measures proposed by the Applicant and imposed by the Commission by way of conditions.
- 39) Balancing these critical factors, the Commission considers granting the Application will have a neutral impact on the well-being of the community. It follows that the no net detriment test is satisfied. The Commission provides a summary of its reasons for forming this view on the no net detriment test below.
- 40) Mr Eastmure gave evidence that the proposed redevelopment of the Premises would occur if the Application was granted, but not otherwise. In support of this position, Mr Eastmure gave evidence as to the likely cost of the redevelopment, and the borrowing capacity of the Applicant and the company which owns the freehold of the Premises (a company related to the Applicant). While the Commission does not accept the accuracy of the Bayside Capital Partners document tendered by Mr Eastmure in support of his contention as to the borrowing capacity of the Applicant, it nonetheless accepts Mr Eastmure's evidence that the redevelopment of the Premises will proceed if the Application is granted. Given its role is to determine the Application before it, the Commission has not considered the counterfactual scenario (i.e. what might or might not happen with respect to any redevelopment of the Premises if the Application is not granted).
- 41) The Commission also accepts there is some benefit to the community in the availability of new facilities (in the form of a function space and rooftop bar) if the redevelopment proceeds. However, the Commission does not agree with the Ratio Report's assessment that this will confer a low benefit on the community as a whole. In circumstances where there was no evidence of a lack of other function and/or outdoor hospitality offerings in the local area (and, indeed, where the evidence establishes there are many other hospitality offerings near the Premises) the Commission considers this is a factor which only confers a nil-marginal benefit on the community as a whole.
- 42) In terms of community contributions, the Commission accepts that PIYP undertakes important and meaningful work in the local community. While the annual contributions of the Applicant to PIYP will only comprise a very small amount of its overall annual budget, the Commission also accepts that a benefit will thereby be conferred on some members of the community. However, given the relatively modest level of contributions (considered on a community-wide level) the Commission concludes that the benefit conferred on the community as a whole is nil-to-marginal.
- 43) On the other hand, the Commission considers that the social and economic disbenefits related to the risk of added gambling harm upon the community if the Application is granted are likely to be marginal. The Commission has concluded that around \$700,000 annually of "new" total player loss is likely to ensue if the Application is granted.

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<sup>19</sup> As summarised in parts 17 and 18 of the Ratio Report, Hearing Book pp 90 – 94.

- 44) Inevitably, some of this total player loss will be incurred by people who are harmed by their gambling. The socio-economic indicators for the local community are mixed. While the local area presents with very low crime; high SEIFA; and high equivalised household income relative to other areas, there are higher levels of homelessness and unemployment in the municipal district compared to other regional areas and Victoria as a whole. The Commission notes, in this regard, that it was entirely unpersuaded by Ms Vinecombe's opinion to the effect that, with a changing housing market those living in boarding or rooming houses are not necessarily vulnerable persons such as those experiencing homelessness. Rather, the Commission prefers the ABS Census definition of homelessness, whereby persons living in boarding houses are included. The Commission considers that individuals who are homeless (within the broader definition used by the ABS) or unemployed are more susceptible to gambling related harm than other members of the community.
- 45) It follows from the matters set out in paragraph 43 that the Commission cannot agree with the Ratio Report's assessment that the economic and social disbenefits relating to gambling harm are only negligible.
- 46) Nonetheless, in circumstances where the Premises is already operating as an EGM venue; is compliant with its legal and regulatory obligations; where there are other EGM premises located very close to the Premises; and taking into account the responsible service of gambling measures in place currently and the further measures that will be in place and enforced by conditions if the Application is granted, the Commission is satisfied that the social and economic disbenefits related to the risk of additional gambling harm will be marginal, considered on a community wide basis.
- 47) When viewed in their totality, these three critical factors balance each other out. In the Commission's assessment, the approval of the Application will have neutral social and economic impact on the well-being of the community in the City of Greater Geelong.
- 48) In terms of the other considerations detailed in the Ratio Report, the Commission considers each will not have any net impact on the community (either as a benefit or detriment). Thus, each factor has been assessed as having a "neutral" impact on the well-being of the community, and has had no impact on the Commission's conclusion on the no-net detriment test:
- a. The Commission considers that the increased opportunities for recreational gambling will have no net impact on the community as a whole, given the relatively modest increase in EGMs if the Application is granted and the availability of access to other EGMs in close proximity to the Premises.
  - b. The Commission considers that there will be no net impact on the well-being of the community as a whole from additional employment, supply and maintenance contract expenditure, or related to complementary expenditure (on the one hand) or from lower spending at other venues or businesses from the granting of the Application. In short, the Commission considers that money spent at the Premises if the Application is granted would likely have been money spent in the community (with all the benefits which flow from that money being spent) if the Application were not granted. There is no impact on the well-being of the community (positive or negative) from that money being spent in the Premises rather than elsewhere in the community, save to the extent that the expenditure relates to gambling related harm. This aspect has already been considered above.

### Discretion

- 49) Having considered the principles underlying the GR Act, and placing particular importance on the harm minimisation principle, the Commission has determined to grant the Application.



- 50) The Commission has not identified any circumstances that would warrant the refusal of the Application. Indeed, having regard to the conditions imposed on the approval of the Application, the Commission considers the harm minimisation principles underpinning the GR Act and VGCCC Act are met by granting the Application subject to the conditions imposed.

#### **Decision**

- 51) Having regard to the foregoing, the Commission has decided to approve the Application, subject to the conditions set out at Annexure C.

# Annexure A

## Evidence received by the Commission

The following is a list of the evidence received by the Commission before and during the hearing.

### Application

- Application form, dated 27 May 2024
- Premises plans – 1:100 and 1:50
- Witness statement of Anthony Eastmure and annexures
  - Annexure 1A - Nov 2021 witness statement
  - Annexure 1B - March 2022 (1) witness statement
  - Annexure 1C - March 2022 (2) witness statement
  - Annexure 2 – summary of community contributions made since last inquiry
  - Annexure 3 – Memorandum of Understanding with Power In You Project
  - Annexure 4 – letter from Bayside Capital Partners
  - Annexure 5 – proposed conditions
- Witness statement of Kane Nutall and annexures
  - Annexure 1 – Power In You Project, Corporate Structure
  - Annexure 2 - Memorandum of Understanding with A.P.D Group Pty Ltd
- Ratio Consultants - Social and Economic Impact Assessment Report, dated 24 June 2024
- SW Accountants & Advisors - Expenditure Report, dated 14 June 2024
- DNS Specialist Services – Harm Minimisation Audit, dated June 2024
- Public notice, published in the Herald Sun and Geelong Advertiser on 10 July 2024

### VGCCC internal reports

- Economic and Social Impact Report, dated 25 September 2024, and updated version 2 of report dated 8 October 2024
- Pre-hearing Inspection and Compliance Report, dated 19 September 2024
- Pre-hearing Size, Layout and Facilities Report, dated 30 September 2024
- Intelligence Report, dated October 2024

### Pre-hearing submissions

- Response to request for further information, dated 30 September 2024
  - Updated plans, undated
  - Self-exclusion reports from AHA (various)
  - Photos of office/security space

- Responsible gambling registers (January 2024 to September 2024)
- Correspondence between Applicant and Ratio for scope of services
- Witness statement of Hayley Wakeling and annexure
  - Annexure 1 – Nov 2021 witness statement
- Updated expert reports
  - SW Accountants & Advisors - Addendum to Expenditure Report, dated 3 October 2024
  - Ratio Consultants – Memo with updated date to the Social and Economic Impact Assessment Report, dated 3 October 2024
- Written opening submissions on behalf of the Applicant, dated 9 October 2024

### **Post-hearing submissions**

- Written closing submissions on behalf of the Applicant, dated 15 October 2024
- Updated building quote from DSJ Solutions Pty Ltd, dated 12 Oct 2024
- Summary of gaming profits excel spread sheet from Anthony Eastmure, undated
- Updated proposed conditions
- Information relating to functions held at the Premises since January 2024 and inquiries made by email (various)
- Letter from DNS Specialist Services in relation to amended plans (solid screens added to entry points of gaming machine area), dated 15 October 2024
- Venue and gaming machine area plans showing solid screen added to entry points, received 16 October 2024.

## Annexure B

### Summary of social and economic impacts

The following table is a summary of the economic and social benefits and detriments considered by the Commission in reaching its decision. The table is to be read in conjunction with the main body of the Commissions reasons for decision (**Reasons**).

	<b>Impact</b>	<b>Weight</b>
<b>Benefits</b>	Benefit of money spent on facilities and availability of facilities <ul style="list-style-type: none"> <li>• increased opportunity for recreational gaming</li> <li>• improved or enhanced venue offering (bistro and rooftop bar/function space)</li> </ul>	Nil-marginal
	Community contributions	Negligible
	Employment related benefits <ul style="list-style-type: none"> <li>• additional employment</li> </ul>	Neutral
	Gambling expenditure not associated with gambling harm Expenditure on associated suppliers <ul style="list-style-type: none"> <li>• complementary expenditure</li> </ul>	Neutral
	Increased competition among gaming venues in the City of Greater Geelong	Neutral
<b>Total weight of social and economic benefits</b>	<b>Neutral</b>	
<b>Detriments</b>	Social and economic disbenefits related to gambling harm <ul style="list-style-type: none"> <li>• increased incidence of gambling harm or related harm in the community</li> <li>• gambling expenditure associated with gambling or related harm</li> <li>• impact on community health and connectedness</li> </ul>	Marginal
	Community attitude	Neutral
	Diversion of trade <ul style="list-style-type: none"> <li>• lower spending or job losses from other businesses</li> </ul>	Neutral
<b>Total weight of social and economic detriments</b>	<b>Neutral</b>	

# Annexure C

## Conditions of approval

Conditions of the decision of the Commission, dated 6 November 2024 to grant the application by A.P.D Group Pty Ltd to increase the number of electronic gaming machines (**EGMs**) operated at the premises 'Valley Inn Hotel', located at 120 Fyans Road, South Geelong VIC 3220 (the **Premises**) from 29 to 44.

### Condition 1 – Risk Assessment and Risk Register

- 1.1 Prior to the installation of any additional electronic gaming machines (**Additional EGMs**) at the Premises, the Venue Operator (**VO**) must appoint a suitably qualified independent third party to:
  - 1.1.1 conduct a Risk Assessment to identify the risks related to gambling harm and criminal influence associated with the operation of EGMs at the Premises.
  - 1.1.2 the risk assessment must consider, at a minimum, the people, systems and processes in place at the Premises.
  - 1.1.3 develop a Risk Register in relation to the Premises' people, systems and processes and set out how harm minimisation and criminal influence in gambling will be managed at the Premises.
  - 1.1.4 the Risk Register must identify the practices and controls that will address each risk, along with the steps the VO must take to implement those practices and controls.
    - 1.1.4.1 the steps set out in 1.1.4 must be enshrined in the VO's operating manual.
- 1.2 Prior to appointing the suitably qualified independent third party, the VO must provide the details of that third party (including qualifications and experience) and the proposed scope of the Risk Assessment to the Commission for approval.

### Condition 2 – Compliance with Risk Register

- 2.1 No later than 1 month after the development of the Risk Register in accordance with Condition 1, and every 6 months after that date, the VO must provide a written attestation to the Commission confirming the following:
  - 2.1.1 that the VO has made all necessary enquiries to be satisfied that all the identified practices and controls have been, and continue to be, implemented; and
  - 2.1.2 that the VO has reviewed the Risk Register to ensure that any new risks or changes to risks have been identified and that the Risk Register has been updated to ensure the treatments and controls are effective to address those risks.
- 2.2 The written attestation must be made by an officer of the VO.

### Condition 3 – Compliance with other obligations

- 3.1 At all times any of the Additional EGMs are in operation at the Premises, the VO must ensure that:
  - 3.1.1 the service of food and beverage to patrons whilst seated at any EGM at the Premises will not occur;
  - 3.1.2 Minimum staffing levels are maintained as follows:
    - 3.1.2.1 From 10:00 AM until 1:00 AM the following day, a minimum of 2 staff on duty in the gaming room;

- 3.1.2.2 From 10:00 AM until 10:00 PM, a minimum of 1 responsible gambling officer (**RGO**) on duty in the gaming room at all times the gaming room is operational;
- 3.1.2.3 After 10:00 PM until close of the Hotel, a minimum of 2 RGOs on duty in the gaming room at all times the gaming room is operational; and
- 3.1.2.4 A person aged over 18 years who is appropriately qualified and trained as manager in charge of the hotel operations at the Premises at all times gaming is available.
- 3.1.3 All staff rostered in the gaming room are trained in YourPlay and able to assist patrons to sign up to YourPlay and set pre-commitment limits for EGM time and spend;
- 3.1.4 A full-time RGO is employed at the Premises to coordinate the venue's self-exclusion program, and to implement harm minimisation training for staff. The RGO must have completed Victorian Government Responsible Service of Gaming (**RSG**) Module 2 and Module 4 within the last 2 years;
- 3.1.5 At all times the gaming room is in operation, at least 1 staff member who has completed RSG Module 2 and Module 4 training is on duty;
- 3.1.6 Staff are prohibited from using EGMs at the Premises at any time;
- 3.1.7 Patrons are prohibited from reserving an EGM in order to use another EGM;
- 3.1.8 Patrons are prohibited from reserving an EGM for longer than 10 minutes;
- 3.1.9 EGMs are prohibited from being in use between 1 AM and 10 AM on any day;
- 3.1.10 Entry to the gaming room from the air lock to Bellerine Street must be through a push button sliding door.
- 3.1.11 All officer holders of the VO have completed RSG Modules 1 and 2 training within 60 days of their appointment or prior to commencement of the operation of any EGMs at the Premises (whichever is the earlier).
- 3.2 No later than 1 month following the installation of any EGMs at the Premises and every 12 months after that date, the VO must provide a written attestation to the Commission confirming that they have made all necessary enquiries to be satisfied that the requirements in 3.1 are being complied with. The written attestation is to be made by an office holder of the VO.
- 3.3 The written attestation must specify each of the systems, policies and procedures that have been developed and implemented to ensure continued compliance with each of the requirements in Condition 3.

#### Condition 4 – Risk of criminal influence

- 4.1 Prior to the installation of any EGMs at the Premises, the VO must ensure that:
  - 4.1.1 all office holders of the VO, the nominee, managers and all gaming room staff have completed Anti-Money Laundering (AML) and Counter Terrorism Financing (CTF) Training within the last 12 months;
  - 4.1.2 adequate systems, policies and procedures have been developed and implemented at the Premises to ensure all staff are appropriately trained in identifying and mitigating this risk.
- 4.2 Every 12 months after the installation of any EGMs at the Premises, the VO must provide a written attestation to the Commission confirming that they have made all necessary enquiries to be satisfied that the requirements in 4.1 above are being complied with. The written attestation is to be made by an office holder of the VO.

- 4.3 The written attestation must specify each of the systems, policies and procedures that have been developed and implemented to demonstrate compliance with Condition 4.1.2.

### Condition 5 – Works

- 5.1 The Works at the Premises as defined in condition 5.2 must be substantially completed to the satisfaction of the Victorian Gambling and Casino Control Commission (Commission) by the date that is 24 months after the commencement of the operation of any of the Additional EGMs at the Premises
- 5.2 For the purposes of this clause, the Works must be generally in accordance with the plans prepared by Airstream Architects (in relation to the construction of the roof top terrace) received by the Commission on 16 October 2024 and including the following amendment:
- 5.2.1 Installation of screening to reduce visibility of the machines from the Western entry to the gaming room.
- 5.3 If the Works referred to in condition 5.2 are not substantially completed by the date that is 24 months after the commencement of the operation of any of the Additional EGMs at the Premises, the operation of the Additional EGMs must cease immediately until the Commission is provided with the required written confirmation.
- 5.4 The Commission may, on the request of the Venue Operator, agree to extend the time for completion of the Works referred to in condition 5.2. The request must be made no later than the date that is 21 months after the commencement of the operation of any of the Additional EGMs. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.
- 5.5 If the Commission agrees to extend the time for completion of the Works in accordance with condition 5.4, the Commission may require that any of the Additional EGMs cease operation during the period of any extension of time granted by the Commission.

### Condition 6 – Community Contributions

- 6.1 The Venue Operator will make annual contributions with a total cash value of \$50,000 (indexed to CPI) for as long as any of the Additional EGMs are in operation at the Premises (**the Contribution**).
- 6.2 The Contribution will be allocated as follows:
- 6.2.1 the sum of \$40,000 (indexed to CPI) to be distributed to the Power In You Project each year (**PIYP Contribution**); and
- 6.2.2 the sum of \$10,000 (indexed to CPI) to be distributed each year to not-for-profit community groups and sporting organisations providing services and facilities to residents in the City of Greater Geelong as decided by the Committee (**Community Chest Contribution**).
- 6.3 The VO will establish a Committee to determine how the Community Chest Contribution in 6.2.2 will be allocated, in accordance with distribution guidelines established by the Committee. The Committee is to be comprised of:
- 6.3.1 One representative nominated by the VO;
- 6.3.2 One representative nominated by Council. If Council does not nominate a representative, the VO may appoint a community representative, who may serve a maximum term of three years on the Committee. The VO is required to confirm annually whether Council wishes to nominate a representative; and
- 6.3.3 One representative nominated by a local gambling harm service or support group. If no nomination is received, the VO may appoint a community representative for a maximum term of three years. The VO is required to confirm annually whether the local gambling harm service or support group wishes to nominate a representative;

- 6.3.4 The VO must take reasonable steps to obtain nominations from Council and a local problem gambling support group before appointing any community representative as per conditions 6.3.2 and 6.3.3. The VO must review and seek nominations from Council and the local gambling harm service or support group annually to ensure these opportunities remain open.
- 6.4 The Committee will advertise annually in a newspaper circulating in the City of Greater Geelong for submissions for funding from not-for-profit community and sporting organisations providing services and facilities to residents of the City of Greater Geelong. The Committee will assess requests for funding in accordance with guidelines established by the Committee.
- 6.5 If the Power in You Project ceases to exist, if an agreement cannot be reached between the parties in relation to the PIYP Contribution, or if for any other reason any part of the funds are unable to be distributed to the Power In You Project, the PIYP Contribution must be allocated by the Committee in accordance with condition 6.3 and 6.4.
- 6.6 If any part of the Contribution remains undistributed at the end of each reporting period, the VO must cease the operation of all Additional EGMs at the Premises for as long as the Contribution remains outstanding.
- 6.7 The VO must provide to the Commission evidence of payment of the Contribution to the Commission annually from the date of installation of the Additional EGMs at the Premises.

#### Condition 7 – Breach of conditions

- 7.1 Where the Commission determines that the VO has not complied with one or more of the conditions, the Commission may require the VO to cease operating any EGMs at the Premises until it is satisfied that:
- 7.1.1 such failure is rectified to the satisfaction of the Commission; and
  - 7.1.2 the VO has carried out the relevant and necessary action and/or implemented the relevant and necessary systems, processes and procedures to prevent the occurrence of a future breach.