



## Victorian Commission for Gambling and Liquor Regulation

### DECISION AND REASONS FOR DECISION

In the matter of an application under section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* by Sharay Investments Pty Ltd, for amendment of its venue operator's licence to vary the number of gaming machines at the approved premises, the Old Town 'N' Country Tavern, Cnr Greta Road & Mason Street, Wangaratta, Victoria from twenty-nine (29) to thirty-five (35) gaming machines.

**Commissioners:** Mr Ross Kennedy, Deputy Chairman  
Mr Robert Kerr, Commissioner

**Appearances:** Ms Louise Hicks as Counsel for the Applicant  
(instructed by Bazzani Scully Priddle Lawyers)

Ms Penny Hargrave, Rural City of Wangaratta

Mr Scott May as Counsel assisting the Commission

**Date of Hearing:** 23 April 2014

**Date of Decision:** 14 May 2014

**Decision:** That the application be granted, subject to the conditions set out in paragraph 64.

**Signed:**

**Mr Ross Kennedy**  
Deputy Chairman

## REASONS FOR DECISION

### INTRODUCTION

1. This is an application by Sharay Investments Pty Ltd (**the Applicant**) for amendment of its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the Old Town 'N' Country Tavern (**the Hotel**) located at Cnr Greta Road and Mason Street, Wangaratta, from 29 to 35 EGMs.
2. The relevant municipal authority is the Rural City of Wangaratta (**Council**). Council made a submission addressing the social and economic impact of the proposal and appeared at the hearing.

### THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

3. Determination of this application is governed by section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* (**the Act**).
4. Section 3.4.20 of the Act sets out the matters to which the Commission must have regard in determining the application. It states:
  - (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.
5. Section 3.4.20(1)(c) of the Act outlines the 'no net detriment test'. This test requires the Commission to weigh the likely positive economic and social

impacts of an application against the likely negative economic and social impacts. The test will be satisfied if, following the weighing process, the net economic and social impact of approval on the well-being of the relevant community will be either neutral or positive.<sup>1</sup>

6. The Act recognises that, notwithstanding individual rights of self-determination and gaming's recreational legitimacy, gaming on EGMs can cause harm to some communities and to some members of some communities.<sup>2</sup> It is for this reason that the Act includes safeguards to ensure that an appropriate balance is struck between accommodating lawful and responsible gambling and minimising the harm caused by problem gambling.

## **THE MATERIAL BEFORE THE COMMISSION**

7. The Applicant filed the following documents in support of its application:
  - Social and Economic Impact Statement prepared by Colleen Peterson, Director of Ratio Consultants Pty Ltd, dated December 2013 as well as an Addendum Statement dated 11 April 2014;
  - Gaming Expenditure Review - Old Town 'N' Country Tavern, prepared by Michael Clyne, dated 4 December 2013;
  - Responsible Service of Gambling (**RSG**) Management Report prepared by Andrew Jeynes, PVS Australia Pty Ltd, dated 10 December 2013 as well as the Hotel's RSG Policies and Procedures Manual; and
  - Witness Statement of Roman Sharawara, Director of the Applicant, dated December 2013.
8. The Commission also had before it two reports prepared by Commission officers, being:
  - a statistical Economic and Social Impact Report dated February 2014; and
  - a Pre-hearing Inspection and Compliance Report dated 13 March 2014.

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<sup>1</sup> *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435

<sup>2</sup> See *Gambling Regulation Act 2003*, s 1.1.(2).

9. Council also provided the Commission with an economic and social impact submission dated 17 March 2014 and appeared at the hearing.

## THE RURAL CITY OF WANGARATTA

10. Based on the material before the Commission:

- the Hotel is located within the Local Government Area (**LGA**) of the Rural City of Wangaratta (**the Rural City**), which is located approximately 235 kilometres northeast of Melbourne, covering an area of 3,645 square kilometres;
- the Rural City is comprised of three Statistical Local Areas (**SLA**), Wangaratta (RC) North, Wangaratta (RC) South and Wangaratta (RC) Central. The Hotel itself is located within the Wangaratta (RC) Central SLA;
- in terms of social and economic disadvantage, the Rural City is the 30<sup>th</sup> most disadvantaged of all 79 Victorian LGAs according to its SEIFA ranking.<sup>3</sup> The SEIFA index score for the Rural City is below the median for all Victorian LGAs (and is therefore slightly more disadvantaged by comparison) but sits at the median for regional municipalities (i.e. the Rural City has a similar level of disadvantage compared to Victorian regional municipalities).<sup>4</sup>
- for a regional venue, it is generally accepted that the majority of the venue's gaming patrons will be drawn from residences within a 5km radius of the venue. 31% of the Statistical Areas - Level 1<sup>5</sup> (**SA1s**) within this radius are in the first quintile of disadvantage (relative to all other SA1s), suggesting that the patron catchment area of the Hotel experiences some level of disadvantage;

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<sup>3</sup> The Socio-Economic Indexes for Areas (SEIFA) is a product developed by the Australian Bureau of Statistics that ranks areas in Australia according to relative socio-economic advantage and disadvantage. Indicators are chosen based on education, employment, income, families and housing and are combined to produce an index score in order to rank and compare areas in Australia.

<sup>4</sup> According to the Australian Bureau of Statistics 2011 data, The SEIFA 2011 index score for the Rural City of Wangaratta is 981, the same as the median index score for all rural/regional LGAs (981). The median index score of all Victorian LGA's is 993, indicating that the Rural City of Wangaratta is more disadvantaged than the median for all Victorian LGA's (a lower SEIFA index score indicates higher disadvantage).

<sup>5</sup> SA1 is the second smallest geographic area as defined by the Australian Statistical Geography Standard (ASGS) and are the smallest unit for the processing and release of ABS Census data.

- there is moderate population growth projected for the Rural City, with a current population of 26,815 (in 2011) and a projected population increase of 10.3% by 2016 (to 29,585); and
- the Wangaratta (RC) – Central SLA has a broadly similar unemployment rate (6.19%) to that of regional Victoria (6.17%) but has a relatively high proportion of individuals receiving federal government welfare benefits (the 5<sup>th</sup> highest of 41 regional SLAs).<sup>6</sup>

### **GAMING EXPENDITURE IN THE RURAL CITY OF WANGARATTA**

11. The Rural City of Wangaratta is subject to a municipal limit of 214 EGMs. Currently, there are four venues operating 130 EGMs within the LGA.
12. The Rural City of Wangaratta is generally characterised by below average and decreasing levels of gaming expenditure as compared with state and regional averages. Based on the material before the Commission:
  - the Rural City has an EGM density of 5.75 per 1,000 adults. This is the lowest rate of gaming machines per 1,000 adults of all regional municipalities with gaming machines and is 25% less than the regional average and 1% less than the state average.
  - gaming expenditure in the 2012/13 financial year totalled approximately \$7.76 million, an average expenditure per adult of \$343. This level of average expenditure per adult is 41% less than the regional average, 38% less than the state average and is the second lowest gaming expenditure per adult of all regional municipalities with gaming machines; and
  - trend analysis of gaming expenditure in the Rural City indicates that gaming expenditure has decreased by 20.33% in real terms<sup>7</sup> over the past 5 years, a rate of decrease which exceeds the regional average (15.59%).

<sup>6</sup> The Commission prepared Economic and Social Impact Report indicated that the Wangaratta (RC) – Central SLA has the 5<sup>th</sup> highest proportion of recipients receiving Newstart payments, Disability Support and Age Pensions per 1,000 adults, based on 2011 Centrelink and FaHCSIA data.

<sup>7</sup> i.e. adjusted to CPI

## **THE OLD TOWN 'N' COUNTRY TAVERN**

13. The Commission was advised that the Hotel is located at the southern fringe of the urban area of Wangaratta, approximately 2.5 kilometres south west from the town centre.
14. The Hotel was constructed in 1991 with EGMs introduced in 1993. It currently comprises of a bistro with seating for 150 patrons, a children's playground, a bistro lounge bar with seating for 30 people, a public bar with an associated outdoor area, a club lounge (used as a function room and overflow for the bistro when required), a drive-through bottle shop and a large gaming room with 29 EGMs with lounge seating for 35 patrons and an external smoking area. The trading hours of the Hotel are 7 am to 1 am, except for Sundays (10 am – 11 pm) and Good Friday and ANZAC Day (12 pm – 11 pm).
15. The Hotel currently provides both cash and in kind contributions (including free use of the function room and other in kind gifts) to the local community, examples of which include:
  - \$3,850 cash contributions to the Tarrawingee and Tatong Football Clubs and \$1,500 cash to Innerwheel (a total of \$5,350); and
  - In kind contributions to an estimated value of \$7,090 to various recipients, including \$1,200 to the CareVan Meal Donation, \$450 to the Hotel's Social Club, \$100 each to both the Wareen Park Bowls Club and Wangaratta Agricultural Show Committee and \$5,240 to various competitions run at the Hotel (such as social poker, pool, football tipping and darts).
16. The Applicant also submitted that the Hotel provides the free use of function rooms for functions and established a shopper docket program which provides patrons with discounted meals.

### ***Evidence from the Applicant – Roman Sharawara***

17. Mr Sharawara gave evidence about the Hotel's current facilities and operations, the proposed redevelopment works, RSG practices and the proposed community contributions.

18. Mr Sharawara told the Commission that he is a “hands on” operator alongside a fellow director and has full responsibility for most operational aspects at the Hotel. Mr Sharawara is also the Hotel’s RSG coordinator.
19. Mr Sharawara stated to the Commission that he took over the Hotel in June 2012. Prior to this, the Hotel had suffered from low levels of maintenance and was in a “poor shape”. Mr Sharawara stated that since June 2012 he has invested time and resources in an attempt to remedy this situation.
20. Mr Sharawara told the Commission that he intends to undertake a substantial redevelopment of the Hotel at a cost of at least \$450,000. Mr Sharawara stated that whilst the existing function room can accommodate 75 patrons (seated), he has received multiple requests for a larger function room. To fulfil requests for larger functions, the Hotel must utilise the Bistro area, meaning other patrons cannot attend the Hotel for a meal.
21. Mr Sharawara envisages that the redeveloped function room will be able to handle both theatre-style and corporate conferences and hold up to 300 patrons. Mr Sharawara told the Commission that there is a demand for function facilities in Wangaratta. Mr Sharawara further stated that he is increasingly engaging with community groups and commonly provides free use of the function room (and did so 79 times since January 2013).
22. Mr Sharawara told the Commission that the proposed renovations will also ensure that the public bar is more closely connected to the Hotel (as it is somewhat separate at present) and ensure better flow of patrons and enhanced staff supervision throughout the Hotel. Additionally, Mr Sharawara indicated that the Bistro will be able to seat 30 patrons more than it currently does.
23. Mr Sharawara provided the Commission with financial documentation outlining the expected cashflow position of the Hotel should the Commission approve the application. Mr Sharawara stated to the Commission that without the additional 6 EGMs, renovation of the Hotel would be financially difficult to undertake. After questioning by the Commission, Mr Sharawara stated that about half the expected increased revenue from the Hotel would result from the six additional EGMs and the other half stemming from food and beverage sales.

24. Mr Sharawara gave evidence to the Commission that he anticipates the creation of an additional four full time roles as a result of the proposal, comprising two roles in the function/kitchen area and two additional food and beverage positions. Mr Sharawara does not envisage the Hotel will require additional gaming staff.
25. Mr Sharawara stated to the Commission that he is the RSG coordinator for the Hotel. In consultation with Mr Jeynes, Mr Sharawara conducted a review of the Hotel's RSG documentation and collated existing policies with a single document. Further, Mr Sharawara stated to the Commission that he has been in regular contact with Gateway Community Health and has directed staff to be trained by that organisation. Mr Sharawara provided a letter from Gateway Community Health's Gaming Venue Support Worker confirming that Hotel staff have undertaken training as well as confirming Mr Sharawara's regular contact with that organisation. Mr Sharawara stated that he also regularly attends liquor accord forums in Wangaratta.
26. Mr Sharawara outlined to the Commission a procedure in place at the Hotel to place blank envelopes with gambling help materials contained within it, designed to ensure that patrons can access gambling help material in a less conspicuous manner.
27. Mr Sharawara told the Commission that he regularly encourages staff to circulate the gaming room and interact with visitors. Mr Sharawara believes supervision will become less difficult under the proposed renovations, as the existing gaming room is a long and large room whereas the renovated gaming room will allow staff to view patrons more effectively.
28. After questioning by the Commission, Mr Sharawara stated that the patrons attending the venue tend generally to be above 50 years of age. Whilst currently many patrons are known to Mr Sharawara, he intends to try to increase tourist patronage at the Hotel after the proposed renovations. Mr Sharawara stated that patrons have raised with him the lack of machine choice at the Hotel and have attended other venues as a result.
29. Mr Sharawara suggested two conditions to the Commission in support of the application. The first suggested condition requires the Hotel to establish a community contributions fund in the amount of \$10,000 per annum (in



addition to the existing contributions made by the Hotel) for distribution distributed to not-for-profit community groups and sporting organisations within the Rural City. The second suggested condition requires that the renovation works be substantially completed by 31 December 2015 (and, if not, approval for the six additional EGMs shall lapse).

***Social and Economic Impact Statement and Addendum Report – Colleen Peterson, Ratio Consultants Pty Ltd***

30. Ms Peterson gave evidence on behalf of the Applicant about the social and economic impact of the application on the Rural City.
31. Ms Peterson's report summarised the potential social and economic benefits of the application as:
  - redevelopment of the venue at an estimated cost of \$450,000, including additional facilities such as an expanded bistro and additional function space, as well as the general refurbishment of the venue;
  - creation of four equivalent full time positions (Ms Peterson considered it is likely those positions will be filled locally due to the Hotel's regional location);
  - additional community contributions in cash of \$10,000 per annum for distribution to local community groups within the Rural City;
  - economic stimulus in the form of larger supply contracts for local businesses (based on the venue's expansion) as well as complementary expenditure estimated to be \$170,000.
32. Ms Peterson noted that the principal economic and social detriment of this application is the possibility of increased incidence of problem gambling and expenditure by problem gamblers. Ms Peterson conceded that there are areas of disadvantage within the Rural City (in particular, areas of Wangaratta situated east of the railway line) and that Wangaratta has a higher proportion of older residents as compared with the state and regional average. However,

in Ms Peterson's view, research to date shows an underrepresentation of people over the age of 65 to problem gambling services.<sup>8</sup>

33. In Ms Peterson's opinion, any detriment with respect to problem gambling will be mitigated by:

- the existing low utilization rate of EGMs currently at the Hotel<sup>9</sup> (as problem gamblers can already access machines if they wished) combined with the modest machine net revenue (NMR) of \$143 per EGM indicating that, in Ms Peterson's view, that problem gambling is not a significant issue at this venue;
- the relocation of the gaming room and changes to access (meaning patrons will be presented at other entertainment options before entering the gaming room) as well as the continued provision and expansion of non-gambling entertainment and recreational facilities;
- the venue's strong relationship with the local counselling provider (Gateway Community Health);
- the trend of low gaming expenditure in the Rural City and the existing access to gaming venues;
- evidence of responsible gambling within the Rural City, in particular, the low level of clients requesting problem gambling counselling at Gateway Community Health. However, Ms Peterson acknowledged that this may not entirely represent the problem; and
- the removal of direct access by patrons from the car park as the redeveloped venue will result in patrons entering via the proposed lobby.

34. The Commission questioned Ms Peterson whether the low gaming expenditure in the Rural City was due to the possibility of patrons travelling to Albury to engage in gaming. Ms Peterson conceded this was possible but

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<sup>8</sup> Ms Peterson made reference to the *Study of Problem Gambling from a Public Health Perspective* (September 2009), Department of Justice. This report found a lower incidence of problem gamblers aged 65 years or over.

<sup>9</sup> Ms Peterson's report indicated that patron surveys conducted in October 2013 indicated that the gaming room did not operate at peak utilisation (i.e. above 70%) at any time during the two week period, and that the highest level of utilisation was 52% (being 15 out of 29 machines utilised at any one time).

noted that travelling to Albury would take patrons approximately 40 minutes, meaning they would be less likely to do so.

35. In concluding, Ms Peterson told the Commission that, in her view, the application would result in a slightly positive net social and economic impact on the local community and the Rural City.

***Evidence of likely gaming expenditure – Michael Clyne***

36. The Applicant engaged Mr Clyne to provide an estimate of the gaming expenditure that would be generated by an additional six EGMs at the Hotel. Mr Clyne's report was based on the outputs of the Geotech Model, a retail gravity geo-spatial model which has been presented as evidence and accepted by the Commission, with some qualifications, in previous applications.

37. Mr Clyne gave evidence to the Commission estimating that:

- an additional six EGMs at the Hotel will result in increased expenditure of approximately \$225,841 in the first twelve months of operation in the LGA;
- of this new expenditure, approximately 74% would be transferred from existing venues in Wangaratta; and
- after taking into account expenditure transferred from other gaming venues, total gaming expenditure in the LGA will rise by \$58,059 for the first 12 months of operation (an increase of about 0.75% of the total gaming expenditure within the LGA in 2012/2013).

38. The Commission questioned Mr Clyne on the level of gaming expenditure anticipated to be transferred from other venues. Mr Clyne told the Commission that one of the inputs into the Geotech model is the "attractiveness" of a particular venue. Mr Clyne told the Commission that whilst the refurbishments and new machines will act to increase the venue's attractiveness, this increase will only lift the Hotel up to a similar level of attractiveness relative other venues in Wangaratta (but the Hotel will not greatly exceed those other venues). Additionally, the Hotel's location on the outskirts of Wangaratta, as compared to the three other gaming venues in

Wangaratta (which are all centrally located), would reduce the expected rate of transferred expenditure under the Geotech model.

***Evidence of responsible gambling practices – Andrew Jaynes***

39. Mr Jaynes is the Responsible Gambling Manager for Progressive Venue Services Australia Pty Ltd, a consultancy engaged by the Applicant to conduct a review of the RSG management processes and staff training programs at the Hotel. Mr Jaynes gave evidence to the Commission about his views concerning the responsible gambling practices at the Hotel.
40. Mr Jaynes told the Commission that, in his view, the Hotel has robust RSG policies and practices set up in partnership with Gambler's Help. Mr Jaynes stated to the Commission that the Hotel has engaged in constant and collaborative work with Gambler's Help and has a robust training regime. Mr Jaynes stated that, in his observations at the Hotel, staff were highly skilled and knowledgeable concerning RSG processes and have a good grasp on dealing with problem gambling issues.
41. Mr Jaynes told the Commission that his only recommendation to the Hotel was to tie the Hotel's existing procedures into one single document. Mr Jaynes stated that the Hotel accepted and implemented his recommendation.
42. The Commission questioned Mr Jaynes on the CCTV arrangements at the Hotel, which Mr Jaynes considered were adequate. Mr Jaynes also told the Commission that Hotel staff have a good view of the majority of the gaming area and regularly circulate the gaming room engaging with patrons. In Mr Jaynes view, the proposed plans will not impact on the ability of staff to view and circulate the gaming room.
43. The Commission questioned Mr Jaynes about the identification by Hotel staff of self-excluded patrons. Mr Jaynes told the Commission that photographs of excluded patrons are located in the strong room and reviewed by staff daily.

## THE COUNCIL'S SUBMISSION AND POSITION

44. Council provided the Commission with a written submission dated 17 March 2014. Ms Penny Hargrave, Acting Director for Community Wellbeing, appeared at the hearing.

45. The Council submitted that, in its view, the anticipated economic impact of the application would be neutral but that it considered the social impact on the municipal district would be detrimental. Council, in its submission, argued (in summary) that:

- The Rural City sits midway between advantage and disadvantage according to SEIFA rankings, but does contain specific areas of disadvantage and the Hotel itself is located in a relatively disadvantaged area. The economic profile of Wangaratta residents indicates lower average income levels as compared to the state average with 20% of the Rural City's population estimated to be receiving Centrelink benefits. Additionally, the Rural City has an increasingly older population;
- The majority of patrons (as indicated by the Applicant's patron survey) showed that income generated will be likely to come from within the local community rather than visitors or tourists;
- Council is aware of cases where gambling has been a problem for individuals resulting in financial difficulties, marital breakdown and white collar crime. Council also notes that the nature of problem gambling is hidden and not often openly acknowledged and therefore it is difficult to judge incidence levels;
- The Hotel's free function room offering could be argued to be a business practice used to generate Hotel income rather than a community benefit;
- There is, according to Council, a clear link between increased access to EGMs and increased problem gambling; and
- Anecdotal evidence suggests that residents within the Rural City do not favour an increase in the number of EGMs. Council provided the Commission with extracts from the Wangaratta Chronicle newspaper, being:

- a webpoll dated 14 March 2014 indicating that only 5.8% of respondents were in favour of the proposal (out of a total 103 respondents);
  - a “vox pop” dated 7 March 2014 with 4 out of 5 respondents opposing an increase in EGMs; and
  - a letter to the editor dated 14 July 2014 also opposing any increase in EGMs.
46. At the hearing, Ms Hargrave agreed that there were economic benefits associated with the proposal to the Rural City in the form of increased employment, recreational gambling (i.e. expenditure from non-problem gamblers), the proposed renovations to the Hotel and increased community contributions.

## **FINDINGS BY THE COMMISSION**

### ***Social impact of approval***

47. The Commission notes that there are some signs of disadvantage in the Rural City and that increased access to EGMs, irrespective of the number, may increase the risk of problem gambling in a community.
48. However, the Commission considers that the risk of an increase to problem gambling is significantly mitigated in this application. The evidence before the Commission suggests that the Rural City is characterised by reducing gambling expenditure and there is little evidence of significant problem gambling.
49. Further, the Hotel itself is characterised by a very low NMR and low utilisation of machines. This is of some comfort to the Commission, and whilst not determinative, suggests that the venue itself is not one characterised by problem gambling.
50. The Commission considers that any possibility of an increase in problem gambling is also significantly mitigated by the Applicant’s RSG practices, the demonstrated commitment to staff training concerning responsible gambling and proper management of problem gambling, and in particular, the

Applicant's demonstrated commitment to collaborative engagement with the local Gambler's Help provider.

51. The Commission considers that the proposed redevelopment and relocation of the gaming room will be likely to reduce the emphasis on gaming at the Hotel. Under the proposed renovations, patrons will be required to enter the hotel lobby via the car park before entrance to the gaming room, rather than directly enter the gaming room from the car park (which is currently the case). Additionally, the proposed renovations are likely to increase the ability of staff to monitor the gaming area as the plans submitted to the Commission indicate that the gaming room will be reduced significantly in area.
52. The Commission notes that while there is some evidence of community opposition (being a web poll, a vox populi poll and a letter to the editor in the Wangaratta Chronicle), this evidence is not particularly rigorous and the Commission cannot afford it any real weight. The question put to respondents in the vox populi poll simply asked whether Wangaratta needs more EGMs generally and did not specifically address the entire proposal at hand (such as the venue and the associated redevelopment). Additionally, the Commission was not informed of the precise question put forward to respondents in the web poll and the Commission notes that, in any event, such a poll would be necessarily subject to a degree of self-selection bias.
53. The Commission considers that the upgraded facilities (and in particular, the ability of the Hotel to host larger and more varied functions) does represent a social benefit to members of the community who utilise those facilities. Although the facilities are already in existence, the renovation does represent an improvement and represents a social benefit where those improvements are made available for the local community. This benefit is amplified by the Applicant's current practice of free or subsidised provision of function rooms to community groups.
54. The Commission accepts the Applicant's commitment to increase its community contributions to \$10,000 per annum (adjusted annually by reference to CPI) is also a social benefit to the community.

55. The Commission considers it proper and useful for the Council to highlight and test the Applicant's claims concerning any social benefits accruing. However, in balancing the anticipated social detriments against the anticipated social benefits of the proposal, the Commission is satisfied that the net social impact on the Rural City will be neutral in this application.

### ***Economic impact***

56. The Commission accepts that this proposal will be likely to result in new gaming expenditure in the Rural City. The Commission notes that the estimated new gaming expenditure is likely to be minimal and that, in terms of non-problem gambling expenditure, will have only a minor economic impact on the municipality.

57. The Commission considers that redevelopment of the Hotel (at a cost of at least \$450,000) involves a modest level of investment. Additionally, the Commission accepts that there will be complementary expenditures and supply contracts in conjunction with the redevelopment which also represent a small economic benefit to the Rural City. The Commission accepts that, on the basis of the Applicant's evidence and financial documentation put to the Commission, the redevelopment of the venue and the associated economic benefits are unlikely to be realised without the revenue resulting from the additional six EGMs.

58. The Commission notes that four full-time positions are expected to be created as a result of the redevelopment. Whilst the Commission would normally consider this benefit to be of little weight, as employment would be largely substituted by other venues, in this matter, the substitution effect is somewhat diluted by the expectation of increased non-gaming revenue.

59. In the absence of evidence to the contrary, the Commission accepts the projected expenditure and transfer rates before it but notes that the evidence also points to reduced trend gambling expenditure in the Rural City as a whole and low EGM utilisation at the Hotel in particular. As such, the economic impact is unlikely to be more than what has been put forward to the Commission, and could be less.



60. Despite this, the Commission considers there will be a marginal positive net economic impact on the relevant community by virtue of the above factors.

## CONCLUSION

61. The Commission considers that the likely social impacts of the proposal will be neutral and the likely economic impacts of the proposal will be slightly positive. As such, the Commission considers that the net economic and social impact of approving this application will not be detrimental to the well-being of the Rural City's community.

62. Based on the material provided to the Commission prior to and at the time of the public inquiry, the Commission is satisfied that the Applicant has the authority to make the application and that the matters canvassed in section 3.4.20(1)(a) and (b) of the Act are also met.

63. However, the Commission is concerned that the proposed redevelopment works and proposed community contributions, both factors in the Commission's reasoning, should proceed.<sup>10</sup> As such, the Commission considers it appropriate to impose amended versions of the Applicant's proposed conditions to this approval.

64. Pursuant to section 3.4.20(2) of the Act, it is a condition of this approval that the following two conditions are complied with.

### 1. Community Contributions

(a) The operator of the premises (the **Venue Operator**) must:

- i. establish the Old Town 'N' Country Community Fund (**the Fund**);
- ii. make the cash contribution referred to on Condition 1(a)(iii) from the commencement of the operation of the six additional EGMs at the Hotel until 15 August 2022;

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<sup>10</sup> The administrative process of amending the licence will take place at a time subsequent to this decision as allowed by section 3.4.20 of the Act.

- iii. the annual cash contribution will be the sum of \$10,000 (indexed each year, commencing in 2015, by CPI all groups Melbourne) (**the Contribution**); and
  - iv. the Contribution will be allocated each year to not-for-profit community groups and sporting organisations providing services and facilities to residents in the Rural City of Wangaratta.
- (b) The distribution of the Contribution in accordance with Condition 1(a) above will be determined by a committee (**the Committee**) established by the Venue Operator comprising:
- i. two representatives of the Venue Operator; and
  - ii. one representative of Council, or if Council is unwilling to provide a representative, a community representative nominated by the Venue Operator.
- (c) The Committee will advertise annually in a newspaper circulating in the Rural City of Wangaratta for submissions from not-for-profit community and sporting organisations, providing services and facilities to residents within the Rural City of Wangaratta, regarding the distribution of the Contribution to be made by the Venue Operator each year. The Committee will assess requests for cash contributions in accordance with guidelines to be established by the Committee.
- (d) The Applicant currently makes cash contributions to sporting and community groups within the Rural City of Wangaratta in the sum of \$5,350 per annum (**Existing Contributions**). In addition to the payment of the Contributions referred to in Condition 1(a), the Venue Operator must continue to pay each year the Existing Contributions until 15 August 2022.
- (e) The Existing Contributions will be increased each year by reference to increases in the CPI all groups Melbourne for the preceding year.
- (f) In the event that the Venue Operator sells or transfers the business at the Hotel to a third party (from the commencement of the operation of

the 6 additional EGMs at the Hotel until 15 August 2022), the Venue Operator must, as part of the sale or transfer, require the purchaser or transferee to assume responsibility for the obligations in this Condition 1 (from the commencement of the operation of the 6 additional EGMs at the Hotel until 15 August 2022).

## 2. Works

- (a) If the Works (as defined by this condition) are not substantially completed by **31 December 2015**, or such later date as agreed to in writing by the Victorian Commission for Gambling and Liquor Regulation (the **Commission**), this approval will lapse and the maximum number of electronic gaming machines (EGMs) that may operate at the Premises will revert to 29.
- (b) The **Works** for the purposes of this condition comprise the works (or substantially similar works) as depicted on the plan prepared by Pop Design Studios dated 19 December 2013 and which was presented to the Commission at the hearing.
- (c) The Venue Operator must satisfy the Commission that the Works have been substantially completed by way of written confirmation, to be received by the Commission no later than 31 December 2015. Failure of the Venue Operator to provide the Commission with written confirmation by this date will result in this approval lapsing and the maximum number of EGMs that may be operate at the Premises will revert to 29.
- (d) The Commission may, upon the request of the Venue Operator of the Premises, agree to extend the time for substantial completion of the Works referred to in Condition 2(a). Any request must be made not less than thirty (30) days before 31 December 2015 must include an explanation as to why the Works have not been substantially completed.

**The preceding 64 paragraphs are a true copy of the Reasons for Decision of Mr Ross Kennedy (Deputy Chairman) and Mr Robert Kerr (Commissioner).**