



Victorian Commission for Gambling and Liquor Regulation

DECISION

In the matter of an application by Bridele Hotel Pty Ltd under section 3.3.4(1) of the *Gambling Regulation Act 2003* for approval of the premises Cardinia Park Hotel, 1 Princes Highway, Beaconsfield, as suitable for gaming with forty (40) electronic gaming machines.

Commission:

Miss Gail Owen, Deputy Chair
Des Powell, Commissioner

Decision:

That the application be granted

Date:

7 June 2013

Signed:

Miss Gail Owen
Deputy Chair



REASONS FOR DECISION

BACKGROUND

1. This is an application by Bridele Hotel Pty Ltd (the **Applicant**) for approval of the premises, Cardinia Park Hotel situated at 1 Princes Highway, Beaconsfield (the **Premises**) as suitable for gaming with 40 electronic gaming machines (**EGMs**).
2. The Premises is owned by Beepak Pty Ltd, which provided the Commission with written authorisation for the Applicant to pursue the application.
3. The relevant municipal council in respect of this application is the Cardinia City Council (**Council**). In a letter dated 17 April 2013, the Council notified the Commission that it did not intend to make a submission and requested that the Commission consider the following factors when considering the likely economic and social impact of the application on the community near the Premises:
 - the relatively high mortgage commitments and the level of vulnerability to high fuel costs;
 - the difficulty in determining prevailing levels of personal debt; and
 - achieving certainty and clarity about the community contributions proposed by the Applicant (the **Council Letter**).

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gambling on EGMs is a legal recreational and commercial activity in Victoria insofar as it is done in accordance with the *Gambling Regulation Act 2003* (the **Act**). The Act recognizes that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities and some members of some communities. For this reason, the Act includes safeguards to ensure an appropriate balance is struck between what is a lawful and legitimate recreational activity for some and harm for others. In particular, the balance is maintained by requiring an applicant who wishes to increase the number of EGMs at a venue



to satisfy the Commission of the 'no net detriment test' and the other matters set out in section 3.3.7(1) of the Act.¹

5. The 'no net detriment test' requires the Commission to weigh the likely positive economic and social impact of an application against the likely negative economic and social impact. The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impact of approval on the well-being of the relevant community will be either neutral or positive.²

THE CARDINIA PARK HOTEL AND THE CARDINIA MUNICIPALITY

6. Cardinia is a metropolitan Local Government Area (LGA) located about 60 kilometres south-east of Melbourne CBD. Cardinia comprises three statistical local areas (SLAs), Cardinia – Pakenham, Cardinia – North and Cardinia – South. The Premises is located in a semi-rural area within Cardinia – Pakenham SLA.
7. Cardinia LGA is subject to a municipal limit of 458 EGMs. Currently, there are 225 EGMs operating at four venues in the municipality, and approvals to operate up to 243 EGMs. In relation to gaming density, Cardinia LGA has 3.80 EGMs per 1,000 adults, which is 32% less than the metropolitan average (5.59) and 35% less than the State average (5.81). Approval of this application will increase the density of EGMs in Cardinia LGA by 17.89% to 4.48 EGMs per 1,000 adults, which will remain below the metropolitan and State averages.
8. The number of adults per gaming venue in Cardinia LGA is 14,786, which would decrease by 20% to 11,829 if the application is approved. The current adult population per venue in the municipality is higher than the metropolitan average (10,421) and State average (8,878).
9. The gaming expenditure per adult in Cardinia LGA is also below the metropolitan and State averages. In 2011-2012, the average expenditure in Cardinia LGA was \$370 per adult, which is 42% less than the metropolitan average (\$638) and 39% less than the State average (\$602). Should the application be approved, the average expenditure is expected to increase by 8.11% to \$400 per adult, which remains below the metropolitan and State averages.

¹ See: *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275, 247 (Bell J).

² *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435



10. According to data obtained by the Australian Bureau of Statistics (**ABS**) during the 2006 Census, Cardinia – Pakenham SLA is ranked 51st out of 79 metropolitan SLAs on the SEIFA Scale of Disadvantage, which indicates a moderate level of disadvantage.³

THE MATERIAL BEFORE THE COMMISSION

11. The Applicant filed with the Commission extensive material in support of its application, which is summarised below.
12. The Commission also had before it a statistical report titled Economic and Social Impact Report dated May 2013 (the **ESI Report**) and a Pre-Hearing Compliance Report prepared by Commission officers (the **Compliance Report**).

Mr Francis Deegan

13. Mr Deegan is the director of both the Applicant and Beepak Pty Ltd. Mr Deegan has been involved in the management and operation of licensed venues for 35 years. In addition to the Premises, he currently owns and operates the Central Hotel in Beaconsfield and Elevation Restaurant in Emerald.
14. Mr Deegan is a shareholder in the Bendigo Community Bank, Beaconsfield, and benefactor to several local sporting organisations and considers himself to be an active member of the Beaconsfield community.
15. Mr Deegan gave evidence that Beepak Pty Ltd purchased the Premises on 24 November 2011. Mr Deegan believes that the purchase was supported by the local community and the Applicant is assisting the local community by operating and expanding the Premises.
16. Since purchasing the Premises, the Applicant has re-carpeted and repainted the Premises, and improved the food offered to patrons by employing a chef from Tuscany, Italy.
17. Mr Deegan told the Commission that the Applicant is seeking to redevelop and continue to modernise the Premises, expand the range of entertainment options and cater to the current levels of demand. The Applicant provided the Commission with detailed architectural plans in relation to the proposed redevelopment, which is estimated to cost \$2 million and include:
 - construction of a gaming room;

³ Socio-Economic Indexes for Areas (SEIFA) is a product developed by the ABS to assist in the assessment of the welfare of Australian communities. The SEIFA Index is created by combining numerous measures of disadvantage and is used to rank regions or areas according to the level of social and economic well-being.



- construction of a sports bar;
 - replacement of the drive through bottle-shop with a walk-in bottle shop;
 - construction of new toilet facilities;
 - expansion of the bistro; and
 - construction of two new external terrace areas, including an alfresco dining area and outdoor smoking courtyard.
18. Mr Deegan gave evidence that the Applicant has applied for a planning permit for the redevelopment but noted that, according to the advice of its accountants, the Applicant would not generate enough income to fund the redevelopment if the application were refused.
19. Mr Deegan advised the Commission that, should the application be granted, the Applicant will establish the Cardinia Park Hotel Community Grants Program and make cash contributions to the community in Cardinia LGA of \$45,000 per annum to be adjusted annually with increases to the Consumer Price Index (the **CPI**). The contribution is to be allocated to not-for-profit community and sporting groups as determined by a committee comprising one representative each from the community, Applicant and the Council. Mr Deegan stated that he had a particular interest in funding community groups involved with key local issues, particularly men's health, the elderly and youth suicide.
20. In response to matters in the Compliance Report, Mr Deegan advised that the previous Manager is no longer employed by the Applicant and that a more suitably qualified person, Mr Michael Ward, was appointed as the Manager in September 2012. Mr Ward has 20 years of experience in hospitality management, including three years in gaming venue management.
21. Mr Deegan told the Commission that he considers the Applicant to be a family business and that he, his partner and his son are involved in the operation of the Premises.
22. Mr Deegan acknowledged that his experience with gaming was dated and, for that reason, he proposes to engage Leigh Barrett and Associates to assist the Applicant to comply with its responsible gambling obligations, should the application be approved.

Social and Economic Impact

23. The Applicant engaged Colleen Peterson, Director, and Hayley McFadden, Social Geographer and Transport Planner, at Ratio Consultants Pty Ltd, to prepare a social and economic impact



statement and addendum report to accompany the application (the **Ratio Report**). Ms Peterson gave evidence at the hearing.

24. Ms Peterson stated that while there is a potential for some disbenefit associated with the application resulting from an increase in problem gambling, it was her view that the risk of problem gambling posed by the application would be modest due to the following factors:

- based on updated SEIFA results released by the ABS in 2013 and based on 2011 data, Cardinia LGA has few signs of social and economic disadvantage and has high SEIFA scores relative to the median for all Australian LGAs;
- the Premises is a destination venue and the risk of convenience gaming at the Premises is reduced by its location in a semi-rural, 'Green Wedge' area and separation from convenience shopping facilities or the Pakenham activity centre;
- the local community has had exposure to gaming and access to EGMs as a result of gaming venues located in neighbouring Casey LGA, such as the Berwick Inn Taverner about 3.7km from the Premises;
- gaming is not the sole entertainment option available at the Premises;
- expenditure per adult in the LGA will remain well below the metropolitan and State averages despite the increase in gaming expenditure in Cardinia LGA expected to result from the application;
- the impact of the estimated increase in gaming expenditure in Cardinia LGA will be reduced over time by the projected growth in population of 5% per annum between 2011 and 2016 and 4.1% per annum between 2016 and 2021 in that LGA; and
- the Applicant proposes to engage responsible gaming consultants, Leigh Barrett & Associates, which will enable best practice in relation to responsible gaming to be implemented at the Premises.

25. In response to the social and economic considerations outlined in the Council Letter, Ms Peterson submitted that:

- while Cardinia – Pakenham SLA has higher levels of housing stress than the metropolitan and State averages in respect of mortgage payments, the ability of residents to cope with housing stress is greater due to higher levels of disposable income relative to the metropolitan average;



- while the car ownership in Cardinia – Pakenham SLA is high and this can reflect vulnerability to high fuel prices, the higher levels of disposable income and the absence of other areas of social and economic disadvantage reduce the vulnerability of the community to fuel price increases;
 - the Applicant is committed to making the community contributions of \$45,000 per annum to be adjusted each year by the increase in the CPI and supports engagement with the Council to distribute these funds; and
 - the Applicant is committed to the proposed redevelopment and, to this regard, has lodged a planning permit application with the Council.
26. In Ms Peterson's opinion, the additional gaming revenue expected to be derived from the application will result in a social and economic benefit to the community enabling the Applicant to:
- redevelop the Premises;
 - employ an additional 10 full time staff;
 - make community contributions by \$45,000 per annum (plus CPI) in addition to current contributions, which comprise a \$5,000 donation to the Berwick Football Club and complimentary rooms and facilities for use by community organisations to hold meetings and functions; and
 - improve access to gaming in Cardinia LGA.
27. In considering all the factors, Ms Peterson concluded that the approval of the application would have a small positive social and economic impact on Cardinia LGA and the community local to the Premises.

Evidence of likely expenditure

28. The applicant engaged Richard Whitehouse, Director of Progressive Venue Services Australia, to prepare an expenditure report to accompany the application (the **PVS Report**). Mr Whitehouse gave evidence at the hearing.
29. PVS applies the Geotech Model, a retail gravity geo-spatial model that aims to simulate consumer choice based on the location, attractiveness and convenience to predict gaming venue revenue.



30. Mr Whitehouse told the Commission that the Geotech Model predicted that the 40 EGMs sought by the Applicant would generate gaming expenditure of \$2,283,127 per annum, 90.6% of which would be transferred from other gaming venues. Accordingly, the EGMs are estimated to generate new gaming expenditure of \$213,548 in the first 12 months following their installation. Mr Whitehouse advised that a substantial proportion of the expenditure would be transferred to Cardinia LGA from venues in Casey LGA, due to the close proximity of the Premises to Casey LGA.
31. The PVS Report states that the Geotech Model predicted a net increase of EGM expenditure in Cardinia LGA of \$1,652,786, which includes both new gaming expenditure and expenditure drawn from Casey LGA.
32. Mr Whitehouse told the Commission that, in addition to applying the Geotech Model, he analysed case studies comparing the Geotech Model predictions to actual gaming expenditure at a number of gaming venues. Mr Whitehouse gave evidence that the Commission should take comfort that the Geotech Model predictions were conservative as all predictions conducted to date have overstated the estimated gaming expenditure.
33. Mr Whitehouse stated that he considered the transferred expenditure predicted by the Geotech Model for this application to be an over-estimate and gave evidence that he considered that a transfer rate of 70%, while being conservative, was more appropriate. Accordingly, it is estimated that the new gaming expenditure at the Premises would be \$684,938 in the first 12 months of trade, rather than \$213,548.
34. Furthermore, Mr Whitehouse estimated a net increase of \$1,772,009 in Cardinia LGA, of which 61% would be generated by the transfer of expenditure from neighbouring Casey LGA.
35. The Commission accepts that the prediction of expected gaming expenditure is an imprecise task and considers the predictions in relation to this application to not be unreasonable.

LIKELY ECONOMIC IMPACT OF APPROVAL

36. While there is frequently a large degree of overlap between economic and social impacts of applications to operate EGMs, the Commission considers it useful to identify and analyse economic and social impacts separately to arrive at a net position for each aspect before undertaking the final analysis.⁴

⁴ This is consistent with the approach taken by Bell J in *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275.



37. The Commission accepts that this application will result in gaming expenditure of about \$2,283,127 at the Premises. The Commission considers it likely that a substantial proportion of the expenditure is likely to be transferred from other gaming venues in the LGAs of both Cardinia and Casey. The Commission considers it appropriate to accept a transfer rate of 70% and a net increase of gaming revenue of \$1,772,009 in Cardinia LGA.
38. The Commission accepts that gaming expenditure not associated with problem gambling is legitimate consumption expenditure undertaken predominately by people enjoying a recreational activity. However, revenue derived from problem gamblers, is a disbenefit as it leads to economic costs such as lost productivity, increased health and social service requirements and other social costs.
39. The Commission notes that there is a small potential for some economic detriment resulting from a possible increase in problem gambling expenditure. The Commission considers this risk to be somewhat mitigated having regard to the Applicant's commitment to responsible gambling practices.
40. The Commission is also of the view that any increase in problem gambling as a result of this application will be offset by the economic stimulus in the municipality generated by the increase in gaming revenue and by the increase in employment at the Premises of ten full time staff.
41. On balance, the Commission considers there to be a marginal economic benefit associated with this application through an increase in gaming expenditure and employment within the municipality.

LIKELY SOCIAL IMPACT OF APPROVAL

42. The approval of a new venue to conduct gaming increases the accessibility of EGMs and the risk of increased problem gambling. The Commission considers the risk to be low in this case due to the residents of Cardinia LGA not being particularly disadvantaged, the relatively small increase in estimated new gaming revenue and the current exposure of the local community to EGMs.
43. The Commission notes that, while the Applicant has not managed gaming venues for some time and has experienced recent compliance issues in relation to its liquor licence, it has taken steps to improve practices at the Premises, including employing a Manager with gaming and liquor experience, and proposes to engage a responsible gambling consultant. The



Commission considers that the Applicant is committed to responsible gambling practices and has no reason to believe that the Applicant will not comply with its regulatory obligations.

44. The Commission accepts that the Applicant has a strong relationship with the local community and is committed to financially supporting locals groups. The Commission notes that the Applicant expressed a willingness to accept a condition on the approval to increase its community contributions by \$45,000 per annum (plus CPI). The Commission considers that the contributions will positively impact Cardinia LGA and is encouraged by the commitment of the Applicant to engage with the Council and the local community to distribute the funds.
45. The Commission also notes that the proposed redevelopment of the Premises to improve and create new entertainment and dining facilities, including the construction of a gaming room, will result in a small benefit to the community. The Commission accepts that gaming cannot be conducted at the Premises in the absence of the redevelopment and expects that the proposed renovations will commence by early 2014.
46. Following consideration of the materials provided by the Applicant, including the architectural plans, the Commission is satisfied that the Premises will be suitable for gaming on the completion of the redevelopment.
47. On balance, the Commission considers the likely social impact of the approval to be positive.

CONCLUSION

48. The no net detriment test in section 3.4.7(1)(c) of the Act requires the Commission to weigh the likely positive social and economic impacts of an application against the likely negative social and economic impacts. The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either neutral or positive.⁵
49. The Commission is satisfied that, on the completion of the proposed redevelopment, the size, layout and facilities of the Premises will be suitable for the management and operation of 40 EGMs.

⁵ *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor* [2009] VCAT 2275, 274



50. Following consideration of the material before it and subject to the below condition, the Commission is satisfied that the approval of this application will result in a marginal economic and social benefit to the community of Cardinia LGA.⁶
51. The Commission is satisfied that it should exercise its discretion to grant the application subject to the following condition:
- the Applicant must make cash contributions of \$45,000 per annum (adjusted annually to reflect increases to the CPI) and distribute the increased contributions in accordance with its proposal as set out in paragraph 19 of these Reasons for Decision from the date it commences to operate EGMs at the Premises until 15 August 2022.

The preceding [51] paragraphs is a true copy of the Reasons for Decision of Miss G.A. Owen (Deputy Chair) and Mr Des Powell (Commissioner).

⁶ The administrative process of amending the licence will take place at a time subsequent to this decision as allowed by s 3.4.20



Victorian Commission for
Gambling and Liquor Regulation

DECISION

In the matter of an application by Bridele Pty Ltd under section 3.3.4(1) of the *Gambling Regulation Act 2003* for approval of the premises Cardinia Park Hotel, 200 Beaconsfield Emerald Road, Beaconsfield, as suitable for gaming with forty (40) electronic gaming machines.

Commission: Miss Gail Owen, Deputy Chair
Des Powell, Commissioner

Decision: That the application be granted

Date: 7 June 2013

Signed:

Miss Gail Owen
Deputy Chairman

CORRIGENDUM

Date: 17 June 2013

Miss Gail Owen

1. On page one, the paragraph beginning with the words 'In the matter' and ending with the word 'machine' has been deleted and replaced with the following:

In the matter of an application by Bridele Pty Ltd under section 3.3.4(1) of the Gambling Regulation Act 2003 for approval of the premises Cardinia Park Hotel, 200 Beaconsfield Emerald Road, Beaconsfield, as suitable for gaming with forty (40) electronic gaming machines.

2. At paragraph one, delete the text and replace with the following:

*This is an application by Bridele Pty Ltd (the **Applicant**) for approval of the premises, Cardinia Park Hotel situated at 200 Beaconsfield Emerald Road, Beaconsfield (the **Premises**) as suitable for gaming with 40 electronic gaming machines (**EGMs**).*

The preceding paragraphs are a true copy of the Reasons for Decision of Miss G.A. Owen (Deputy Chair) and Mr Des Powell (Commissioner).