



Victorian Commission for Gambling and Liquor Regulation

DECISION AND REASONS FOR DECISION

In the matter of an application by Milden Pty Ltd under section 3.3.4(1) of the Gambling Regulation Act 2003 for approval of the Albion Hotel at 24 Henty Street, Casterton as suitable for gaming with fourteen (14) Electronic Gaming Machines.

Commission: Miss Gail Owen, Deputy Chairman
Ms Kate Hamond, Commissioner

Appearances: Ms Denise Edwards, of and for the Applicant

Mr Matthew Albert as Counsel assisting the Commission

Decision: That the application be granted.

Signed:

Miss Gail Owen
Deputy Chairman

10 JAN 2013

REASONS FOR DECISION

INTRODUCTION

1. This is an application by Micden Pty Ltd (**Applicant**) for the approval of the Albion Hotel at 24 Henty Street, Casterton (**Premises**) as suitable for gaming with fourteen (14) Electronic Gaming Machines (**EGMs**).
2. The Applicant is a company with a lease of the Premises from the freehold title owner, Negara Pty Ltd. Both entities are controlled by Denise Christine Edwards, who is a company director. The Applicant holds current liquor and hotel venue operator's licenses. The Premises operates primarily as an hotel.
3. The Premises is within Glenelg Shire. The Glenelg Shire Council (the **Council**) did not appear at the public hearing of this application.

LEGISLATIVE FRAMEWORK AND THE COMMISSION'S ROLE

4. The Commission's role is to determine the application before it pursuant to the *Gambling Regulation Act 2003* (the **Act**).¹ In making its determination, the Commission is required to consider, among other things, the impact the new EGMs may have on the community in which the machines would operate, or some members of it. The Commission is required to balance the benefits from and harms caused by gambling.
5. In order to approve an application, the Commission must be satisfied that the Applicant has authority to make the application in respect of the Premises, the Premises is suitable for the management and operation of EGMs and the net economic and social impact of approval will not be detrimental to the wellbeing of the community of the municipal district in which the Premises is located.²
6. The 'no net detriment' 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.

¹ Section 3.3.8(1)

² Section 3.3.7

7. The Act allows the Council to make a submission to the Commission concerning the economic and social impact of the proposal. The Commission is bound to take any such submission into account.³
8. The inquiry of the Commission into this application was conducted in public, as required by s 28(3) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (Vic).

MATERIAL BEFORE THE COMMISSION

9. The Applicant filed with the Commission the following materials, among others, in support of its application:
 - a. Social and Economic Impact Assessment, prepared by Urbis Pty Ltd (**Urbis**) in September 2012;
 - b. Expenditure Report, prepared by Progressive Venue Services (**PVS**) in May 2012;
 - c. Witness statement of Ms Denise Christine Edwards dated 10 September 2012;
 - d. Current hotel venue operators license for the Applicant dated 5 September 2012; and
 - e. Liquor license valid until 31 December 2012 for the Premises.
10. In opposition to the application, the Council filed an Economic and Social Impact Report prepared in November 2012 and an Economic and Social Impact submission and cover letter dated 30 November 2012.
11. The Commission also had before it a statistical report titled Economic and Social Impact Report dated November 2012 (the **Commission Report**) and a Pre-hearing Inspection and Compliance Report prepared by Commission officers.

THE CITY OF GLENELG AND THE ALBION HOTEL

12. Based on the material before the Commission:

³ Section 3.3.6 and 3.3.7(1)

- a. The Premises is located at 24 Henty Street, Casterton, within the metropolitan Local Government Area (**LGA**) of the City of Glenelg.
- b. Casterton is in Victoria's south west about 40km from the border with South Australia.
- c. The original Premises was built in 1865. Casterton now has a population of approximately 1,400 people. There are no EGMs in or within 60 km of Casterton.
- d. The Premises is located in the main, albeit short, shopping strip of Casterton. The premises lies to the west of the main commercial part of the town, alongside the old post office building and adjacent to a supermarket.
- e. There is a Municipal Limit of 159 EGM entitlements in Glenelg Shire.⁴ There are 120 EGMs currently in Glenelg. This represents 7.23 EGMs per 1000 adults, which is above both the rural (43%) and state (26%) averages. There are 4,150 adults per gaming venue in Glenelg, which is significantly below average both rurally (38%) and state-wide (53%). Glenelg's EGM expenditure in the last financial year was 27% less than the state average, and a similar percentage higher than the rural average.

Social and Economic Impact Statement – Urbis

13. Mr Rhys Quick of Urbis gave evidence in person at the hearing of the application. He endorsed his written report from September 2012, which provided the following background information on the Premises:

- a. The Premises provides a number of social and entertainment facilities. It has two dining rooms which host casual meals, functions and bingo. The wine list consists exclusively of local wines. The Premises also has a lounge and public bar, as well as a drive-through bottle shop.
- b. The Applicant proposes to use the existing lounge as the room for the 14 EGMs. That area is wholly indoors. The adjoining office is proposed to be

⁴ In this respect, the report by Urbis from September 2012 was in error at p 1.

converted into the cashier's area. The Applicant proposes to operate the gaming room at the same time as specified by its liquor license.

- c. The Premises presently employs 10 part-time staff and one full time hotel manager, Ms Edwards.
- d. The Premises provides accommodation in the form of 18 hotel rooms and 12 units. These rooms are generally used by visiting trades people, shearers, fire fighters, road workers and some travellers. Occupancy rates recently are relatively low, and falling.

14. Mr Quick's report noted that while the local area showed 'signs of moderate disadvantage' gaming at the Premises would 'not [be] expected to increase problem gambling significantly'.

15. Mr Quick described the benefits of gaming at the Premises to be threefold: it would allow renovations to an historically and socially important venue, it would allow the Premises to maintain and build its community contributions and the EGMs would provide a new form of entertainment to the area.

16. In particular, Mr Quick's report noted:

- a. the Applicant estimates the costs of the renovations to be \$25,000 for carpeting and furniture, \$53,000 for painting and \$15,000 for new hot water services, among other expenses; and
- b. from 26 January 2011 until 7 March 2012, the Premises hosted 83 functions with a total of over 2,400 attendees.

17. The Urbis report further noted that the installation of EGMs at the Premises would result in an increased need of staff - estimated to be two additional full time staff and six part time employees.

Evidence from the Applicant

18. The Commission received oral evidence from Ms Edwards.

19. Ms Edwards' evidence substantially focussed on the community contribution of the Premises noting the support to the community, which was experiencing difficult

economic times. She noted the Premises hosted many community groups and supported a number of local organisations and events. In particular, Ms Edwards said that the Premises had recently:

- a. hosted and subsidised lunch for a local Probus club, the RSL, Legacy and St Vincent de Paul;
- b. hosted and subsidised a Winter Christmas meal around the middle of each year for 80 – 100 local senior citizens;
- c. donated a total of over \$2,500 in the last year to the Ladies Committee Raffle, Country Fire Authority, Red Cross, Edgarley Seniors Home, Casterton Football and Netball Clubs, Show Committee, Cycling Race and Little Athletics Club; and
- d. hosted monthly meetings of the Kindergarten Mothers' Group, Fisheries and Game Groups, Historical Society, Casterton Business Association, Playgroup and Probus.

Ms Edwards's evidence was that all non-profit groups have free use of the Premises' facilities.

20. Ms Edwards emphasised that she expected to increase community contributions if the EGMs were installed at the Premises. In particular, she planned to make the Winter Christmas lunch free and to increase donations by at least ten per cent.
21. Ms Edwards gave evidence that she also planned to use any profits from the EGMs to substantially renovate and develop the Premises' facilities. In particular, that she wanted to employ local builders to install a toilet for people with disabilities, as well as to update and repair the accommodation facilities.
22. Ms Edwards presented the Commission with a recently attained Responsible Service of Alcohol refresher program certificate.
23. Ms Edwards gave evidence that she completed the Responsible Service of Gaming training for the time when she managed the Port Augusta Hotel in South Australia and its 17 EGMs, which she managed with her late husband, between 1994 and 2001.

Evidence of Likely Expenditure

24. The Applicant also relied upon a report from PVS. That report estimated that the relevant transfer rate of those already engaging in gambling at the closest gaming venues to the Premises would be 20 per cent.
25. Mr Quick's view was that this rate was an over-estimate. Mr Quick noted in his report that there are no EGMs within 60km of the Premises.
26. The PVS report also concluded that the catchment for the Premises was limited to approximately 5,000 adults. It deduced that there would be a net impact of \$774,509 in new expenditure in the Shire of Glenelg if the EGMs were installed at the Premises.
27. In Mr Quick's opinion, the location of the Premises meant it was 'unlikely' to 'induce convenience gambling' because it is 'not a high pedestrian traffic area.'⁵

Evidence from the Council

28. Glenelg Shire did not support this application. It was not represented at the Commission hearing, but sent a letter dated 30 November 2012 expressing its concerns. That submission noted:

The Albion Hotel is located within a busy shopping strip. Therefore a user might pass by the venue during daily activities and make an impulse decision to go to the venue and gamble. This makes it a convenience venue and therefore the provision of EGMs in this location is of concern.

29. The Shire also noted the demographic features of the population in and around Casterton.
30. By its submission, the Shire 'recognised that the Premises is an important social facility within Casterton and the addition of 14 EGMs is expected to have a significant positive effect on the viability of the hotel'.

⁵ Urbis report para 91, p 33

FINDINGS BY THE COMMISSION

Social impact of approval

31. The Commission acknowledges that the creation of a new gaming venue carries with it the risk of an increase in problem gambling. This is particularly the case where EGMs will be introduced into an area where EGMs have been absent.
32. The Commission considers that a majority of residents of Casterton would travel to those parts of Glenelg Shire that already have EGMs, or to Mount Gambier, and would therefore already be exposed to EGMs.
33. The Commission considers that the Applicant has the skills and appropriate strategies in place to minimise the risk of problem gambling. It accepts that the Applicant is committed to responsible service of gaming, having had experience with these practices in the past.
34. The Commission acknowledges that the Premises is (as Ms Edwards described it and contrary to the description in the Urbis report⁶) 'in the middle of town'. In light of this, the concerns raised by the letter from Glenelg Shire about the encouragement of problem gambling that this location may enliven requires particular consideration. The Commission has reached the view that the small size of the venue and the physical separation from the eating area of the relatively small number of EGMs proposed to be installed, tend against this concern being determinative of this application.
35. The Commission accepts that approval of the Premises increases the risk of problem gambling in Casterton and its surrounds. However, it is satisfied that the increase in risk is mitigated by the Applicant's commitment to harm minimisation, as well as the small EGM offering the application seeks. Further, the Commission accepts that the Casterton area will derive a social benefit from a renovated venue.
36. On balance, the Commission considers that the likely social impact of the proposal will be neutral.

⁶ Ibid p 2

Economic impact

37. The Commission accepts that this proposal will result in an increase in gaming expenditure in Glenelg, although such expenditure will be minimal relative to overall expenditure in the municipality.
38. The Commission is impressed by the genuine and continuing commitment of the hotel management to the local community. This commitment is demonstrated by a history of providing subsidised lunches to the local community, particularly its older members; serving local wines and committing to using local builders in future renovations, among other activities. The Commission finds that the Premises does and seeks to continue to be a hub of economic activity for Casterton and the surrounding area. The installation of 14 EGMs would allow this to continue and, potentially, to grow. It is also likely to provide new employment opportunities for the local community and improved dining and accommodation facilities.
39. Accordingly, the Commission is satisfied that the approval of this application will bring with it an economic benefit.

Conclusion

40. The Commission is satisfied that Micden Pty Ltd has authority to make the application in respect of the Premises, which premises are suitable for the management and operation of 14 EGMs. It is further satisfied that the net economic and social impact of approval will not be detrimental to the wellbeing of the community of the municipal district around the Premises.
41. The Commission is satisfied that it should exercise its discretion to approve the application.⁷

The preceding document is a true copy of the Reasons for Decision of Miss Gail Owen and Ms Kate Hamond.

⁷ The administrative process of amending the licence will take place at a time subsequent to this decision as allowed by s 3.4.20