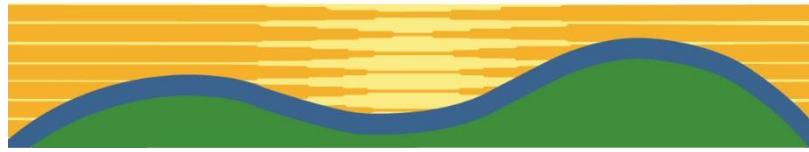


MITCHELL SHIRE COUNCIL



SPECIAL COUNCIL MEETING

AGENDA

TUESDAY 12 MARCH 2019

2.00pm

NOTICE IS HEREBY GIVEN that **Special Council Meeting** of the Mitchell Shire Council will be held at **Mitchell Civic Centre, 113 High Street Broadford**, on **Tuesday 12 March 2019** commencing at **2.00pm**.

DAVID TURNBULL
CHIEF EXECUTIVE OFFICER

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1 WELCOME AND GOVERNANCE DECLARATION

The Mayor formally opens the meeting with an acknowledgement of country and welcomes all present.

2 APOLOGIES AND LEAVE OF ABSENCE

3 DISCLOSURE OF CONFLICTS OF INTEREST

In accordance with section 79 of the Local Government Act 1989.

4 ADVOCACY AND COMMUNITY SERVICES

4.1 HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES

Author: *Rebecca Sirianni - Advocacy, Social Policy and Partnership Coordinator*

File No: *PL/03/030*

Attachments:

- 1. Mitchell Shire Council Electronic Gaming Machine (EGM) Policy*
- 2. Social and Economic Impact Assessment prepared by SGS Economics & Planning*
- 3. Social and Economic Impact Assessment prepared by Urbis*
- 4. Expenditure Report prepared by ShineWing*
- 5. Community and organisation submissions*

SUMMARY

On 2 January 2019, the Victorian Commission for Gambling and Liquor Regulation (VCGLR) notified Council an application had been lodged with them from Hogans Hotel, Wallan Pty Ltd (Applicant) for approval for an additional 20 electronic gaming machines (EGMs). If approved, this would increase the existing number of EGMs at Hogans Hotel (Hotel), 92 High Street Wallan from 45 EGMs to a total of 65 EGMs at the venue.

The VCGLR oversees the conduct of gambling in Victoria and is the statutory authority to determine whether an application for a gaming license should be granted. Under the *Gambling Regulation Act 2003*, Council has until 12 March 2019, to make a submission on this application. A submission by Council to the VCGLR is required to address the social and economic impact of the proposal on the community of the municipality.

Council's Electronic Gaming Machine (EGM) Policy (refer to Attachment 1) states EGMs can be the source of significant adverse social and economic consequences with flow on impacts to their families and the wider community.

To ensure Council adopts an informed decision in response to this application and in line with Council's adopted EGM Policy, an independent Social and Economic Impact Assessment (SEIA) has been prepared by SGS Economics and Planning (refer to Attachment 2).

This report and attached documentation concerns itself only with the VCGLR gaming licencing application. The Applicant has lodged a planning permit application with Mitchell Shire Council for building and works to extend and renovate sections of the Hotel including the restaurant, kitchen and lounge areas. This application is subject to a separate assessment and timeframe process to that of the VCGLR gaming licence.

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

RECOMMENDATION

THAT Council:

1. Note an application has been lodged with the Victorian Commission for Gambling and Liquor Regulation from Hogans Hotel Pty Ltd, Wallan for an additional 20 electronic gaming machines, with the following supporting documentation:
 - a) Social and Economic Impact Assessment, December 2018 (Urbis Pty Ltd)
 - b) Expenditure Report, December 2018 (ShineWing Australia Pty Ltd)
2. Note and consider the independent Social and Economic Impact Assessment prepared by SGS Economics and Planning in relation to the gaming licence application for an additional 20 electronic gaming machines at Hogans Hotel, Wallan.
3. On the basis of the evidence presented in the independent social and economic impact assessment prepared by SGS Economics and Planning, Council oppose the gaming licence application at Hogans Hotel Pty Ltd, Wallan for an additional 20 electronic gaming machines and:
 - a) Follow the statutory process as outlined by the Victorian Commission for Gambling and Liquor Regulation
 - b) Submit the SEIA to the Victorian Commission for Gambling and Liquor Regulation advising Council does that not support the application for an additional 20 electronic gaming machines at Hogans Hotel, 92 Wallan High Street
 - c) Be represented at the Victorian Commission for Gambling and Liquor Regulation public hearing (legal representation and expert witness) to present its case.

BACKGROUND

On 2 January 2019, Council received notification from the VCGLR advising an application had been lodged with them to increase the number of electronic gaming machines at Hogans Hotel from 45 to 65. As part of its application the Applicant submitted a Social and Economic Impact Assessment, prepared by Urbis Pty Ltd (refer to Attachment 3) and an Expenditure Report, prepared by ShineWing Australia Pty Ltd (refer to Attachment 4).

In accordance with section 3.4.18C of the *Gambling Regulation Act 2003*, Council has until the 12 March 2019 to make a submission to the VCGLR addressing 'the economic and social impact of the proposal on the local community. This may also take into account the impact of the proposal on surrounding municipal districts'. A planning permit application for buildings and works has been submitted to Council. This

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

application is subject to a separate assessment and timeframe process to that of VCGLR application.

Hogans Hotel is located at 92 High Street, Wallan. The Applicant has owned the venue since 1981. The venue is situated in the Wallan Town Centre, within the broader framework of the Wallan Structure Plan.

The Hotel is surrounded by:

- Wellington Square Shopping Center (supermarket, Australia Post, Wallan Library) to the west
- Hadfield Park adjacent hosting a variety of uses, including the Adventure Playground, Wallan Skate Park, Wallan Multi-Purpose Centre, Wallan Tennis Club and open space areas
- To the south of the Hotel is the Wallan Secondary College, with the Wallan Primary School situated to the west of the Hotel
- Off Watson Street are the Police Station and Wallan CFA
- South-west of the Hotel are other supermarket facilities and Nexus Primary Health.

The Hotel presently operates the following:

- Bistro: capacity to accommodate around 260 people
- Three separate bar areas: Sports, Saloon and TAB
- Playroom
- Gaming room with 45 EGMs
- Café
- Multipurpose function room: utilised for weddings, conferences, birthdays and christenings
- Hotel accommodation: two spa suites, 24 king standard rooms, two disabled access rooms, four family/interconnecting rooms and 4 rooms with baths.
- The Pretty Sally Bakehouse: café and bakery

The Hotel currently operates the following hours:

- **Hotel:** 7:00am – 3:00am Monday to Saturday, 10:00am – 3:00am Sunday
- **Pretty Sally Bakehouse:** 6:00am – Late Monday to Friday, 7:00am – Late Saturday to Sunday.
- **Gaming Room:** 9:00am – 1:00am Monday to Saturday, 10:00am – 1:00am Sunday
- **Bistro:** 11:30am – 2:30pm Monday to Sunday, 5:30pm – 8:30pm Sunday to Thursday, 5:30pm – 9pm Friday & Saturday

The Hotel currently operates 45 EGMs. In 2017 - 2018, the gaming expenditure (losses) at the Hotel was \$4.7 million, equating to \$106,624 per EGM.

There are currently five venues in the Shire, including one trackside, three Hotels and two Clubs operating a total of 228 EGMs. The maximum number of permissible EGM entitlements in Mitchell Shire as designated by the Victorian State Government is 299.

This proposal if approved would increase the total number of EGMs in the Shire from 228 to 248.

The latest statistics from the VCGLR website based on the 2017 - 2018 financial year indicates that the EGMs in Mitchell Shire result in \$18,771,635 million in gaming expenditure (losses) this equates to \$51,429 per day. Average gaming expenditure

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

(loss) per adult in Mitchell Shire is \$574 per year, which is higher than the Victorian average of \$532.

Council's Electronic Gaming Machine (EGM) Policy adopts a public health approach to responding to and mitigating the potentially negative consequences of EGMs for individuals, families and communities.

To assist in an informed process and decision in response to this application, Council engaged SGS Economics and Planning to prepare an independent Social and Economic Impact Assessment (SEIA).

ISSUES AND DISCUSSION

Below is a brief summary of two key reports submitted by the Applicant:

- Social and Economic Impact Assessment, December 2018 (Urbis Pty Ltd) (refer to Attachment 3)
- Expenditure Report, December 2018 (ShineWing Australia Pty Ltd) (refer to Attachment 4)

The full documents are at Attachment 2 and 3.

Applicants: Social and Economic Impact Assessment, December 2018 (Urbis Pty Ltd)

The Applicant's SEIA states the net effects of the proposed additional 20 EGMs at the Hotel 'will not be harmful to the net well-being of the local Wallan community, nor to the broader Shire of Mitchell.'

The Hotel consist of a bistro, TAB, Sports, and Saloon Bars, café, indoor playground, multi-purpose function room and Hotel accommodation. The venue is located in a precinct containing open space (Hadfield Park, Wallan Tennis Club, Wallan Skate Park), community facilities (Wallan Multi-Purpose Centre, primary and secondary schools, CFA and Police), retail and residential land. The Hotel with its current 45 EGMs is considered to be a medium sized venue.

The venue offers a variety of loyalty and promotional activities (such as Complimentary Poker and Bingo). The Applicant undertook a suburb survey for gaming room patrons between August 2018 and September 2018. The survey results comprised of 583 respondents. The results indicated 53% of patrons reside within the Shire of Mitchell, with the majority belonging to the suburb of Wallan.

The Hotel currently contributes to local community organisations and sporting clubs. Over the past five years the Hotel has contributed to approximately \$80,000 worth of sponsorship and donations (cash and in-kind donations).

The Applicant's SEIA analysis of key social and economic indices illustrates the area surrounding the Hotel has high levels of mortgage stress and households largely composed of young families. It notes the 2011 SEIFA Index Score for the Shire of Mitchell is 997, ranking the LGA at 47 amongst all local government areas within

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

Victoria for disadvantage, where 1 is the most disadvantaged and 80 the least disadvantaged.

The main reasons for seeking the additional EGMs include ability to increase community contributions (\$100,000 cash contribution annually) and funding future redevelopment works to improve the Hotel's facilities.

The application states the revenue flowing to the Hotel from the additional 20 EGMs and improved profitability will support the financial position of the redevelopment works to the value of \$2.5 million. This includes kitchen extension / equipment, restaurant works, alternations to the gaming room, furniture/fixtures/fittings, new lounge / lobby and car park works. The report indicates that up to 15 jobs in total (both direct and indirect) will be created during the construction period, with a share of these jobs expected to be retained locally.

Applicants: Expenditure Report, December 2018 (ShineWing Australia Pty Ltd)

The expenditure report prepared by the Applicant identifies the level of additional gross gaming expenditure from the increase of the 20 EGMs at the Hotel would be between \$746,368 and \$831,667 per annum in the first 12 months of installation.

The report estimates that 30% of this expenditure will be transferred from other gaming venues in the municipality, resulting between \$522,457 and \$582,167 of new expenditure to the municipality in the first 12 months.

Independent: Social and Economic Impact Assessment Report (SGS Economics & Planning Pty Ltd)

In accordance with Section 3.3.7 of the *Gambling Regulation Act 2003*, the VCGLR must not grant an application unless it is satisfied that '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 are located.' Under section 3.3.6. the VCGLR 'must also consider any submission made by the relevant responsible authority.'

To assess the application, Council engaged SGS Economics & Planning to undertake an independent SEIA. The full comprehensive SEIA report is attached refer to Attachment 2.

This assessment identifies a range of social and economic impacts resulting from the proposal and estimates their potential benefit or detriment to the community. The overall assessment concludes that the net social and economic impact of the proposed application will have a detrimental impact on the local community.

CONSULTATION

Statutory requirements under section 3.4.18 of the *Gambling Regulation Act 2003* the Applicant must publish in a newspaper a notice in a prescribed format, advising the public of the application and stating how the public can comment on the application.

Notification of the application to add 20 EGMs at Hogans Hotel was advertised in Herald Sun on 24 December 2018 as required by the *Gambling Regulation Act 2003*.

In accordance with Council's adopted EGM Policy and Community Engagement Framework, community members and organisations (eg, Community health and human organisations) have been notified that the application for an additional 20 EGMs

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

at the Hotel has been lodged with the VCGLR, and that they have the opportunity to make a formal submission to the VCGLR.

Council's EGM Policy commits Council to ensure community views are genuinely taken into account as part of EGM license applications. Therefore, notification advising of the application included social media posts, website information and at community events.

Community attitudes regarding the application can be submitted directly to the VCGLR 7 days prior to the public hearing date. At the time of writing this report, there have been twenty-three (23) submissions (refer to Attachment 5).

The VCGLR has scheduled a public hearing for the Hogans Hotel application. The hearing details are:

Date of Hearing: Tuesday, 2 April 2019 and Wednesday, 3 April 2019

Time: 10.00am – 5.00pm (each day)

Venue: VCGLR Hearing Room

Ground Floor

49 Elizabeth Street, Richmond

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

The development of the SEIA Report has been costed through existing operational budget.

Pursuant to Council's decision, consideration needs to be given to subsequent documentation and representation at the VCGLR hearing in early April 2019. This would require identifying financial costs through existing operational budgets.

The Victorian Local Governance Association (VLGA), will provide support for community members that may wish to make a submission – aligning to their principle of supporting strong, resilient communities, promoting civic participation and enabling citizens to create their own sustainable futures.

POLICY AND LEGISLATIVE IMPLICATIONS

Local government is subject to a range of provisions under Victorian State Legislation, including the *Local Government Act 1989* and the *Public Health and Wellbeing Act 2008*. These concern matters such as regard to the social, economic and environmental viability and sustainability of the local area, community wellbeing and quality of life.

The State Government is the level of government responsible for the regulation of EGMs in Victoria. EGM gambling in Victoria is governed primarily by two forms of legislation:

- a) *Gambling Regulation Act 2003*
- b) *Planning and Environment Act 1987*

The *Gambling Regulation Act 2003* seeks to foster responsible gambling in order to:

- a) Minimise harm caused by problem gambling
- b) Accommodate those who gamble without harming themselves or others

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

Clause 52.28 and clause 22.01 of the Mitchell Shire Planning Scheme outline a variety of objectives relating to EGM gambling.

The Mitchell Shire Electronic Gaming Machine Policy (Policy) (revised 2016) sets out Council's position on EGMs it clearly states:

- Council will not support new EGM venues, additional EGM licenses and the transfer of EGM licenses between venues unless satisfied that the Social and Economic Impact Assessment (SEIA) undertaken by the applicant clearly shows that there will be 'no net detriment' to the wellbeing of the community in which the premises is located
- Council will exercise its right to make a submission to the VCGLR in cases where it is not satisfied that the 'no net detriment' test has been achieved as part of an EGM application
- Council requires that the 'no net detriment' test be applied to all EGM license applications, regardless of the need for a planning permit. Council will assess each application on a case by case basis
- Council will ensure community views are genuinely taken into account as part of EGM license applications. Council will require applicants to use independent researchers and to be able to provide copies of the survey instrument and raw data

The Policy adopts a public health approach to responding to and mitigating the potentially negative consequences of EGMs for individuals, families and communities. This approach is consistent with Council's regulatory responsibilities under the *Local Government Act 1989* and the *Public Health and Wellbeing Act 2008*.

At its meeting on 19 March 2018, Council endorsed eight Advocacy Priorities. Reducing EGM losses and preventing gambling harm from EGMs is one of these eight priorities. The priorities have been developed based on input from the Council Plan, community, service providers and industry. The priorities reflect critical needs that ensure the health and wellbeing of residents across the Shire, now and into the future.

This report addresses the Mitchell Shire Council Health and Well-being Plan: Priority Area 2: Safe and Resilient Communities: Reduce harms associated with problem gambling

RISK IMPLICATIONS

In responding to the application, Council is bound by the provisions set out in the *Gambling Regulation Act 2003*. Risk is being mitigated by the commissioning of an independent Social and Economic Impact Assessment Report to inform Council's position, to present a clear and evidenced based assessment of the application and its economic and social impact to the wellbeing of the community.

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

The independent SEIA prepared by SGS Economics & Planning outlines the social and economic impacts of the application.

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES (CONT.)

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

CHILDREN AND YOUNG PEOPLE IMPLICATIONS

The Victorian Government is particularly concerned to ensure that appropriate safeguards are in place for children who attend venues with a responsible adult. This intent is evident under the *Victorian Commission for Gambling and Liquor Regulation Act 2011*, which sets out decision making guidelines for the 'Assessment of children's play areas in gaming premises' concerning the appropriate design and location of children's play areas within premises approved for gaming.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

On 2 January 2019, Council received notification from the Victorian Commission for Gambling and Liquor Regulation (VCGLR) advising an application had been lodged to increase the number of electronic gaming machines at Hogans Hotel, 92 High Street Wallan from 45 to 65 EGMs.

This proposal if approved would increase the total number of EGMs in the Shire from 228 to 248. In 2017-2018 financial year EGM expenditure (losses) for Mitchell Shire Council was \$18,771,635 million. This equates to \$51,429 per day. Average expenditure (loss) per adult in Mitchell Shire is \$574 per year, which is higher than the Victorian average of \$532.

Under the *Gambling Regulation Act 2003* Council has until 12 March 2019 to make a submission to the VCGLR on this application. A submission by Council to the VCGLR is required to address the social and economic impact assessment of the proposed application on the community wellbeing and of the municipal district.

Mitchell Shire Council's Advocacy Priorities, the Municipal Public Health and Wellbeing Plan and EGM Policy state the importance of reducing the impact of gambling harm at the local level.

To ensure Council adopts an informed decision in response to this application and in line with Council's adopted EGM Policy, Council engaged SGS Economics & Planning to assess the application and undertake an independent SEIA.

This assessment identifies a range of social and economic impacts resulting from the proposal and estimates their potential benefit or detriment to the community. The overall assessment concludes that the net social and economic impact of the proposed application will have a detrimental impact on the local community.

Council's EGM Policy states Council will exercise its right to make a submission to the VCGLR in cases where it is not satisfied that the 'no net detriment' test has been achieved as part of an EGM application. Therefore, it is recommended that Council, based on the evidence provided, oppose the gaming licence application through

HOGANS HOTEL, WALLAN APPLICATION FOR AN INCREASE OF 20 ELECTRONIC GAMING MACHINES
(CONT.)

submitting its social and economic impact assessment and appearing at the VCGLR hearing (legal representation and expert witness) to present its case.