



# Victorian Commission for Gambling Regulation

## DECISION AND REASONS FOR DECISION

In the matter of the Gambling Regulation Act 2003

– and –

In the matter of an application by Tiplane Pty Ltd under section 3.3.4 of the Act for approval of premises at Point Cook Hotel, Lots 6 & 7 Wallace Avenue, Point Cook, as suitable for gaming with fifty (50) gaming machines.

### DECISION

**Commission:** Mr I. Dunn, Chair  
Mrs J. King, Deputy Chair

**Date:** 16 May 2007

**Decision:** To grant the application

**I. Dunn...**  
**Chair**

## **REASONS FOR DECISION**

**16 May 2007**

**Mr I. Dunn, Chair**

**Mrs J. King, Deputy Chair**

### **THE APPLICATION**

- 1 This is an application by Tiplane Pty Ltd of Level 16/60 Castlereagh Street Sydney in the state of New South Wales for approval of premises as suitable for gaming with fifty (50) electronic gaming machines (egms) at the Point Cook Hotel, Lots 6 & 7 Wallace Avenue, Point Cook.
- 2 The application was brought pursuant to Section 3.3.4 of the *Gambling Regulation Act 2003*.
- 3 Section 10.1.20 of the Act requires that inquiries for the purpose of making a finding for a determination relating *inter alia* to an application for approval of premises with gaming must be conducted in public unless the Commission determines that there are special circumstances requiring that the inquiry or part of it shall be held in private. In this instance, except for certain aspects of the evidence of Mr David Ridley of Tabcorp, the entire inquiry was held in public.
- 4 The matters to be taken into consideration by the Commission in making its determination are set out in section 3.3.7 of the Act, the relevant parts of which are as follows:

“(1) *The Commission must not grant an application for*

*approval of premises as suitable for gaming unless satisfied that:*

*(a) The applicant has authority to make the application in respect of the premises; and*

*(b) The premises are, or on the completion of building works will be, suitable for the management and operation of gaming machines; and*

*(c) 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.”*

- 5 Upon making an application the applicant is obliged, by section 3.3.5 to notify the relevant authority, such notification to be provided by serving a copy of the application upon the responsible local government authority which in this case is the City of Wyndham.
- 6 Section 3.3.6 provides that the relevant authority may make a submission addressing the economic and social impact of the proposal for approval, on the wellbeing of the community, and also taking into account the impact of the proposal on surrounding municipal districts. If the relevant responsible authority does not make a submission under section 3.3.6, the Commission must, under section 3.3.7(4), seek the relevant authority’s views on the application and must consider those views (if any) in determining the application.

**THE POSITION OF THE CITY OF WYNDHAM**

- 7 The applicant complied with the requirements of the Act and provided Wyndham with a copy of the application.
- 8 By letter of 21 December 2006 signed by Mr Ian Robins, Chief Executive of Wyndham City Council, the Council advised as follows:

*“Re: Proposed Point Cook Hotel – Application for New Premises Approval*

*Wyndham City Council’s submission*

*Thank you for the opportunity for Council to make a submission in relation to the application by Tiplane Pty Ltd for approval of premises known as the Point Cook Hotel, situated in Lots 6 & 7 Wallace Avenue, Point Cook, as suitable for gaming.*

*Council considered this matter at its ordinary meeting, held 18 December 2006, and resolved to oppose the application.*

*This decision was based on Council’s Electronic Gaming Machine Policy (adopted in May 2006) and specifically the following policy statements:*

*Council supports the capping of the number of egms in the municipality at 571.*

*Council does not support additional egms in Wyndham.*

*Council does not support additional gaming venues within Wyndham.*

*In the matter of Point Cook Hotel*

*Council supports an increased proportion of egms located in clubs rather than hotels, due to their perceived comparative community benefits.*

*When it does not support an application for additional machines, new venues or transfers of machines between venues, Council will make a submission to the VCGR.*

*If successful, the application will:*

- *Increase the total number of egms in Wyndham from 571 to 621 (8.7% increase);*
- *Result in an additional gaming revenue in Wyndham;*
- *Increase the proportion of egms located in local hotels, rather than clubs*

*This contravenes Council's expressed policy position.*

*Furthermore, Council is of the view that its opposition to this application is reflective of the majority views of local residents. Research conducted by Council in early 2006 showed that the majority of local residents are opposed to more egms and more gaming venues in Wyndham.*

*In particular:*

- *90% were for Council advocating to cap the number of egms*
- *86% were for Council opposing applications for new*

*venues*

- *88% were for Council opposing applications for more machines*

*There were no statistically significant differences between the responses from Point Cook residents and those of residents residing in other areas of the municipality.”*

- 9 It ultimately transpired that the letter which we have set out in full constituted the entire submission relied upon by Wyndham. Many Councils have assisted the Commission by filing detailed submissions, containing particular reference to the locality in which a proposed venue is situated, and the effects of a new venue, or a venue with increased number of egms, upon that locality. Reference is usually made to local demographics, often with particular reference to problem gambling in the relevant parts of the municipality.
- 10 In accordance with the Act, most responding Councils also advise details of the application to adjacent municipalities and frequently the Commission is assisted by correspondence from those adjacent municipalities indicating the attitude of the Council of such municipalities towards the application. It appears that the course of notifying adjacent municipalities was not followed in this case which is unfortunate since the proposed premises are adjacent to the boundary of the City of Hobson’s Bay, a municipality which has a significant number of egms and which is one of nineteen municipalities in respect to which the Victorian Government has

recently introduced caps upon the number of egms.

- 11 Accordingly, the Commission has proceeded with the inquiry, without a good deal of the material which might be anticipated from a Council which has resolved to oppose an application and to make a submission. This cannot have been a matter of oversight on the part of the Council. In the evidence of Mr Cook, to which reference is made subsequently, he mentioned that he had been in frequent contact with Council officers about various aspects of the proposal, particularly dealing with planning issues. The Council has been well aware of the date for the hearing and in the circumstances, although the Commission contemplated the possibility of adjourning the inquiry, to seek more material from Wyndham, we have determined that the applicant's position should not be affected by further delay and that it was appropriate that the matter proceed and be determined.

## **THE BACKGROUND TO THIS APPLICATION**

- 12 It is plain that a great deal hinges upon this application and the application for a planning permit which is proceeding simultaneously. The subject site presently consists of vacant land. What is contemplated is the erection of a new hotel and accompanying reception centre. The land has been purchased at a sum in excess of \$5m. If the project proceeds, construction costs for the hotel are approximately \$7.5m and construction costs for the reception centre, approximately \$5,175,000. These figures demonstrate the magnitude of the project. But the evidence presented to the Commission, which

we accept, is that the project will not proceed at all, unless this application is approved.

## **THE CASE PRESENTED BY THE APPLICANT**

13 Mr Tweedie who appeared on behalf of the applicant filed a detailed written submission. He made the point that this application was similar in nature to that which had come before the Commission in relation to the matter of the Lynbrook Tavern (Commission decision, 8 February 2007). In delivering its reasons in that matter the Commission said the following:

*“This Commission must always consider an application for a new venue with care. This is because applications for new venues will necessarily involve a greater level of marginal impact upon the existing social and economic circumstances of a municipality. The level of change that might be expected to result from such applications is almost always significantly greater than that which is associated with an application merely for an increase in machine numbers at an existing venue.*

*However, the change includes positive changes, and it is important that the Commission recognise that the benefits which flow to the community from new venues are likely to be (and certainly are, in the case of this application) far greater than those which could be expected to flow from an increase in machine numbers at an existing venue.*

*The barriers to the development of a new, quality hotel venue with a full range of services and facilities are considerable. The risks associated with such an investment are high, and only the most committed are prepared to take such risks. This development has taken a significant financial investment, to get to the state where it is now fully planned and almost fully approved. The time, effort and expense that this has required by the Applicant (and others) should not be underestimated.*

*Easy access to a local hotel is a benefit taken for granted in most established residential areas of metropolitan Melbourne. It is vital that there are opportunities for the establishment of new hotels in developing residential areas of metropolitan Melbourne, particularly within identified population growth corridors and around emerging suburbs ... Realistically, if this is to occur, these venues must have gaming machines, both because patrons expect such facilities and because it is not economically viable for a new hotel to be established without the assurance of gaming revenue to the operator.”*

- 14 Mr Tweedie also submitted that in respect of municipalities which are large and diverse, it is reasonable to divide the municipality into various areas when assessing potential impact. Based upon the decision of His Honour Justice Morris in the VCAT decision relating to the Ocean Grove Bowling Club [*Ocean Grove Bowling Club v Victorian Commission for Gambling Regulation (Occupational and Business Regulation)*][2006] VCAT 1921] we consider that Mr Tweedie is correct in his submission that it is a more localised area

rather than the municipality as a whole which must be considered. In making these remarks we are conscious of the fact that our predecessors at the Victorian Casino and Gaming Authority reached a different conclusion in dealing with the last application relating to an increase in the number of egms within Wyndham. In the decision relating to Werribee Football Club, decision of the VCGA 28 March, 2001, the Authority specifically declined to follow such an approach, see paragraphs 30-32. For the reasons which are referred to subsequently, this point is of considerable importance in this matter.

- 15 Mr Tweedie relied heavily upon population changes in the relevant area. At Point Cook, between 1991 and 2009, it is anticipated that the population will increase from 1,951 to 23,879. Within the City of Wyndham as a whole, the increase between those dates, is from 87,141 to 134,441. Although other areas within Wyndham are also the subject of significant increase, the area known as Point Cook, within which we include (for these purposes) Sanctuary Lakes, is the area of greatest growth. Further, he submitted, the evidence would demonstrate that those residing in Point Cook and Sanctuary Lakes enjoyed a higher standard of living, on average, than residents of other localities within Wyndham. In his submission Mr Tweedie also dealt with the vital gaming indicia which are so important in an application such as this. He pointed out that within the City of Wyndham there are now fewer egms per thousand adults than across other metropolitan municipalities. This result has been achieved simply because there has been no increase in numbers of egms since 2001. (For reasons not related to this application, the number of egms has

actually decreased by three during that period). In that time the very significant population increase to which we have referred earlier has been taking place. Even if this application is granted, the density of egms within Wyndham will still be significantly lower than the metropolitan average.

- 16 On the other hand, Mr Tweedie conceded that the level of egm expenditure within Wyndham is greater than average, and indeed that this was perhaps the principal point of concern. The average resident over the age of 18 within Wyndham presently spends \$778 per annum on egms, compared with a metropolitan average of \$679. If the application is successful it is anticipated that an additional \$1.16m will be spent in the first 12 months, on top of the existing expenditure within Wyndham of \$67.2m
- 17 When dealing with the Council's opposition to the proposal, Mr Tweedie submitted that the Council's policy should be treated as being of little assistance to the Commission. He pointed out that essentially the policy required any proposal to be opposed. He commented that there was no evidence that the Council had undertaken any assessment of the individual merits of the application. In his submission Mr Tweedie commented as follows:

*“The Commission is also entitled to be confused by the Council's enthusiastic support on the one hand for the hotel and function centre development, and on the other hand its refusal to even attempt to assess the merits of the application. The most likely explanation is that the latter is simply a*

*‘political’ decision, and not one which has properly considered whether this application would result in any net community detriment as required under the Act”.*

- 18 Whether or not there is substance to this aspect of Mr Tweedie’s submission, we must say that a policy which involves only a consideration of a certain number of egms, without reference to population changes or the more important question of expenditure upon egms, does seem to be inadequate.
- 19 Mr Tweedie first called Mr Andrew Cook of Environmental Resources Management Australia. Mr Cook had been responsible for preparing an initial social and economic impact assessment in October 2006 and an addendum report prepared shortly before the inquiry. The reports were compendious and we refer only to certain aspects of them.
- 20 Mr Cook first highlighted the particular location of the proposed venue. It is situated immediately to the south of the Princes Highway, the arterial road which dominates the region. Access to the venue from the freeway will be via Wallace Avenue. Immediately to the west of the site it is proposed that an overpass on Palmers Road will be created and that when it is completed it will provide easier access to the areas to the south and north of the Princes Freeway. Whilst the site is directly accessible from the residential areas of Point Cook to its south and south west its location is presently more characterized by industrial and commercial developments. Immediately to the north of the freeway there is a further development which is proposed, and

which is known as Cedar Woods which is to include some 2,000 to 2,500 residential lots, and a very considerable amount of retail floor space.

- 21 To the east and south of the site the dominant feature is the Skeleton Creek open space reserve. In more normal times this area would constitute a minor wetland but even at present it does, as Mr Cook pointed out, create a buffer protecting residents from any amenity impacts from the operation of the hotel. It must also be acknowledged that the traffic on the Princes Freeway maintains relatively constant high background noise levels.
- 22 Mr Cook then demonstrated the particular features of Point Cook and compared them with other, earlier-established regions within Wyndham. Whilst Point Cook and Sanctuary Lakes will see significant increases in population, the population of Wyndham as a whole is expected to increase at an average of 6.3 per cent per annum which is five times higher than the equivalent average annual growth for metropolitan Melbourne.
- 23 Mr Cook's analysis was that the proposed venue would attract the significant proportion of its customer base from the Point Cook/Sanctuary Lakes area. He pointed out that what is proposed is a facility offering a range of dining, bar and function areas, with outdoor seating areas. He suggested that there was a great need for such a facility in this area. At this point we interpose that subsequently Mr Gauci, a director of the applicant, commented that the nearest point at which residents of Point Cook or Sanctuary Lakes

could enjoy a social cup of coffee, was at the Sanctuary Lakes Golf Club.

- 24 Mr Cook's reports highlighted the distinction between this site, to the south of the freeway and to the other gaming venues within the City of Wyndham. This is a very significant aspect of this matter. There are 10 venues within Wyndham offering gaming. The fact that we are obliged to consider these matters primarily by reference to a particular local government authority can be unsatisfactory in certain matters, and in this instance the venue closest to the proposed venue is in fact Club Laverton, to the north of Princes Highway at Aviation Road Laverton, which is situated within the City of Hobson's Bay. Other than Club Laverton there are no other hotel or club egm venues within a 4 kilometre radius of the proposed hotel and none of the existing venues directly service the growth areas of Point Cook and Sanctuary Lakes. With one exception the other venues are located in groups of 4 and 5 respectively. Four are located in the area more generally described as Hoppers Crossing including a large and very successful venue known as the Werribee Plaza Tavern. The other five are located within Werribee including a significant hotel venue, the Commercial Taverner, in the centre of what might be described as "old Werribee". To the north west of the proposed site, but a considerable distance further away, is the Westside Taverner, at Laverton north.
- 25 Mr Cook dealt with key social and economic indicators for the region in which the proposed venue is to be located. Residents of the City of Wyndham as a whole are, on average, somewhat younger than the

- residents of metropolitan Melbourne. The gap is more marked in respect to Point Cook where only 11.9 per cent of the population are over the age of 50 compared with 27.6 per cent for metropolitan Melbourne as a whole or 19.2 per cent for the City of Wyndham.
- 26 Wyndham presently experiences an unemployment rate which has been dropping in recent years, but which remains marginally higher than the rates for metropolitan Melbourne. However, Wyndham south, which is the region in which the proposed venue is to be located has marginally lower unemployment than Wyndham as a whole. Further, annual household income is significantly higher in Point Cook compared to the City of Wyndham or metropolitan Melbourne. There are significantly lower proportions of low income earning households in Point Cook compared with either Wyndham or metropolitan Melbourne. Residents within Point Cook generally either own or are purchasing the homes in which they reside. Only 9 per cent are renting compared with metropolitan Melbourne (22.8 per cent) or Wyndham (16.8 per cent). This does lead to the result that residents within Point Cook tend to have greater mortgage debt but as Mr Cook pointed out, they have greater income to service that debt.
- 27 As to the SEIFA index, the City of Wyndham as a whole is ranked at 1,007 which placed it at number 20 out of 31 metropolitan LGA's (in descending order). So it may be deduced that as a whole, Wyndham has a slightly elevated level of socio economic disadvantage than is the average across Melbourne. However the SEIFA breakdown by suburb reveals that Point Cook had a ranking of 1,093 which is well above the LGA as a whole, and also considerably higher than the

SEIFA ranking for metropolitan Melbourne of 1,037.64. Caution must be expressed as to the use of these figures which are based upon the 2001 census, but Mr Cook suggested that when the next SEIFA figures become available it is likely that they will display an even higher rating.

28 Mr Cook also referred to the Jesuit Study. The 2004 report was entitled “Community Adversity and Resilience”. As we have commented on many occasions, we have found this study to be of considerable value. It has more recently been superseded by the 2007 report entitled “Dropping off the Edge”. In a number of inquiries since the 2007 report was released, reference has been made to it. It is plain that there are many variations between the methodology employed in 2004 and 2007. The results (in 2007) are grouped in a series of 20 bands with band 1 representing post codes of greatest concentrated disadvantage. By contrast, bands 19 and 20 identified post codes for regions considered to be most advantaged. Bands 1 to 6 are, it is suggested, representative of areas considered to be disadvantaged. In the present case, the relevant post codes and the bands into which they fall are as follows:

- 3027- RAAF Laverton and RAAF Williams (band 19)
- 3028 – Altona Meadows, Seabrook and Laverton (band 9)
- 3029 – Tarneit/Truganina and Hoppers Crossing (band 14)
- 3030 – Point Cook, Werribee and Werribee South (band 11)

29 As Mr Cook pointed out, none of these post codes are located within

- bands 1 to 6. He expressed the view that as to post code 3030, areas such as Point Cook and Werribee South appeared to experience quite different socio economic profiles. He suspected that the indicators for Werribee and Werribee South might well have the effect of dragging Point Cook into a lower band of disadvantage. Whilst the indicators in the current case do not pose reason for concern for the Commission, we must comment that at present the use of the latest Jesuit study is problematic. It appears that a large number of the most advantaged post codes are post codes which bear no relationship to any residential area. Further, a number of post codes which were previously classified within the most advantaged bracket are, in the 2007 study, now receiving a vastly different classification the reasons for which are not obvious.
- 30 Mr Cook dealt with the issues of egm density and egm expenditure. It is instructive to consider the issue of egm density in the following manner. In 2003 there were 571 egms within Wyndham for an adult population of 62,800 (approx). This represented an egm density per thousand adults of 9.09. By 2007, the adult population had risen to 91,273, with 568 egms. This now represents a density of 6.24, compared with the average for Melbourne municipalities of 6.83. By 2009 it is anticipated that the Wyndham density will have fallen to 5.7, and even if this application is granted it would not rise above 6.2, still well below the Melbourne metropolitan average.
- 31 In summary, we accept the evidence of Mr Cook as to the likely catchment for the proposed venue as being most significantly from the areas known as Point Cook and Sanctuary Lakes. There is, however,

- one other region to be considered. Immediately north of the Princes Freeway and slightly to the east of the proposed site (immediately adjacent to the Laverton airport) the small area of Laverton does constitute an area of considerably greater disadvantage. In that region average incomes are considerably lower than at Point Cook or indeed within Wyndham as a whole. Mr Cook remained of the view that residents from this region would be more likely to patronize the two venues which are presently being used by them, notably Club Laverton or the Westside Taverner to their north. Upon consideration we think that this point is valid and that it is relatively unlikely that residents of Laverton will be significant clients of the new venue, even if the proposed Palmer's Road overpass is completed.
- 32 Mr Cook also pointed out the advantages which would be conferred by this proposal. Although they are points dealt with in more detail by the evidence of Mr Gauci, it is worthwhile that they are referred to at this point. The new venue will be a considerable employer; the calculation is that once both the hotel and reception centre are completed, 21 full time positions and 120 part time staff will be required and it is reasonable to assume that the vast majority of these positions will be filled from the local area. A point which Mr Cook made was that at present many residents of Wyndham are obliged to travel considerable distances to their employment, so the proposed venue offers an additional benefit to those who obtain employment at it.
- 33 What must also be taken into consideration is that what is proposed is a high quality hotel and entertainment facility. Mr Dickson, the

architect responsible for the proposed buildings, gave brief evidence as to what is proposed and although the Commission did not require detailed evidence on this subject, what is proposed is quite imaginative. There is a design reflective of the particular location, situated as it is, very close to the Laverton air base, and also the airport at Point Cook. Design features include a “control tower” at the highest level of the building. With its provision of a wide range of facilities, the Commission considers that it may well be attractive to many families within Point Cook and Sanctuary Lakes for whom the prospects of dining in a hotel environment, at present, must be somewhat forbidding, having regard to difficulties of access.

- 34 It was also pointed out that the applicant is proposing a contribution of \$75,000 per annum to the City of Wyndham which may be used for the funding of needed infrastructure projects or for deserving local sporting and community groups. In addition, there will be considerable sums expended in supplier contracts for the new hotel and it is inevitable that a proportion of those will be derived from the local community.
- 35 During Mr Cook’s evidence he gave considerable detail as to the discussions in which he had been involved with the Council officers within the City of Wyndham. It is plain that as to planning issues there has been a great deal of dialogue, with the applicant content to adopt a number of the suggestions made by the officers. Mr Cook mentioned that he had been informed that because of the Council’s policy as to gaming venues, it was inevitable that the Council would have to oppose the application before this Commission. But the

planning application has proceeded to the point where the Council has resolved to issue a permit for the proposal, notwithstanding that there are several serious objectors who may well contest that decision at VCAT. The outcome of all the material which was produced to us regarding the Council's deliberations about the planning issue, does appear to strengthen the impression that notwithstanding its opposition to the gaming aspects of the proposal, the Council is of the opinion that, overall, the proposal has considerable merit.

- 36 The next witness called on behalf of the applicant was Mr David Ridley of Tabcorp. The position as to increased expenditure occasioned by this proposal is a little more complicated than usual by reason of the precise location of the venue, so close to the boundary of Hobson's Bay. Mr Ridley's estimate is that if the venue comes on stream in 2009 it is likely that the total egm expenditure will be in the region of \$5.475m. Of this sum Mr Ridley calculated that \$2.69m will be derived from other venues within the City of Wyndham, and \$1.62m from venues within the City of Hobson's Bay. He therefore calculated that new revenue is likely to be in the region of 21.2 per cent, or \$1.16m. In subsequent material he presented calculations as to the other venues likely to be affected by this proposal and in this instance we consider that his use of the "Chelsea Heights Hotel Model" is not inappropriate as it provides an example of the impact of a new venue upon an already mature gaming environment such as is the case in this instance. The Commission pressed Mr Ridley as to whether his estimates for this venue might be understated, having regard to its likely attractiveness and the relatively high standard of

living enjoyed by residents in the likely catchment area. However, we were ultimately satisfied with his answers in which he pointed out that areas such as Wyndham and Hobson's Bay must be regarded as providing a mature gaming environment. He could not see that even if successful, the venue was likely to add hugely to new gaming revenue. His calculations also demonstrated that as population increases within Wyndham, the gap between average egm expenditure per adult within the city, compared with the metropolitan average, is likely to drop. We accept that this may be so, although it relies entirely upon an assumption that no other venues will be approved within Wyndham, which is not an assumption which can necessarily be made. Considerable attention was also directed to the apparent success of one venue within the city of Wyndham and its specific location in relation to shopping and other activities. It was suggested that, in some manner, this reflected the fact that some of the expenditure within Wyndham may be attracted from areas outside that city. We accept that this may be the case, but in his evidence Mr Ridley conceded that there were venues in adjoining municipalities which also enjoy a very high level of patronage and without a detailed study it cannot be denied that some residents of Wyndham may be contributing to the egm expenditure in venues outside that municipality.

- 37 The higher than average gaming expenditure within Wyndham would be a matter of considerable concern to the Commission if what was proposed was an additional venue in an area within Wyndham which does not enjoy the significant features associated with Point Cook and

Sanctuary Lakes. For the reasons which we have set out in some detail, we do think that the catchment for this proposed venue will be very largely the area known as Point Cook and the regions to its south and east and these are, by some margin, the most economically advantaged areas within Wyndham.

- 38 A detailed witness statement was prepared on behalf of Mr Joseph Gauci. Mr Gauci and his brother Edward are the two active directors of the applicant and have had vast relevant experience at hotels, the great majority of which have been located in the west of Melbourne. One venue, notably the Sugar Gum Hotel at Sydenham, was developed from a “greenfield” site so that it represents an example similar to the subject site. The Gaucis continue to own the freehold for that hotel and the development of it has given them considerable insight into the challenges in developing such a project. In conducting their research as to this site they identified the considerable need for a reception centre. Indeed, material presented to the inquiry shows that this has been a problem identified by the City of Wyndham in response to complaints that reception venues capable of catering for a large number of people simply do not exist within Wyndham. To his witness statement was attached a copy of a paper prepared by Council officers within Wyndham identifying this deficiency. It must therefore be understood that the Gaucis contemplate that the reception area will be of considerable advantage to the community. The Commission does regard this aspect of the proposal as a very significant matter to be considered when weighing up the net social and economic impacts. Whilst it is proposed that the reception centre

will cater for approximately 800 people, it will be designed so that it can be broken up into smaller areas. The Gaucis consider that it will be flexible enough to cater for almost all functions in the Wyndham area. They have identified the person who is to be appointed as the venue manager and his CV was attached to their witness statement. They have also identified the steps which they take in relation to problem gambling in their venues and the Commission could see nothing to give rise to concern about this aspect of their work.

- 39 They commented that their financial adviser had indicated that the project was not viable unless 50 egms were approved for the premises. The business plan was exhibited and in this instance the Commission readily accepts that it is valid. In the penultimate paragraph of Mr Gauci's witness statement he said the following:

*“Point Cook is lacking dining, function and entertainment facilities and we believe that our significant experience in operating and/or managing licensed venues, both with and without gaming machines, combined with our development experience, makes us ideally suited to manage and operate the venue. We believe that the responsible service of gaming and occupational health and safety procedures promoted by our group are second to none.”*

## **THE ADVANTAGES AND DISADVANTAGES ASSOCIATED WITH THIS PROPOSAL**

- 40 We now refer to the matters which we regard as being significant in

our consideration of this application.

- 41 On the positive side the advantages associated with the proposal are obvious. It seems clear that there is a need for a venue such as this situated on the south side of the freeway. No similar venue exists for the residents of Point Cook and Sanctuary Lakes, in a region in which population growth is rapid.
- 42 We also consider that it is likely that the venue will be of a high quality, with an interesting and relevant design and that it may well give considerable satisfaction to those who use it, particularly for activities other than gaming such as dining and entertainment.
- 43 The provision of reception facilities is obviously much needed and should constitute a considerable boon to the residents of Wyndham as a whole, who would no longer be obliged to travel considerable distances to adjoining municipalities or to the City of Melbourne, for functions such as debutante balls (for which there is, apparently, a considerable demand in this region).
- 44 We consider that the venue will also be located at a suitable site. During the inquiry some evidence was given as to a suggestion that hotels should now be located within activity centres. The proposed site is not within such a centre, but we find it somewhat incongruous that such a proposal should be made when, at the same time, there is a considerable body of opinion which suggests that gaming venues should not be located in retail shopping areas, bearing in mind that retail activity is the heart of most activity centres.
- 45 Another matter to be considered in favour of this proposal is the fact

- that even if it is approved, the number of egms within the City of Wyndham will still be considerably lower than is the average in metropolitan Melbourne. Rapid population increases have achieved this result.
- 46 As opposed to these matters which would appear to support the granting of the application, there is essentially one matter only which must be considered as a negative.
- 47 It relates to the expenditure upon egms which is considerably higher than for other metropolitan municipalities. We should comment that in our view, increasingly the Commission should be more concerned about excessive expenditure upon egms, rather than the density of egms per thousand adults. It is the losses occasioned at egms which constitute the worrying factor, rather than the existence of egms.
- 48 If this venue was to be located in a number of areas within Wyndham, the extent of egm expenditure within that city might well lead to the conclusion that a new gaming venue at such a site would be problematic at the least. However, for the reasons which we have set out earlier, because of its particular location and the demographic of the catchment area which it will serve, we think that the concerns about this issue are somewhat reduced. It is regrettable we have no material before us as to problem gambling issues within the City of Wyndham but the Commission accepts that it is inevitable that if there is to be new gaming revenue associated with this proposal in excess of \$1m per annum, some proportion of that expenditure is likely to be committed by the very small number of people who appear to be

unable to gamble responsibly. However, the majority of gaming patrons do gamble responsibly and should not be denied the opportunity to pursue that legitimate pastime.

## **CONCLUSIONS**

49 Having weighed up all of the evidence which has been presented in this matter and having given consideration to the matters referred to above, we are of the opinion that this application should be approved.

50 Whilst we are mindful of the disadvantages associated with a new venue which will increase the volume of egm expenditure, we are of the clear view that the many advantages associated with this proposal comfortably outweigh the disadvantages. We consider it likely that the amenity offered by the proposed hotel will be of considerable benefit to many residents, particularly family groups, within the catchment area and the particular advantages conferred by the reception centre are very significant.

51 The fact that the venue has been conceived by this applicant with directors who have had considerable experience and who have a keen regard for their obligations in the area of responsible gambling, also gives some comfort to the Commission.

52 It is a condition of approval that approval does not take effect until the Commission has notified the applicant in writing that the premises have been inspected for the purposes of section 3.3.7(1)(b) and the Commission is satisfied that the premises are suitable for the

management and operation of gaming machines.

53 It is a further condition of approval that approval does not take effect until the applicant satisfies the Commission that the applicant has obtained a permit under the *Planning and Environment Act 1987* permitting the premises to be used for gaming on gaming machines, or that use of the premises for gaming on gaming machines would not contravene the planning scheme that applies under the *Planning and Environment Act 1987*. It is noted that this application was made prior to amendment of the Victorian Planning Provisions (VPPs) on 18 October 2006, including deletion of the '25% rule' whereby a permit for use of gaming machines was not required if the gaming machine area covered less than 25% of the total floor space where liquor is served. It is a condition of every approval of premises for gaming that there must be a continuous 4 hour break from gaming after every 20 hours of gaming and there must not be more than 20 hours of gaming each day.

54 In the circumstances, the application is approved.

***The preceding 54 paragraphs are a true copy of the reasons for decision herein of –***

***Mr I Dunn, Chair***

***Mrs J. King, Deputy Chair***

***Date of Hearing:*** 18 April 2007

***Date of Decision:*** 16 May 2007

***Counsel for the Applicant:*** Mr Nick Tweedie

***Instructing Solicitors:*** Bazzani Scully Brand

*In the matter of Point Cook Hotel*

***Counsel Assisting the Commission:*** Ms Lyn Corneliusen