

NSW Independent Liquor & Gaming Authority

Our ref: DF25/046356

Mr Justin Sammut
LAS Lawyers

30 July 2025

Dear Mr Sammut,

Application Nos.	1-9451224328 & 1-9450535220
Applicant	Covecom Pty Ltd
Application for	Increase Gaming Machine Threshold by 5 (from 14 to 19) and transfer 5 Gaming Machine Entitlements (without forfeiture – rural closure) from Thredbo Alpine Hotel, Thredbo (LIQH400111088) to Shell Cove Hotel and Apartments, Shell Cove (LIQH440019051)
Application date	23 May 2025
Decision date	18 June 2025
Licence name	Shell Cove Hotel and Apartments
Trading hours	Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
Premises	10 Waterfront Promenade Shell Cove NSW 2529
Legislation	Sections 3, 19, 20, 34 and 35 of the <i>Gaming Machines Act 2001</i> Clauses 31, 32 and 40 of the Gaming Machines Regulation 2019

Decision of the Independent Liquor & Gaming Authority Application for a Gaming Machine Threshold Increase and Gaming Machine Entitlements Transfer – Shell Cove Hotel and Apartments

We **refuse** the application for a Gaming Machine Threshold (**GMT**) increase of 5 (from 14 to 19) for the Shell Cove Hotel and Apartments, Shell Cove (LIQH440019051) (the **Hotel**) under section 34(4) of the *Gaming Machines Act 2001* (the **Act**).

We **refuse** the transfer of 5 Gaming Machine Entitlements (**GMEs**) (without forfeiture – rural closure) from Thredbo Alpine Hotel, Thredbo (LIQH400111088) to the Hotel under section 19(2) of the Act.

Impact of *ILGA v Whitebull & Ors [2023] NSWCA 224*

The court in *ILGA v Whitebull & Ors [2023] NSWCA 224* (the **Whitebull decision**) confirmed that the NSW Independent Liquor & Gaming Authority (the **Authority**) may take into account harm minimisation considerations when making a decision under sections 19 and 34 of the Act.

The principles in the *Whitebull* decision underpin the Authority's decision-making under sections 19 and 34 of the Act.

Statement of reasons

We note that the Hotel is a new hotel that is not yet trading, and the application seeks to increase the Hotel's GMT by 5, from 14 to 19, which equates to a 36% increase.

We have identified several risks of gaming-related harm associated with the application, which we set out further below. While these risk factors have been previously considered by the Authority in 2024 when a GMT of 14 was approved for the Hotel, we cannot be satisfied that an increase of a further 36% in availability of gaming machines at the Hotel will be consistent with the objects of the Act.

Our main findings

The local community for the purposes of this decision is the Statistical Areas 2 (**SA2**) of Shellharbour - Flinders. The broader community is the Local Government Area (**LGA**) of Shellharbour.

After consideration of the submissions and material provided by the applicant and Liquor & Gaming NSW (**L&GNSW**), we have concluded that we cannot be satisfied that the risks of gaming-related harm that arise from the application can be absolved by the mitigating factors identified by both L&GNSW and the applicant.

The submissions and material from both L&GNSW and the applicant identified factors which may mitigate against the below risk factors, including:

- the Hotel is located in a Band 1 SA2;
- the average profit per gaming machine in the SA2 (\$102,039) is lower than the LGA average (\$139,370);
- the Hotel currently has standard trading with no post-midnight gaming;
- the percentage of moderate and high-risk gamblers for the LHD (3.4%) is below the NSW average (4%); and
- the GMEs will be completely removed from the Thredbo Alpine Hotel.

The submissions and material from L&GNSW identify factors which may suggest that the grant of the application may increase the harm associated with the misuse and abuse of gambling activities or fail to facilitate the balanced development, in the public interest, of the gaming industry including:

- the significant increase of 36% to the new Hotel's GMT;
- the average profit per gaming machine in the SA2 (\$102,039) is higher than comparable venues (\$53,587);
- the SA2 has identified location factors including higher rates of people with lower education levels;

- although the Hotel is located in a Band 1 SA2, the gambling participation rate for pokies/gaming machines in the local health district (**LHD**) (16.6%) is higher than the state average (14.3%); and
- there is insufficient evidence that the Hotel can manage the above risks appropriately.

The material we considered

We considered the following material when making our decision:

- the legislation
- the application material
- liquor licence documents
- the gaming plan of management
- conditions proposed by L&GNSW to be imposed on the Hotel's licence if the application is approved
- Hotel map and images
- data provided by L&GNSW pertaining to:
 - location factors for the LGA and SA2 where the Hotel is located
 - gaming profits in the LGA and SA2 where the Hotel is located compared to NSW and
 - gaming participation and prevalence in the LHD compared to NSW
- Community Impact Statement
- the Authority's decision dated 8 August 2022 granting the Hotel licence and
- the applicant's response to L&GNSW's assessment and submissions.

This decision will be published.

If you have any questions

Please contact Liquor & Gaming NSW at: new.applications@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

Independent Liquor & Gaming Authority