

NSW Independent Liquor & Gaming Authority

Our ref: DF26/018509

Mr Justin Sammut

LAS Lawyers

19 May 2026

Dear Mr Sammut

Application No.	1-9706640085 (gaming machine threshold increase) 1-9706640064 (gaming machine entitlement transfer)
Applicant	COVECOM PTY LTD
Application for	Gaming machine threshold increase and gaming machine entitlement transfer
Application date	1 February 2026
Decision date	22 April 2026
Licence name	Shell Cove Hotel and apartments
Licence No.	LIQH440019051
Trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM <u>Take away sales</u> Monday to Saturday 5:00 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>

Decision of the Independent Liquor & Gaming Authority

Application for a gaming machine threshold increase and gaming machine entitlement transfer – Shell Cove Hotel and apartments

We **refuse** the gaming machine threshold increase of 3 (from 14 to 17) for the Shell Cove Hotel and apartments LIQH440019051 under section 34(4) of the Gaming Machines Act 2001 (the **Act**).

We **refuse** the transfer of 3 gaming machine entitlements from the Thredbo Alpine Inn, LIQH400111088 to the Shell Cove Hotel and apartments LIQH440019051 under section 19(2)(a) 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

Our main findings

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

The application depends on approval of the first stage of a two-part rural closure proposal for the Thredbo Alpine Inn (**Inn**) where gaming machines are no longer in operation. The applications sought approval for an increase to the Shell Cove Hotel's gaming machine threshold (**GMT**) and a transfer of 3 of the Inn's 5 gaming machine entitlements (**GME**) to the Shell Cove Hotel and apartments (**Hotel**).

The second stage, addressed in a separate application, proposed a GMT increase for the Meadowbank Hotel of 2 and transfer of the Inn's remaining 2 GMEs. As both transfers were components of a proposed rural closure, if approved, the transfers would be exempt from the normal forfeiture requirement. For this reason, the approval of both was required to obtain the exemption for rural closure.

Shell Cove is described as an area undergoing significant redevelopment, and the Shell Cove Hotel and apartments, licensed in 2022, forms part of a major mixed-use development scheduled to commence hotel operations in April 2026. While plans have previously indicated an intention to operate gaming machines, no specific numbers had been nominated at licensing, and a subsequent application to enlarge the gaming room had been lodged in March 2026.

The applicant submitted that this new proposal should be approved due to its smaller scale, favourable demographic indicators, lower gambling participation and proposed harm minimisation measures.

We noted a similar application by the applicant was refused in June 2025 due to elevated risk indicators, which we set out further below.

The factors which suggest that the grant of the application may increase the harm associated with the misuse and abuse of gambling activities or fails to facilitate the balanced development, in the public interest, of the gaming industry include:

- the GMEs proposed to be transferred are from a venue where there is no gaming currently
- the higher average profit per gaming machine in the SA2 (\$114,262) compared with comparable venues (\$76,958), indicates high gaming intensity in the suburb
- the SA2 has identified location factors including higher rates of people with lower education levels
- the gambling participation rate for pokies/gaming machines in the LHD (16.6%) is higher than the state average (14.3%).

Social impacts

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

- the Hotel is in a Band 1 SA2, suggesting this is not a particularly disadvantaged community
- the Hotel has standard trading with no post-midnight gaming
- the percentage of moderate and high-risk gamblers for the local health district (LHD) (3.4%) is below the NSW average (4%)
- the Hotel agreed to the Responsible Gambling Officer (RGO) condition being imposed.

We considered the applicant's submissions explaining how this application differs from the previous application and outlining the additional measures proposed, including statements that:

- the proposed increase is smaller in scale, seeking an additional 3 GMEs rather than 5 GMEs previously sought
- the Shellharbour-Flinders SA2 is reported as the second least disadvantaged SA2 within the Shellharbour LGA and has several favourable demographic indicators
- gambling participation in the Illawarra LHD is lower than NSW averages, however we note that participation rates for pokies/ gaming machines is higher in the LHD than the state average
- the lower levels of moderate and high-risk gamblers in the LHD compared to the state average
- gaming machine profit levels are lower in the SA2 and LGA than the NSW average
- the venue intends to implement facial recognition technology and make a financial contribution to a local community organisation or to the Responsible Gambling Fund.

However, the demographic and location-based risk factors and gambling intensity and prevalence data remain unchanged since our last decision. We determined there was no new evidence to justify a change in our position or to demonstrate that the Hotel is able to appropriately manage increased gaming related risks, given it is not yet trading.

On the basis of the application and the material before us, we are not satisfied that the application minimises harm associated with the misuse and abuse of gambling activities. Accordingly, we have determined that the application should be refused

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- the legislation
- liquor licence documents

- applicant response to assessment and submissions
- the gaming plan of management
- proposed conditions
- data provided by L&GNSW pertaining to location factors for the LGA and SA2 where the destination venue is located
- venue map and images
- proposed plan of grant
- proposed plan from Change of Boundaries Application
- L&GNSW compliance materials.

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

NSW Independent Liquor & Gaming Authority