

Gaming Machine Entitlement Allocation Process Questions & Answers

No.	Question	Answer provided
1.	If multiple clubs (or hotels) apply for additional entitlements within a capped area, how will the entitlements be distributed?	<p>In accordance with the Minister's allocation and transfer rules published in the Victorian Government Gazette on 20 December 2017 (Third Rules), incumbent venue operators are guaranteed to be offered up to the number of entitlements held on 7 July 2017. Allocation of any additional entitlements over and above this number is not guaranteed and is subject to availability, taking into account regional caps and municipal limits and the priority of allocation detailed in Rule 8 of the Third Rules.</p> <p>If demand exceeds supply for additional entitlements, the Minister will allocate in accordance with the principles detailed in Rule 9 of the Third Rules.</p>
2.	Do new entrants require a Venue Operator's Licence (VOL)?	<p>New entrants did not have to hold a valid Venue Operator's Licence (VOL) in order to participate in the initial stages of the allocation process. The only requirement for participation is that new entrants had to lodge an expression of interest in accordance with the process communicated by government. If a new entrant lodged a valid EOI form by 3 November 2017, they were eligible to receive the Minister's pre-offer letter and subsequently the Minister's formal offer to apply for new entitlements.</p> <p>However, a new entrant must have a valid VOL in place in order to submit an application for new entitlements and execute the Deed Poll. Applications must be submitted by 28 February 2018. Under the <i>Gambling Regulation Act 2003</i>, entitlements cannot be allocated to an entity that does not have a VOL.</p> <p>Relevant information in relation to obtaining a VOL can be found on the Victorian Commission for Gambling and Liquor Regulation (VCGLR) website: https://www.vcglr.vic.gov.au/gambling/gaming-venue-operator/apply-new-licence-permit-or-registration/application-process-and-requirements</p>
3.	Do new entrants have to have an approved venue by the Minister's Offer to Apply date to be able to purchase new entitlements?	<p>No, a new entrant does not have to have an approved venue by the date of the Minister's Offer to apply to be eligible to participate in the process.</p>
4.	If a venue has not been approved, does the new entrant still have to pay for the entitlements? Or, can they transfer to an alternative Local Government Area (LGA)?	<p>If you submit an application for new entitlements, by signing the Deed Poll you are legally bound to purchase the nominated number of entitlements if allocated, regardless of whether you have an approved venue to operate these entitlements.</p>

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		<p>If you are allocated the new entitlements you may apply to change the geographic conditions on the entitlements as per the current process.</p> <p>If, once you start operating gaming machines under new entitlements, the characteristics of your venue are significantly different to those indicated in your EOI form, the price of your new entitlements may be adjusted in accordance with the Entitlement-Related Payment Agreement, a draft of which can be downloaded from the Department's website.</p>
5.	<p>Will the 'use it or lose it' rule still apply?</p>	<p>Yes, the relevant clauses in the <i>Gambling Regulation Act 2003</i> will continue to apply (whereby the entitlements are forfeited to the State if not operated within 6 months of allocation or a period extended under section 3.4A.25 of the Act).</p>
6.	<p>If an entity has applied for a VOL and has not had a response from the VCGLR by the date required to respond to the Minister's Offer, how will this be managed?</p>	<p>The Minister's Offer to Apply timelines are considered sufficient to secure a VOL. The Gaming Machine Allocation Project team are working closely with the VCGLR and will monitor the applications that have been submitted and their progress.</p>
7.	<p>How much will the deposit be for new entitlements and when is it payable?</p>	<p>In accordance with the Third Rules, you are required to pay a deposit for every entitlement you nominate when submitting an application for new entitlements (by 28 February 2018). This includes any additional entitlements you nominate over the number of entitlements held on 7 July 2017, and entitlements for a proposed venue. However, if you are not allocated the additional entitlements or entitlements for a proposed venue, the deposit paid for these entitlements will be refunded to you.</p> <p>For example, if a club held 30 club entitlements on 7 July 2017 and nominates to purchase 30 entitlements, the club will have to pay 2.5% of 30*(price per entitlement). If, for example, the club nominates to purchase 40 entitlements the club will need to pay 2.5% of 40*(price per entitlement). However, if the club is only allocated 30 entitlements (as the club is only guaranteed 30), it will be refunded the deposit paid for the extra 10 entitlements.</p> <p>The amount of deposit payable is as follows:</p> <ul style="list-style-type: none"> • clubs – 2.5 per cent of the entitlement price, payable by 28 February 2018 • hotels – 5 per cent of the entitlement price, payable by February 2018.

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		<p>In accordance with the draft Entitlement-Related Payment Agreement that venue operators will be required to execute if allocated new entitlements, following the deposit, one further instalment will be due prior to August 2022 as follows:</p> <ul style="list-style-type: none"> • clubs – 2.5 per cent payable in February 2019 • hotels – 5 per cent payable in February 2019. <p>The balance will be payable on 16 August 2022 or in accordance with the deferred payment provisions specified in the Entitlement-Related Payment Agreement.</p>
8.	Is the Minister's Offer to Apply or allocation of new entitlements transferable?	No, the Minister's Offer to Apply and allocation of entitlements are not transferable.
9.	Can venue operators choose to pay for their entitlements in less than the 5 or 7 year deferred payments?	<p>The payment terms for new entitlements are detailed on the Department's website and in the draft Entitlement-Related Payment Agreements (different version for Club and Hotel) that can be downloaded from the Department's website.</p> <p>Under these payment terms, venue operators will be able to opt for a deferred payment arrangement. Venue operators will be able to pay off the entitlements earlier than the maximum allowable deferred payment period (5 years for Hotels and 7 years for Clubs) if they so choose.</p>
10.	If a venue operator is transferred entitlements from a different venue operator, do the same payment arrangements apply to them?	Yes, the same rules that currently apply regarding a venue operator's responsibility to take on the same payment terms the previous venue operator had will apply for post-2022 entitlements.
11.	Do the recent changes applied by the Minister in relation to regional / municipal caps apply to the allocation for post-2022 entitlements?	Yes, the State will allocate entitlements subject to the regional caps and municipal limits determined by the Minister prior to allocation.
12.	What will happen to available entitlements that have not been taken up by Club venue operators?	If there are remaining club entitlements it is at the discretion of the Minister to decide to allocate them to the hotel sector, leave them unallocated, offer them for sale on the open market or extinguish them completely.

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13.	When and how can I transfer new entitlements?	<p>As per the Transfer Rules published on 21 November 2017, venue operators are prohibited from transferring new entitlements once allocated and until six months prior to the commencement of the new entitlements on 16 August 2022 (16 February 2022). This prohibition does not apply to the transfer of new entitlements where the transfer occurs as part of a sale of a gaming venue.</p> <p>Once the prohibition is lifted (in February 2022) and up to 18 months after the new entitlement commencement, the transfers of new entitlements will be subject to payment of 100% difference between the price paid at allocation and the transfer price for the seller, and payment of 100% of the difference between the price that would have been paid by the buyer if purchased at allocation and the transfer price. Some transfers may be exempted from this payment upon application to the Treasurer.</p>
14.	Are the documents submitted by participants in this process confidential?	<p>The responses to the Expression of Interest, the Minister's pre-offer letters and Offers to Apply, and venue operators' applications for new entitlements are confidential. Furthermore, all correspondence unique to individual venue operators is confidential.</p>
15.	I have acquired entitlements after 7 July 2017. Will I be offered matching new entitlements for use post-August 2022?	<p>Only the venue operators who held entitlements on 7 July 2017 will be guaranteed the opportunity to purchase the equivalent new entitlements (except where club entitlements are held by a hotel – see Question 18). Consequently, if you acquired entitlements after 7 July 2017, and assuming the seller held these entitlements on 7 July 2017, it is the seller of the entitlements who will be offered equivalent new entitlements, not you.</p> <p>The only exemption to this is where you acquire entitlements as part of the purchase of an approved venue after 7 July 2017 and before pre-offer date – see Question 16.</p> <p>This does not impact on the ability of venue operators to enter into commercial arrangements to transfer new entitlements.</p>
16.	I have acquired a venue after 7 July 2017. Will I be offered the new entitlements?	<p>If you acquired an approved venue (and are recorded on the VCGLR Register as the venue operator conducting gaming at that venue) after 7 July 2017 and before pre-offer date (15 or 16 November 2017), you qualify as a 'successor venue operator' and will receive all communications in relation to that venue, including the pre-offer letter from the Minister and the Minister's Offer to Apply.</p> <p>If you acquire a venue after the pre-offer date, the vendor of the venue will receive the Minister's Offer to Apply in relation to new entitlements at that venue.</p>

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17.	I am an incumbent venue operator that held entitlements on 7 July 2017 but may need to move to a different venue, possibly in a different LGA, post August 2022. Does this impact on the entitlements I am guaranteed in this allocation process?	<p>If, prior to August 2022, the venue operator who has been allocated new entitlements is no longer operating the venue they were operating at 7 July 2017, this will have no impact on the new entitlements they were allocated and they will continue to hold these entitlements.</p> <p>If a venue operator wants to operate the new entitlements in a different venue post August 2022, they would need to go through the same processes as they would now to ensure they can operate these entitlements in the new venue. For example, if the venue is in a different LGA, the venue operator would need to apply to change the geographic condition on the new entitlements.</p>						
18.	Will the Minister allocate club gaming machine entitlements to Hotel venue operators that held club gaming machine entitlements as at 7 July 2017?	No, section 3.4A.5(2)(b) of the <i>Gambling Regulation Act 2003</i> states – The Minister must not allocate a club gaming machine entitlement to a venue operator who does not hold a club venue operator’s licence. Club entitlements currently held by hotels will go into the unallocated pool.						
19.	If I am allocated new entitlements, can I apply to change the geographic area condition of these entitlements, and can this application be granted, before 16 August 2022?	Yes, Division 4 of the Act allows for an application for the amendment of a gaming machine entitlement to be made, in accordance with processes determined by the Commission, and does not prohibit applications to amend the geographic area conditions of gaming machine entitlements that are not yet in operation.						
20.	If I am nominating more entitlements than I held at 7 July 2017, what do I put in the ‘Minimum Additional Number’ column in the Deed schedule?	<p>Should a venue operator seek additional gaming machine entitlements to the number held as at 7 July 2017, the minimum additional number column allows them to indicate the minimum number they are willing to accept if the Minister cannot allocate the full number they requested. This recognises that there may be a minimum number to make the increase in gaming machines viable for the venue operator.</p> <p>For example, a venue operator who is seeking 20 entitlements over and above the 80 entitlements held at 7 July 2017, but is only willing to accept a minimum of 10 additional entitlements (a total of 90), they would fill in the Deed schedule as follows:</p> <table border="1"> <thead> <tr> <th>Number held at 7 July 2017</th> <th>Nominated Number</th> <th>Minimum Additional Number</th> </tr> </thead> <tbody> <tr> <td>80</td> <td>100</td> <td>10</td> </tr> </tbody> </table> <p>If, in this situation, the Minister cannot allocate the requested additional 20 entitlements but has 11 available entitlements that can be allocated (in accordance with the rules), then the Minister will</p>	Number held at 7 July 2017	Nominated Number	Minimum Additional Number	80	100	10
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		allocate a total of 91 entitlements to this venue operator. If only 9 entitlements were available, then the number allocated would be 80.
