



Victorian Commission for Gambling and Liquor Regulation

DECISION AND REASONS FOR DECISION

In the matter of an application under section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* by Pakenham Racing Club Inc for amendment of its venue operator's licence to vary the number of electronic gaming machines permitted in the approved premises, Club Officer, located at 3 Niki Place, Officer, from sixty (60) to eighty (80).

Commission: Ms Helen Versey, Deputy Chair
Mr Des Powell AM, Commissioner

Appearances: Ms Nicola Collingwood, Counsel for the Applicant (instructed by BSP Lawyers)
Mr John Rantino, Counsel for the Cardinia Shire Council (instructed by Maddocks Lawyers)
Ms Caitlin McAlister, Counsel Assisting the Commission

Date of Hearing: 31 October 2017 and 13 November 2017

Date of Decision: 4 December 2017

Date of Reasons: 4 December 2017

Decision: The application is refused.

Signed:

A handwritten signature in black ink, reading "Helen K. Versey".

Ms Helen Versey
Deputy Chair



REASONS FOR DECISION

INTRODUCTION

1. This is an application by the Pakenham Racing Club Inc (the **Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (the **Commission**) to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) permitted in Club Officer, located at 3 Niki Place, Officer (the **Premises**), from sixty (60) to eighty (80) (the **Application**).
2. The Application interrelates with a proposal by the Applicant to renovate another venue with EGMs operated by the Applicant in the same local government area (**LGA**) as the Premises, namely the Cardinia Club, located at 71 Racecourse Road, Pakenham. The Applicant has a licence to operate 105 EGMs at the Cardinia Club, this being the maximum permitted. The Applicant proposes to use the revenue from the additional EGMs at the Premises, if the Application is granted, to renovate the Cardinia Club.
3. The relevant municipal authority is the Shire of Cardinia (the **Council**). By correspondence dated 24 August 2017 to the Commission, the Council stated that it intended to make an economic and social impact submission in relation to the Application, and did so on 3 October 2017.
4. The Commission considered the Application by way of a public inquiry.¹ To this end, a public hearing was conducted over two days, namely 31 October 2017 and 13 November 2017 (the **Hearing**). The Applicant was represented by Ms Nicola Collingwood of Counsel, instructed by BSP Lawyers. The Council was represented by Mr John Rantino of Maddocks Lawyers.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

5. Gaming on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**GR Act**). The GR Act recognises that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities and some members of some communities. For this reason the GR Act includes safeguards to ensure an appropriate balance is struck between a lawful and legitimate recreational activity for some, and a potentially harmful activity for others.

¹ A public inquiry is required to be conducted by the Commission in relation to the Application pursuant to section 28(g)(iii) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (**VCGLR Act**). As to the manner in which the Commission is to conduct an inquiry, see generally Pt 3 Div 2 VCGLR Act (Inquiries), see also Pt 2 Div 3 VCGLR Act (Performance and exercise of the Commission's functions, powers and duties).



6. The objectives of the GR Act are set out at section 1.1, which provides:

...

(2) *The main objectives of this Act are—*

(a) *to foster responsible gambling in order to-*

(i) *minimise harm caused by problem gambling; and*

(ii) *accommodate those who gamble without harming themselves or others;*

(ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*

(b) *to ensure that gaming on gaming machines is conducted honestly;*

(c) *to ensure that the management of gaming equipment and monitoring equipment is free from criminal influence and exploitation;*

(d) *to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;*

(e) *to ensure that-*

(i) *community and charitable gaming benefits the community or charitable organisation concerned;*

(ii) *practices that could undermine public confidence in community and charitable gaming are eliminated;*

(iii) *bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;*

(f) *to promote tourism, employment and economic development generally in the State.*

7. Chapter 3 of the GR Act deals with the regulation of gaming machines. Section 3.1.1 of the GR Act sets out the purpose of Chapter 3 as follows:

(1) *The purpose of this Chapter is to establish a system for the regulation, supervision and control of gaming equipment and monitoring equipment with the aims of—*

(a) *ensuring that gaming on gaming machines is conducted honestly; and*



- (b) *ensuring that the management of gaming equipment and monitoring equipment is free from criminal influence or exploitation; and*
- (c) *regulating the use of gaming machines in casinos and other approved venues where liquor is sold; and*
- (d) *regulating the activities of persons in the gaming machine industry; and*
- (e) *promoting tourism, employment and economic development generally in the State; and*
- (f) *fostering responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling;*
 - (ii) *accommodate those who gamble without harming themselves or others.*

(2) *The purpose of this Chapter is also to—*

- (a) *provide for the allocation of gaming machine entitlements in order to maximise the financial and social benefits to the Victorian community within the regulatory framework applying to the allocation of entitlements;*
- (b) *promote a competitive gaming industry with the aim of providing financial and social benefits to the Victorian community.*

8. The relevant provision concerning the Application is in section 3.4.17(1)(b) of the GR Act, which states that variation of the number of EGMs permitted in an approved venue may be amended in accordance with Division 2, Part 4 of Chapter 3 of the GR Act.

9. Sections 3.4.18 to 3.4.19 of the GR Act provide for the manner in which requests for amendments under section 3.4.17(1)(b) are to be made. Relevantly for the Application, section 3.4.18 provides, inter alia, that:

(1) *A request by a venue operator for an amendment of licence conditions—*

...

- (c) *in the case of ... an amendment to increase the number of gaming machines permitted in an approved venue, must be accompanied by a submission—*
 - (i) *on the net economic and social benefit that will accrue to the community of the municipal district in which the approved venue is located as a result of the proposed amendment; and*



(ii) taking into account the impact of the proposed amendment on surrounding municipal districts—

in the form approved by the Commission and including the information specified in the form.

10. Section 3.4.18(2) provides that if the request is for an amendment to increase the number of gaming machines permitted in an approved venue, the venue operator must give the relevant municipal council a copy of the proposed request before submitting the request to the Commission.²

11. Further, section 3.4.19(1) of the GR Act provides:

(1) Subject to this section, after receiving a copy of a request for an amendment referred to in section 3.4.18(2), a municipal council may make a submission to the Commission—

(a) addressing the economic and social impact of the proposed amendment on the well-being of the community of the municipal district in which the approved venue is located; and

(b) taking into account the impact of the proposed amendment on surrounding municipal districts.

...

12. Section 3.4.20 sets out matters that are required to be considered by the Commission with respect to such a proposed amendment. Relevantly for this Application, that section provides:

(1) Without limiting the matters which the Commission may consider in deciding whether to make a proposed amendment the Commission must not amend a venue operator's licence unless—

...

(b) if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the regional limit or municipal limit for gaming machines for

² The Applicant provided the Commission with a Toll fast proof of delivery receipt dated 26 July 2017, which the Commission regarded as sufficient evidence for the purposes of s 3.4.18(2) of the GR Act.



the region or municipal district in which the approved venue is located will not be exceeded by the making of the amendment; and

- (c) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the net economic and social impact of the amendment will not be detrimental to the well-being of the community of the municipal district in which the approved venue is located;*

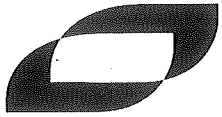
...

13. Section 3.4.20(1)(c) provides for what is now commonly described as the ‘*no net detriment*’ test. It requires the Commission to be satisfied that there is no net detriment arising from the approval through positively and objectively establishing that the net economic and social impact will not be detrimental to the well-being of the community.³
14. The GR Act does not specify the matters that the Commission must consider in deciding whether the ‘*no net detriment*’ test is satisfied. However, the statutory signposts are provided by the test itself. The Commission must consider:
- (a) the likely economic impacts of approval;
 - (b) the likely social impacts of approval; and
 - (c) the net effect of those impacts on the well-being of the relevant community.⁴
15. As such, the ‘*no net detriment*’ test is a composite test requiring consideration of a single net impact in economic and social terms on the well-being of the community.⁵ The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either neutral or positive.
16. The Commission recognises that the task of identifying likely benefits and disbenefits will not always be straightforward given the overlap of socio-economic issues, and the quality and availability of relevant data and cogent evidence. Some economic outcomes may have social

³ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [52] per Dwyer DP.

⁴ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA (‘*the Romsey case*’).

⁵ *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey No. 2)* [2009] VCAT 2275, [332], [348] per Bell J (‘*Romsey No. 2*’) cited in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [58] per Dwyer DP.



consequences, and vice versa.⁶ On review, decisions in the Victorian Civil and Administrative Tribunal (VCAT) have held that for impacts that may be both economic and social – for example the benefits of gaming consumption – it does not matter whether the impact is considered on the economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.⁷ The Commission has adopted the same approach as VCAT in setting out a table of likely economic and social benefits both to enhance clarity of Commission decisions and facilitate greater consistency between the Commission and VCAT.⁸

17. If the Commission is not satisfied that the '*no net detriment*' test is met, that is clearly fatal to the application before it, as given the opening words of section 3.4.20(1) of the GR Act, satisfaction of the test is a mandatory pre-condition to approval. However, although section 3.4.20(1) sets out certain mandatory considerations for the Commission, the provision is not exhaustive. If the Commission is satisfied that the '*no net detriment*' test is met, it still has an ultimate discretion as to whether or not to grant the approval.⁹ The Commission must decide whether to make the proposed amendment, with or without any changes from that proposed by the applicant, even where the applicant has satisfied the minimum threshold of the '*no net detriment*' test.¹⁰
18. In considering the exercise of this discretion:
 - (a) it must be exercised having regard to the purposes of the GR Act and, in particular, the specific purposes of Chapter 3 of the GR Act dealing with the regulation, supervision and control of gaming machines;¹¹ and
 - (b) it may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the GR Act as a whole.¹²

⁶ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [57] per Dwyer DP.

⁷ See *Romsey No. 2* [2009] VCAT 2275 [352] per Bell J; *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [58] per Dwyer DP.

⁸ See e.g., *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [60] per Dwyer DP.

⁹ See *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32] and following per Morris J; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [126] per Code PM and Nelthorpe M; see also *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [97] and following per Dwyer DP (with respect to section 3.3.7 GR Act).

¹⁰ GR Act, section 3.4.20(2).

¹¹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [98] per Dwyer DP.

¹² *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32] per Morris J; *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [99] per Dwyer DP; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [126] per Code PM and Nelthorpe M. As to policy principles identified for consideration, see the *Romsey* case (2008) 19 VR 422, [7] per Warren CJ, Maxwell P and Osborn AJA.

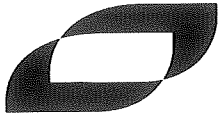


19. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹³ that, if all of the mandatory considerations under the GR Act favour the grant of an approval, one would expect that the ultimate discretion will commonly favour approval - other than in relatively rare or exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.
20. Finally, pursuant to section 3.4.20(1)(a) of the GR Act, the Commission must be satisfied that the proposed amendment does not conflict with a Ministerial direction, if any, given under section 3.2.3 of the GR Act. Additionally, pursuant to section 9(4) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR Act)*, the Commission must have regard to Ministerial guidelines issued under section 5 of the VCGLR Act when performing functions under gambling legislation.
21. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to the Application. However, on 16 October 2013 a Ministerial guideline was published in the Victorian Government Gazette pursuant to section 5 of the VCGLR Act concerning applications for approvals of venues for EGMs and children's play areas incorporated in the venue. This guideline concerned the assessment of the suitability of premises for gaming. As such, it appears primarily to apply to a premises applying to be a new gaming venue, rather than an increase in the number of EGMs at an existing gaming venue. While this guideline is therefore not directly applicable to the Application, the Commission's view is that it is proper for the Commission to have regard to the underlying policy intent of such a guideline (which in this instance appears to relate to the legislative objective under section 1.1(2)(ab) of the GR Act that minors are neither encouraged to gamble nor allowed to do so) when considering the Application.

MATERIAL BEFORE THE COMMISSION

22. Before the Hearing, the Applicant provided the Commission with the following material in support of its Application:
 - (a) Application form – Amendment to venue operator licence – vary gaming machines received by the Commission on 3 July 2017 (the **Application Form**);
 - (b) Social and Economic Impact Statement prepared by Ms Colleen Peterson, managing director of Ratio Consultants Pty Ltd (**Ratio**) dated July 2017 (the **First Ratio Report**) and the second Ratio Report dated October 2017 (the **Second Ratio Report**);

¹³ [2013] VCAT 101, [98].



- (c) report of Mr Tim Stillwell, partner of ShineWing Australia, accountants and advisors dated 19 July 2017 (the **ShineWing Report**);
 - (d) witness statement of Mr Michael Hodge, chief executive officer (**CEO**) of the Applicant, dated July 2017;
 - (e) witness statement of Father James Grant of Chaplains Without Borders, dated July 2017;
 - (f) witness statement of Mr Leigh Barrett, Principal of Leigh Barrett & Associates, dated 17 July 2017;
 - (g) a copy of the Toll fast proof of delivery dated 26 July 2017 (described at footnote 2 above); and
 - (h) a copy the public notice appearing in the Herald Sun newspaper dated 28 July 2017.
23. On 3 October 2017, the Council provided the Commission and the Applicant with an economic and social impact submission in respect of the Application, which included a Social and Economic Impact Assessment prepared by Ms Bonnie Rosen, principal of Symplan (the **Symplan Report**). In the economic and social impact submission form, the Council noted that the City of Casey objected to the Application.¹⁴
24. The following material, prepared by Commission staff, was provided to the Applicant and the Council and considered by the Commission:
- (a) a report titled *Economic and Social Impact Report* dated October 2017 (the **VCGLR Report**);
 - (b) a report titled *Pre-Hearing Inspection and Compliance Report* dated 19 October 2017 (the **Pre-Hearing Report**); and
 - (c) a report titled *Pre-Hearing Size Layout and Facilities Report* dated 19 October 2017 (**Licence Management & Audit Report**).
25. In addition, the Commission received correspondence in opposition to the Application from a community organisation and an individual:
- (a) a letter from a local resident of Officer dated 30 October 2017; and
 - (b) a submission on behalf of the Cardinia Ratepayer & Residents Association Inc provided to the Commission on 31 October 2017.

¹⁴ In a letter, dated 27 September 2017, the City of Casey submitted that careful consideration should be given by the Commission to the current socio-economic state of the surrounding communities before supporting any application for an increase in gaming machines.



26. On the first day of the Hearing, the Applicant provided the following further material to the Commission in relation to the Application:
- (a) proposed conditions to attach to approval of the Application, were the Commission to so approve the Application;
 - (b) a list of names and shires of members of the Premises, referred to in the oral evidence of Mr Hodge at the Hearing;
 - (c) agenda - 5 September 2016 - committee meeting for the Applicant, referred to in the oral evidence of Mr Hodge at the Hearing; and
 - (d) responsible gambling code of conduct independent evaluation 2016/2017 for the Premises, referred to in the oral evidence of Mr Barrett at the Hearing.
27. On 10 November 2017, the Applicant provided the Commission and the Council with:
- (a) the third Ratio Report dated 10 November 2017 (the **Third Ratio Report**);
 - (b) further proposed conditions to attach to approval of the Application, were the Commission to so approve the Application; and
 - (c) letter of recommendations for the Premises from Mr Barrett to Mr Hodge, dated 10 November 2017.
28. On the second day of the Hearing, the following material was provided to the Commission in relation to the Application:
- (a) responsible gambling code of conduct independent evaluation 2016/2017 for the Cardinia Club, referred to in the oral evidence of Mr Barrett at the Hearing.
 - (b) email communication from the Council to Ratio, dated 19 October 2017, regarding status of planning approval;
 - (c) written submissions of the Applicant, prepared by Ms Collingwood of Counsel;
 - (d) written submissions of the Council, prepared by Mr Rantino of Maddocks Lawyers; and
 - (e) Ratio Report regarding Town Planning Expert Evidence, dated October 2016.
29. After the Hearing, the Applicant provided the Commission and the Council with:
- (a) updated proposed conditions to attach to approval of the Application, were the Commission



to so approve the Application.

30. The following witnesses gave oral evidence at the Hearing:
- (a) Mr Michael Hodge, CEO of the Applicant;
 - (b) Father James Grant of Chaplains Without Borders;
 - (c) Mr Leigh Barrett, principal of Leigh Barrett & Associates;
 - (d) Mr Tim Stillwell, partner of ShineWing Australia;
 - (e) Ms Colleen Peterson, managing director of Ratio Consultants Pty Ltd; and
 - (f) Ms Bonnie Rosen, principal of Symplan.
31. Prior to the determination of this matter, both of the Commissioners visited the Premises and the Cardinia Club.

DECISION AND REASONS FOR DECISION

Background

Location

32. The Premises are located in Niki Place in Officer in the Shire of Cardinia¹⁵. They are situated in the Cardinia Road precinct, and are within a mixed-use subdivision along the Princes Freeway. The Cardinia Road Precinct Structure Plan indicates that the Premises are in a 'peripheral commercial' precinct within an 'urban growth zone'.¹⁶
33. The Cardinia Club is located on Racecourse Road in Pakenham in the Shire of Cardinia. The site is located in the Pakenham precinct. The Symplan Report indicates that the Cardinia Club is zoned 'general residential zone'.¹⁷
34. The Shire of Cardinia is a metropolitan LGA located 60km south-east of Melbourne and covers an area of 1,282 square kilometres. Major centres in the Shire of Cardinia include Pakenham, Emerald and Koo-Wee-Rup. According to the VCGLR Report, the Shire of Cardinia has an estimated adult population of 71,966, which ranks it 29th out of 31 municipalities. The annual rate

¹⁵ Where reference is made in these reasons to the Shire of Cardinia, this is a reference to the local government area (LGA).

¹⁶ First Ratio Report, p5, Third Ratio Report, p1.

¹⁷ Symplan Report, p10.



of population growth projected by the Department of Environment, Land, Water and Planning is 4.2% as compared with the Victorian average of 1.8%.

35. Currently, there are five gaming venues operating within the Shire of Cardinia with approvals to operate 573 EGMs (but with 325 attached entitlements).
36. The VCGLR Report notes that the Shire of Cardinia has an EGM density of 4.5 EGMs per 1000 adults, which is 12.7% lower than the metropolitan LGA average (5.2) and 18% less than the State average (5.5).¹⁸ This ranks the Shire of Cardinia as the 21st of 31 metropolitan LGAs in terms of EGM density per 1000 adults. Also as stated in the VCGLR Report, in the 2016-17 financial year, the Shire of Cardinia had an average gaming expenditure of \$376 per adult (based on the 2016 population estimate), which is 33% less than the metropolitan LGA average (\$561) and 30.6% lower than the State average (\$542). Applying the estimate of increased gaming expenditure as received from the Applicant in the first year of operation of the additional 20 EGMs, approval of this Application would result in an increase in average gaming expenditure per adult of 0.8%.

Nature of premises

The Premises

37. The Premises itself currently comprises of:
 - (a) a bistro;¹⁹
 - (b) a café;
 - (c) a deck area;
 - (d) a TAB area;
 - (e) a sports bar;²⁰
 - (f) a children's play room; and
 - (g) a gaming room with 60 EGMs.²¹
38. The Applicant has approximately 11,500 social members across the Premises, the Cardinia Club

¹⁸ Note that the rates of gaming machines per adult and percentage variations are presented to one or two decimal places for ease of comprehension, whereas the calculations have been made using the real underlying numbers, which explains any discrepancy in the percentages.

¹⁹ The bistro is open daily between 9am to 11:30am, 12pm to 2/2:30pm and 5pm to 8:30pm/9pm.

²⁰ The sports bar is open daily between 9am to 1am (Sunday to Thursday) and 9am to 3am Friday and Saturday.

²¹ The gaming room is open daily between 9am to 1am (Sunday to Thursday) and 9am to 3am Friday and Saturday.



and the Applicant's third site, namely the Pakenham Racecourse Facility, located at 420 Nar Nar Goon-Longwarry Road, Tynong.²² Mr Hodge explained that the Applicant had a membership awards program across all three sites, which means a member of one site could use points across the other two venues.²³

39. Ms Peterson gave evidence that the Premises would likely serve a predominately local role given they are within an area that is to undergo significant urban development in the near future.²⁴

Cardinia Club

40. The Cardinia Club currently comprises of:

- (a) a bistro;²⁵
- (b) a TAB area;
- (c) a sports bar;²⁶
- (d) a gaming room with 105 EGMs;²⁷
- (e) a lounge area; and
- (f) a children's play room.

41. Development of a Mercure Hotel has been approved on land to the immediate north of the Cardinia Club. That land was previously owned by the Applicant. Construction of the Mercure Hotel is expected to commence in December 2018. That facility will provide 67 beds, but will not include a bistro or cafe. It is proposed by the Applicant that the on-site food and beverage requirements of the guests at the Mercure Hotel, including room service, will be provided by the Cardinia Club.²⁸

Catchment area

42. The '*no net detriment*' test refers to 'the community of the municipal district in which the approved venue is located'. In determining the impact of an application of this nature on a municipal district,

²² Day 1 transcript, p38-39 and Statement of Mr Hodge, [9].

²³ Day 1 transcript, p38.

²⁴ First Ratio Report, p21.

²⁵ The bistro is open daily between 12pm to 2pm/2:30pm and 5:30pm/6pm to 8:30pm (Monday to Thursday) and 12pm to 8:30pm/9pm (Friday to Sunday).

²⁶ The sports bar is open daily between 8am to 3am.

²⁷ The gaming room is open daily between 8am to 3am.

²⁸ Symplan Report, p10.



previous Commission and VCAT decisions have had particular regard to the area serviced by the relevant premises, which is generally referred to as the 'catchment area'.²⁹ The determination of the likely catchment area in this instance is important in the Commission's consideration of the identity of those residents which will be most affected by the Application in terms of gambling-related benefits and harms.

43. The Applicant, under Ratio's guidance, conducted hourly gaming patron surveys at the Premises during two weeks between 14 November 2016 and 27 November 2016 (inclusive). From analysis of these gaming room surveys, Ms Peterson estimated 60-70% of patrons come from within a 5km radius of the Premises. The patron surveys indicated that 54.66% of the gaming patrons reside in Pakenham and 14.48% of the gaming patrons reside in Officer. Given the locational characteristics of the Premises, the results of the patron surveys, as well as the location of other gaming venues in the municipality, Ms Peterson considered that the primary patron catchment for the proposed venue is Officer and Pakenham (i.e. located within the 5km radius of the Premises) with the secondary patron catchment being Beaconsfield, Officer South and Cardinia Road.³⁰
44. In this instance, the Commission considers that the gaming room patron survey provides a reliable indication of the likely gaming patrons for the Premises and accepts that the appropriate catchment of the area consists of the immediate surrounding areas from the venue out to a radius of 5km. The Commission notes that Cardinia Club is just beyond the 5km catchment, but still part of the same municipality as the Premises.³¹
45. According to Ms Peterson, the patron profile for the Cardinia Club includes the urban area generally within 0-5km of the venue. This includes Pakenham Precinct, Pakenham Balance, Cardinia Road and Officer Precinct.³² With the Cardinia Club located in Pakenham, Pakenham is clearly within the 2.5km radius of the venue. The primary patron catchment for the Cardinia Club is Pakenham.³³ Ms Peterson submitted that the Cardinia Club and the Premises share a similar patron catchment.³⁴

Issues for determination

46. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it

²⁹ See for example, *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor (Occupational and Business Regulation)* [2009] VCAT 2275 (12 November 2009); *Whittlesea CC v George Adams Pty Ltd* [2011] VCAT 534 (7 April 2011).

³⁰ First Ratio Report, p21-22.

³¹ Symplan Report, p15.

³² Third Ratio Report, p5.

³³ Ratio Report, dated October 2016, p23.

³⁴ Third Ratio Report, p14.



is satisfied of the following two matters:³⁵

- (a) that the relevant municipal limit for EGMs applicable to the Shire of Cardinia will not be exceeded by the making of the amendment the subject of the Application; and
- (b) that the net social and economic impact of the increase in EGMs permitted in the Premises will not be detrimental to the well-being of the community of the Shire of Cardinia (the '*no net detriment*' test).

If having determined that these matters have been satisfied, the Commission is then required to exercise its discretion under section 3.4.20 to determine whether or not the Application should be granted; that is, whether or not the proposed amendment to the venue operator's licence should be made.³⁶

A. *Municipal limit*

- 47. The Shire of Cardinia is subject to a municipal limit of 573 EGM entitlements. At the time of the Application, there are five gaming venues within the LGA, with approvals to operate a total of 325 EGMs. Approval of the Application would result in the total number of EGMs permitted to be operated in the LGA increasing to 345.
- 48. On that basis, the Commission is satisfied that granting the Application would not cause the relevant municipal limit for gaming machines for the Shire of Cardinia to be exceeded, and hence considers this aspect of the statutory test set out in section 3.4.20 of the GR Act to be satisfied.

B. '*No net detriment*' test

- 49. The Commission must be satisfied that if this Application is granted the net economic and social impact of approval will not be detrimental to the well-being of the community of the municipal district in which the Premises and the Cardinia Club are located. Set out below (and summarised in tabular form at Appendix One) is the Commission's assessment of the economic and social benefits and disbenefits associated with this Application, including the weighting given to each of these impacts.

Economic Impacts

- 50. The materials before the Commission and the evidence adduced at the Hearing provided the evidentiary basis for a range of economic benefits and disbenefits associated with this Application. Even though the Application relates to the Premises, it is self-evident that the main social and

³⁵ The Commission also considered and was satisfied as to the matters set out in section 3.4.20(1)(a) and (d) of the GR Act.

³⁶ An amendment may be made subject to any conditions the Commission thinks fit: GR Act, section 3.4.20(3).



economic benefits to the LGA as claimed by the Applicant relate to those attached to another venue in the LGA, namely the Cardinia Club. Therefore the Commission has taken into account the positive and negative impacts of the Application for both venues. Where the Applicant has not claimed a benefit in respect to a venue, the Commission has not given it consideration.

Expenditure on capital works

51. The Applicant submits that a potential economic benefit associated with this Application comes from the expenditure on the proposed renovations of the Cardinia Club and the associated economic stimulus in the LGA.
52. In relation to the proposed renovations of the Cardinia Club, the Applicant submits that the additional EGMs would allow it to:
 - (a) create a new bistro/function space, including the creation of a new multi-function room;
 - (b) create a new cafe/bar lounge at the main entry, including an extended bar servery;
 - (c) construct two covered walkways (one for staff and one for guests) between the Cardinia Club and the Mercure Hotel;
 - (d) expand the existing sports bar by consolidating the TAB area;
 - (e) create an extended terrace accessed from the bistro area;
 - (f) create a designated community hub area;
 - (g) refurbish the kitchen; and
 - (h) refurbish the air-conditioning.³⁷
53. The proposed renovations to the Cardinia Club are expected to cost \$1.5 million.
54. The Applicant asserts that without approval of the Application, it would not be in a position to implement the proposed renovations.
55. Mr Hodge estimated that the works for renovating the Cardinia Club would take approximately two years.³⁸

³⁷ Mr Hodge's statement, [21].

³⁸ Mr Hodge's statement, [26].



56. The Applicant submits that the proposed renovations to the Cardinia Club will generate short-term employment associated with construction sub-contractors.³⁹
57. The Symplan Report submitted on behalf of the Council addresses the economic impact of the capital works in a minor way by stating that there is neither proof nor guarantee that the supply contracts will be filled by services within the Shire of Cardinia.⁴⁰
58. While the Commission accepts that the expenditure is not inconsequential, it has no evidence before it as to the extent to which the goods and services required for the works would be procured within the Shire of Cardinia. Therefore, the Commission considers this expenditure is an economic benefit but, in the circumstances, one that should be given no to marginal weight. Further, the Commission is wary that benefits associated with the renovation expenditure are not double counted, having regard both to the estimated employment impacts of the proposed renovations and to the social impact that may result from the improved facilities. These aspects are considered further below at paragraphs 64 to 72 and 127 to 131 respectively.
59. In relation to the Premises, the Commission acknowledges that this Application has not been made on the basis of undertaking capital works at that venue. The Applicant submitted that the Premises is a new venue that does not require updating or improvement.

Complementary expenditure

60. Complementary expenditure is a potential benefit where it results in increased economic activity in the municipal district in which the premises the subject of an application are located. However, the extent of this benefit will likely depend upon a range of factors, including the extent to which the expenditure is a consequence of new spending, for example, as a result of additional people coming to the municipal district as tourists as compared to transferred complementary expenditure from other venues within the municipality, and the extent to which that complementary expenditure results in additional spending on local goods and services.
61. In giving evidence as to complementary expenditure by way of the proposed renovations at the Cardinia Club, Mr Hodge estimated that the food and beverage revenue at the Cardinia Club will increase by \$500,000 and \$350,000 respectively in the first 12 months (as a result of the proposed renovations). That estimate had been calculated having regard to additional service demands derived from the Mercure Hotel.⁴¹

³⁹ Written submissions of the Applicant, p17.

⁴⁰ Symplan Report, p55.

⁴¹ Mr Hodge's statement, [52]-[53] and the written submissions of the Applicant, p17.



62. The Commission notes that Mr Hodge's evidence as to new complementary expenditure and the Cardinia Club is estimated and would require an increase in sales and patronage as a result of the proposed renovations. Based on the estimated amount submitted by the Applicant, the Commission is of the view that such an amount of new complementary expenditure is not significant in the context of the LGA as a whole. In addition, the Commission notes that a significant portion of such complementary expenditure is likely to be generated by the commercial arrangements with the Mercure Hotel, which will be constructed regardless of the proposed renovations. Mr Hodge, in his evidence at the Hearing, confirmed that even if the proposed renovations do not occur, it is still anticipated that there will be an arrangement with the Mercure Hotel which will likely increase expenditure on food and beverage.⁴² As such, while this factor represents a positive economic impact of the Application, the Commission attributes this benefit no to marginal weight.
63. In relation to the Premises, the Commission notes that the Applicant has not put forward any estimate of new complementary expenditure at the venue.

Additional employment

64. According to the Applicant, employment benefits associated with the Application may involve short term employment benefits in the LGA associated with the proposed renovations at the Cardinia Club and would involve longer term benefits in the LGA following the introduction of the 20 EGMs at the Premises.
65. The Commission notes there is a lack of evidence in relation to the short term employment benefit for the LGA associated with the proposed renovations at the Cardinia Club (related to, but separate from, the economic benefit for the LGA associated with the expenditure on capital works considered above). Given that the expenditure associated with the proposed renovations at the Cardinia Club has already been separately counted, and based on the evidence before it, the Commission accords this particular benefit of additional employment created by the proposed renovations at the Cardinia Club no weight.
66. In relation to the long term employment benefits, Mr Hodge estimated that the operation of an additional 20 EGMs at the Premises would result in additional equivalent full time (**EFT**) positions at the Premises and the Cardinia Club as follows:
- (a) an additional 3 EFT positions in the gaming room at the Premises; and

⁴² Day 1 transcript, p45.



(b) an additional 9.5 EFT positions at the Cardinia Club.⁴³

67. Mr Hodge noted that the vast majority of the Applicant's staff employed at the Premises reside in the Shire of Cardinia. Specifically, the Applicant submits that 44 of the 60 staff employed at the Premises reside within the municipality (or 73%).⁴⁴ When questioned at the Hearing as to the breakdown of 'additional' EFT positions at the Premises, Mr Hodge stated:

.... **"it's just an extra staff member into the gaming room as a consequence of the additional machines.** Where you arrive at the three FTEs is more as a consequence of the fact that venue is open 16 and 18 hours a day. There's 116 hours in a week, so when you're doing your rosters there are many, many shifts, and the 116 hours divided by 38 hours being a full-time equivalent, brings you to 3.05. FTEs, or we've rounded it off to three". **[Emphasis added]**.

68. Having regard to Mr Hodge's evidence at the Hearing in relation to the proposed increase in employment at the Premises if the Application was granted, as well as Mr Barrett's evidence at the Hearing as to having previously made a recommendation to the Applicant to roster on a minimum of 3 staff members at all times in the gaming room of the Premises,⁴⁵ the Commission considers the scale of this benefit for the Premises should be given no weight.

69. In relation to the Cardinia Club, the Commission notes from Mr Barrett's audit, dated 8 July 2017, that he found the Applicant to have 2 staff members on at all times in the gaming room, which increased to 3 from 12 noon to 10pm and, thereafter back to 2.

70. After the Hearing, the Applicant proposed conditions (were this Application to be granted), which included a minimum of 3 staff members rostered on at all times between 12pm and 12am (12 hours) in the gaming room at the Cardinia Club and the Premises for as long as the additional EGMs are in operation.⁴⁶

71. In relation to Mr Hodge's evidence about an 'additional' 9.5 positions at the Cardinia Club as set out in paragraph 66 above, he explained that he arrived at that figure based on assumptions made about an increase in food and beverage business generated from the Mercure Hotel. Specifically, Mr Hodge explained the breakdown of the figure of 9.5, as:

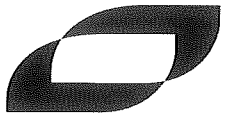
(a) 3.22 EFT positions in the kitchen;

⁴³ Mr Hodge's statement, [52]-[53] and the written submissions of the Applicant, p17.

⁴⁴ Written submissions of the Applicant, p18.

⁴⁵ Day 1 transcript, p75.

⁴⁶ Updated proposed conditions provided by the Applicant to the Commission after the Hearing.



- (b) 1.98 EFT positions in the bistro; and
- (c) 3.5 positions in the gaming room.⁴⁷

72. Overall, the Commission regards the evidence about an additional 9.5 EFT positions at the Cardinia Club as a positive impact, however, given the scale of this impact on the municipality at large, and such a figure being based on an assumption as to commercial arrangements with the Mercure Hotel that will be constructed regardless of the proposed renovations, the Commission considers it is an economic benefit to the community to which it should attribute no to marginal weight.

Community contributions

73. In determining the net economic and social impact of applications of this nature, both the Commission⁴⁸ and VCAT⁴⁹ have regularly treated community contributions proposed by an Applicant as a positive benefit. However, for such contributions to be regarded as a benefit associated with the Application, it is necessary that they are properly regarded as community contributions and that they will result as a consequence of the Application being granted. In assessing the weight to be placed on such a benefit, it is important that the Commission does not conflate this benefit with the social benefit associated with such contributions.

74. Having regard to the evidence and submissions made with respect to the additional community contributions that are set out in paragraphs 143 to 151 below, such contributions can also have a positive economic impact. The Commission considers the community contributions (distributed in accordance with the conditions in the section 173 agreement relating to the Premises as discussed below) and the impact on local community organisations from such a quantum to be an economic benefit which is given no to marginal weight regarding the Premises. No additional community contributions are proposed in relation to the Cardinia Club.

Increased gaming competition in the Shire of Cardinia

75. Increasing competition in gaming in the Shire of Cardinia is a factor to be considered by the Commission in light of the statutory purposes of the Act⁵⁰ and the consumer benefits that derive from competition.

⁴⁷ Day 1 transcript, p11.

⁴⁸ See e.g., *Application by Richmond Football Club* [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

⁴⁹ See e.g., *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.

⁵⁰ See GR Act, s 3.1.1(2).



76. Mr Stillwell said the Premises have two gaming competitors within a 5km radius and two competitors within 10kms.⁵¹ Ms Peterson said the venues within a 5km radius are the Pakenham Hotel and the Castello's Cardinia Hotel and have 70 and 50 EGMs respectively.⁵²
77. Mr Stillwell gave evidence regarding the likely increase in gaming expenditure for the Premises should the Application be granted.
78. His figures for the average net EGM expenditure per adult in the Shire of Cardinia, based on spending in the 2015/6 financial year, \$363, (which is lower than the average for the State of \$553⁵³), is similar to the figures in the VCGLR Report (which is based on the 2016/2017 financial year).⁵⁴
79. Based on existing utilisation statistics of the Premises, Mr Stillwell believes that if the Application was granted, this may not necessarily increase gross gaming expenditure from the current level by virtue of sustained periods of under-utilisation of the EGMS. However, Mr Stillwell submits that should the additional EGMs derive any additional gross gaming expenditure for the Premises, this would be an increase of no more than 5% of the current level of gaming expenditure. He estimated the range of additional gross gaming expenditure for the Premises at \$124,239 and \$207,065 per annum.⁵⁵
80. Taking into account the Premises' gaming competitors, the Premises being an existing venue, and the understanding that higher rates of transferred expenditure occur where there is greater concentration of competitors, Mr Stillwell said it would be reasonable to assume that the transfer rate within the Shire of Cardinia would not be higher than 40%.⁵⁶
81. Having regard to the estimated adult population of 71,966 in the Shire of Cardinia for 2016,⁵⁷ the Commission notes that this Application, if approved, would:
- (a) increase the total number of approvals for EGMs in the municipality by 20, to 345 EGMs licensed to operate in the Shire of Cardinia;

⁵¹ ShineWing Report, p16.

⁵² Second Ratio Report, p11.

⁵³ Mr Stillwell noted that these figures represent where expenditure occurs and not necessarily where the people generating expenditure reside: ShineWing Report, p.11.

⁵⁴ See paragraph 36 above.

⁵⁵ Mr Stillwell used the 'utilisation survey' method, which looks at the utilisation of the current EGMs, where utilisation of over 70% is indicative of periods when additional gaming expenditure is potentially foregone by a venue due to limited capacity and access to an appropriate choice of EGMs: ShineWing Report, p12-13.

⁵⁶ ShineWing Report, p16.

⁵⁷ VCGLR Report, p7.



- (b) increase EGM density in the municipality from 4.5 to 4.8 per 1,000 adults, as compared with the metropolitan average of 5.2 and the State average of 5.5 EGMs per 1,000 adults;⁵⁸ and
- (c) on the basis of Mr Stillwell's figures, would result in an increase of approximately between \$124,239 and \$207,065 per annum of new expenditure to the LGA, a small percentage when compared with the expenditure on gaming for the Shire of Cardinia for 2016/2017 financial year of \$27,045,323.57.⁵⁹

82. Ms Peterson believed that granting the Application would increase gaming competition, and that this benefit carries some weight, but as the number of additional EGMs is small in relation to the overall market, she gave it a low benefit.⁶⁰
83. In contrast, Ms Rosen stated that granting the Application would result in the Applicant increasing its share in the total number of EGMs entitlements in the municipality from 165 (50%) to 185 (53%).⁶¹ In light of such an increase in the Applicant's 50% share of the gaming industry in the LGA, she considered there might be a potential to compromise the competitiveness of the existing gaming venues in the LGA. As such, she gave it neutral weight.
84. The Commission agrees with Ms Rosen that the Applicant's current share of EGM entitlements in the LGA is 'large'. Further, Mr Stillwell's evidence regarding the utilisation rates at the Premises does not indicate that demand for gaming is outstripping supply. In addition, the Commission agrees with Ms Peterson that the number of additional EGMs, 20, is small compared to the overall market in the Shire of Cardinia. Accordingly, the Commission considers it appropriate to attribute no weight to this economic benefit regarding the Premises.

Increased tourism in the Shire of Cardinia

85. Ms Peterson gave evidence that tourism in the Shire of Cardinia would increase by the granting the Application. In particular, she was of the view that refurbishment of the Cardinia Club and the proposed link between the Cardinia Club and the Mercure Hotel would have the ability to attract and provide facilities for the increasing tourism/business to the LGA, resulting in a higher spend within the Shire of Cardinia and representing an economic benefit.⁶²
86. Ms Peterson explained that by renovating the Cardinia Club it would build upon the synergies between the Mercure Hotel and the Cardinia Club. She stated that the proposed relationship

⁵⁸ VCGLR Report, p25-26.

⁵⁹ Ibid, p30.

⁶⁰ Second Ratio Report, p11.

⁶¹ Symplan Report, p15.

⁶² First Ratio Report, p15, 60, Second Ratio Report, p11.



between the Cardinia Club and the Mercure Hotel would include the provision of food and beverage services to the Mercure Hotel guests and function delegates. That offer would be via service delivery to rooms at the Mercure Hotel as well as via a charge back system from the Cardinia Club bistro. The proposed refurbished function facilities at the Cardinia Club would also be offered to the Mercure Hotel guests and function delegates. Ms Peterson asserted that refurbishment of the Cardinia Club is essential for enabling a level of service likely to be expected by the Mercure Hotel guests and function delegates. She stated that without such a service, there would be a potential for business to be lost to other competitors outside the Shire of Cardinia.⁶³

87. In response, the Council argued that even if the Cardinia Club was renovated as proposed by the Applicant (see paragraph 52 above), the venue would ultimately not provide facilities that are not currently available in the municipality.⁶⁴
88. In addition, Mr Hodge gave evidence that there are an 'enormous' amount of other venues within a 3km radius of the Cardinia Club, including the Pakenham Inn (1.5km away), that include facilities like the Cardinia Club, such as a bistro and places for food and beverages.⁶⁵
89. The Commission notes from the Applicant's evidence that the Mercure Hotel would be constructed regardless of the outcome of this Application.⁶⁶ Also, the Commission notes that the social impact of improved facilities at the Cardinia Club is considered below.
90. From the Application Form, the Commission notes that the Applicant has been unable to determine the estimated impact of the gaming on tourism in the first 12 months from granting the Application. In the absence of the Applicant quantifying the estimated impact of the proposed increase in tourism to the LGA, and having regard to the other facilities currently available in the municipality, as well as the matters set out in paragraph 89 above, the Commission gives this economic benefit regarding the Cardinia Club no weight.

Gaming expenditure not associated with problem gambling

91. To the extent that gaming expenditure is not associated with problem gambling, it has been recognised that such expenditure can be treated as an economic positive.⁶⁷ As Bell J notes in *Romsey No. 2*, this approach also brings to account the benefit obtained from pure consumption

⁶³ Ibid.

⁶⁴ Symplan Report, 55.

⁶⁵ Day 1 transcript, p45.

⁶⁶ Written submissions of the Applicant, p12.

⁶⁷ See *Romsey No. 2* [2009] VCAT 2275 [351] per Bell J.



by the lone gambler who does not use EGMs for social reasons.⁶⁸

92. The Commission notes from the ShineWing Report, Mr Stillwell states that the average net EGM expenditure per adult in the Shire of Cardinia, (based on spending in the 2015/6 financial year), (\$363), is lower than the average for the State (\$553).⁶⁹ This is similar to the figures in the VCGLR Report (which is based on the 2016/2017 financial year).⁷⁰
93. Based on existing utilisation statistics of the Premises, Mr Stillwell believes that if the Application was granted it *may* not necessarily increase gross gaming expenditure for the Premises from the current level.⁷¹ Specifically, Mr Stillwell took into account sustained periods of under-utilisation of the existing EGMS at the Premises. However, Mr Stillwell submits that should the additional EGMs derive any additional gross gaming expenditure, this would be an increase of no more than 5% of the current level of gaming expenditure for the Premises. On that basis, he estimated the range of additional gross gaming expenditure for the Premises at \$124,239 and \$207,065 in the first 12 months after installation of the additional EGMs at the Premises.⁷²
94. Of the gross gaming expenditure derived from the additional 20 EGMs at the Premises, Mr Stillwell estimated that 40% would be transferred expenditure from other venues within the Shire of Cardinia, and approximately 60% of the expenditure generated by the EGMs at the Premises would be new expenditure. In other words, for new expenditure generally (i.e. 60% of gross expenditure), Mr Stillwell believed that between \$74,543 to \$124,239 would result due to the Application.⁷³
95. The Symplan Report did not lead any contrary evidence to Mr Stillwell's gross gaming expenditure figures for the Premises from the additional 20 EGMs. Ms Rosen accepted that were the Application to be granted, the potential net increase in total EGM expenditure and EGM expenditure per adult in the Shire of Cardinia would not be above the averages for metropolitan municipalities and Victoria.⁷⁴

⁶⁸ Ibid. Bell J further notes at [352] that the other approach is to say (as Morris J did in *Branbeau Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2005] VCAT 2606 at 79) that gaming extends 'substantial economic and social benefits' to gaming machine users, which treats consumption as a benefit without saying whether it is economic or social. While Bell J states both approaches are correct, for the purposes of this Application, this benefit is treated as an economic benefit.

⁶⁹ Mr Stillwell noted that these figures represent where expenditure occurs and not necessarily where the people generating expenditure reside: ShineWing Report, p.11.

⁷⁰ See paragraph 36 above.

⁷¹ See paragraph 79 above.

⁷² Mr Stillwell used the 'utilisation survey' method, which looks at the utilisation of the current EGMs, where utilisation of over 70% is indicative of periods when additional gaming expenditure is potentially foregone by a venue due to limited capacity and access to an appropriate choice of EGMs: ShineWing Report, p12-13.

⁷³ Ibid, p17.

⁷⁴ Symplan Report, p39.



96. In the absence of alternative evidence to Mr Stillwell's gross gaming expenditure figures for the Premises from the additional 20 EGMs, the Commission accepts Mr Stillwell's analysis.
97. In assessing the extent of the benefit associated with this increased gaming expenditure, the Commission has had regard to the evidence outlined in paragraphs 100 to 121 below with respect to gambling expenditure associated with problem gambling. Various factors suggest that the extent of problem gambling at the Premises is likely to be low to moderate, including:
- (a) "existing access to the EGMs already being high"
 - (b) the gaming room operating hours of between 16 to 18 hours each day;
 - (c) the size of the gaming lounge being "middle to upper middle, verging on a large range",⁷⁵ and
 - (d) while the catchment area of the Premises is of a mixed socio-economic profile, there are suburbs within the catchment area with relatively high rates of socio-economic disadvantage.⁷⁶
98. Generally, the Commission considers that the portion of new expenditure not attributable to problem gambling is an economic benefit. Having regard to the matters discussed in paragraphs 92 to 95 outlined above regarding the Premises and in the sections below related to problem gambling, the Commission considers that the estimated levels of new expenditure that will result if this Application is granted to be minor in the context of the overall local economy of the Shire of Cardinia.⁷⁷ Accordingly, the Commission attributes this benefit no to marginal weight regarding the Premises.
99. The Commission attributes no weight to this economic benefit regarding the Cardinia Club since there was no evidence given regarding the anticipated increase in EGM expenditure at the Cardinia Club resulting from the Application. In particular, there was no evidence as to any likely increase in EGM expenditure from the proposed renovations, although it is self-evident that the EGM expenditure at the Cardinia Club will increase as a result of the increased attractiveness of the venue.

⁷⁵ Day 2 transcript, p37.

⁷⁶ Day 2 transcript, p99.

⁷⁷ The Commission acknowledges that Ms Peterson considered the additional new expenditure to the LGA to be minor in the contest of the overall local economy. She gave it a low benefit: First Ratio Report, p61.



Gambling expenditure associated with problem gambling

100. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.⁷⁸ In assessing this impact (and other effects of problem gambling), the Commission recognises that harms associated with problem gambling may be experienced directly and indirectly as a consequence of gambling undertaken by those who may be defined as ‘problem gamblers’, as well as those who may be otherwise regarded as ‘low-risk’ or ‘moderate-risk’ gamblers.
101. In assessing the extent of this disbenefit, the Commission has regard to the expenditure evidence set out in paragraphs 92 to 95 above. In doing so, the Commission recognises that in considering this aspect of the ‘*no net detriment*’ test it does not include consideration of transferred expenditure because such expenditure cannot be said to exacerbate problem gambling.⁷⁹

The vulnerability of the Shire of Cardinia

102. The extent to which it can be considered that new expenditure will be associated with problem gambling, and hence may be regarded as a disbenefit associated with this Application, will be influenced by the socio-economic status and vulnerability of the community of the Shire of Cardinia, and particularly those living in the catchment area surrounding the Premises and the Cardinia Club. This is because communities characterised by socio-economic disadvantage and greater vulnerability are more susceptible to the harms arising from problem gambling.⁸⁰
103. In relation to the Premises, the Applicant submitted that overall the catchment area surrounding the Premises exhibits few signs of disadvantage and that the SEIFA indices scores indicate the catchment area is relatively robust in socio economic terms on the basis that:
- (a) the municipality sits significantly above the median for all Victorian LGAs;
 - (b) the area within the 2.5km radius of the Premises has a SEIFA score above the median SEIFA score for Victorian suburbs;

⁷⁸ The Commission recognises that, on review, the key likely disbenefit of ‘problem gambling’ has, for convenience, been treated under the heading of ‘social impacts’ in various instances: see *Mount Dandenong Tourist Hotel Pty v Greater Shepparton CC* [2012] VCAT 1899, [121] and following; *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130, [47] per Martin PM and Naylor M. However, this is not an approach that has been uniformly adopted; see, for example, *Mount Alexander Shire Council* [2013] VCAT 101 at [178] and following per Dwyer DP. For completeness, the Commission considers both the economic and social impacts of problem gambling in assessing this Application.

⁷⁹ See *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192 at [11] per Code PM and Nelthorpe M; *Kilsyth and Mountain District Basketball Association Inc v Victorian Commission for Gambling Regulation* [2007] VCAT 2, [40] per Morris J.

⁸⁰ This common-sense approach accords with the VCAT’s treatment of this issue in *Molwin Pty Ltd v Mornington Peninsula SC* [2015] VCAT 1982 (23 December 2015), [68].



- (c) nearby districts surrounding the 2.5 radius of the Premises, (the Beaconsfield, Berwick, Southern Rural and Pakenham Balance precincts) also have SEIFA scores above the Victorian median score; and
- (d) the Pakenham precinct, (where more than 50% of the Premises' gaming patrons reside), has a SEIFA score of 968, 'slightly' lower than the State LGA median score of 993 and the Victorian suburban median score of 1022.⁸¹

104. In her evidence regarding the Premises, Ms Peterson submitted that various factors suggest that the risk of increased incidence and economic impact of problem gambling at the Premises is likely to be low should this Application be granted, as:

- (a) the Shire of Cardinia is expected to experience higher population growth than the Greater Melbourne average between 2016 and 2031.⁸² Looking at the Cardinia Road Precinct and the Pakenham Precinct, the population is expected to increase between 2016 and 2036 by 51.2% and 74.5% respectively. Ms Peterson suspected that the municipality will continue to experience much faster growth due to its status as a growth area;⁸³
- (b) the general indicators of social and economic status showed a mixed socio-economic profile of the catchment area, with indicators both above (such as a higher proportion of home purchases) and below (such as lower proportions of home ownership (outright)) the metropolitan average, and a mixed socio-economic profile when considering the indicators of problem gamblers. Overall, analysis of key social and economic indices indicated to Ms Peterson that the catchment area is typically characterised by a socio-economic profile showing some signs of disadvantage but above the metropolitan average on a majority of indicators;
- (c) net machine revenue (**NMR**) at the Premises for the first six months of the 2016/2017 financial year was \$199 per machine per day, compared to the Victorian country club average of \$201.18 and the metropolitan club average of \$204 respectively. Having regard to the slightly lower than average NMR with the patron surveys at the Premises, Ms Peterson was satisfied that the level of expenditures and level of peak utilisation do not indicate any significant concerns in relation to problem gambling;⁸⁴

⁸¹ Written submissions of the Applicant, p5.

⁸² First Ratio Report, p39.

⁸³ Second Ratio Report, p19-20.

⁸⁴ First Ratio Report, p52 and Second Ratio Report, p39.



- (d) the levels of problem gambling at the Premises would be unlikely to change as there are a range of other entertainment options for patrons besides gaming including a sports bar, bistro, lounge area and children's play area;⁸⁵
- (e) as the Premises are located within an area where access to EGMs is high and gaming is already present at the Premises, Ms Peterson was of the view that it was unlikely that the additional 20 EGMs would create new problem gamblers;⁸⁶
- (f) while the introduction of the 20 additional EGMs did have the potential to change the attractiveness of the Premises to problem gamblers, potentially increasing anonymity of players in the gaming room, an increase in staffing as discussed in paragraphs 66 and 67 above will partly offset this element;⁸⁷ and
- (g) given the low level of additional expenditure anticipated from the 20 additional EGMs, it is likely that any increase in expenditure associated with problem gambling would not be from the catchment area.⁸⁸

105. In contrast, the Council argued that various social and economic factors suggest that the risk of increased incidence and economic impact of problem gambling at the Premises are likely to be increased should this Application be granted, including that (in summary):

- (a) there are areas within the catchment area with relatively high rates of socio-economic disadvantage, especially the Pakenham precinct;
- (b) over 50% of the Premises' gaming patrons reside in the Pakenham precinct;
- (c) the median weekly household income in the Pakenham precinct sits below the metropolitan average, (i.e. higher proportions of persons with a personal income between \$31,200 and \$51,999 and households with an income between \$65,000 and \$103,999);⁸⁹
- (d) the Pakenham precinct displays a higher proportion of households in housing stress than both the LGA and Greater Melbourne; and

⁸⁵ First Ratio Report, p52.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Written submissions of the Council, p5.



- (e) analysis of key social and economic indices indicated that the Pakenham precinct is characterised by a socio-economic profile mainly showing signs of disadvantage, and below the metropolitan average on a majority of indicators.

106. In relation to the Cardinia Club, the Applicant argued that the risk of increased incidence and economic impact of problem gambling at the Cardinia Club is likely to be low should this Application be granted given that the population in the Pakenham precinct is expected to increase between 2016 and 2036 by 74.5%.⁹⁰

107. While Ms Peterson did not disagree with the Council as to the proposed renovations of the Cardinia Club having the potential to increase its attractiveness to gamblers (including problem gamblers), she believed that the improved attractiveness of the venue is unlikely to exacerbate gambling. This is because the proposed refurbishment includes measures to have the venue more in line with best practice guidelines and off-set additional risk, such as:

- (a) the new cafe at the east entrance and the more expansive dining options offering more non-gambling opportunities;
- (b) installation of screens to remove direct visibility into the gaming room from most areas of the venue, including the bistro, the bar and the eastern entrance;
- (c) the chaplaincy service and the community hub as discussed below;
- (d) additional staff for the gaming room as discussed in paragraphs 70 to 71 above; and
- (e) directional signage at all entrances to areas away from the gaming room.

108. In response, the Council submitted that various social and economic factors suggest that the risk of increased incidence and economic impact of problem gambling at the Cardinia Club are likely to be increased should this Application be granted, given that (in summary):

- (a) the area within the 2.5km radius of the Cardinia Club has a SEIFA score that is equal to the lowest 20% of suburbs in Victoria;
- (b) most of the area within the 2.5km radius of the Cardinia Club are in the lowest 30%;
- (c) the Pakenham precinct generally shares characteristics with those that are overrepresented as problem gamblers; and

⁹⁰ Second Ratio Report, p19-20



- (d) the patron profile for the Cardinia Club includes the Pakenham precinct.

RSG practices and best practice guidelines

109. In considering the extent to which any new expenditure may give rise to an increased risk of problem gambling, the manner in which gaming is to be conducted at the Premises and the Cardinia Club is also a relevant consideration. Specifically, in relation to the Applicant's Responsible Service of Gaming (**RSG**) practices:

- (a) Ms Peterson was of the view that the Applicant accepts its responsibility to ensure responsible gaming at its venues, including an extensive induction program and process for all new staff and engaging an independent consultant for compliance audits (Mr Barrett);⁹¹
- (b) Mr Barrett of Leigh Barrett and Associates, who provided the PRC RSG Policies and Procedures Manual dated November 2016 gave evidence that his findings from the audits of the Premises and the Cardinia Club indicate that the Applicant is committed to RSG practices and referred to training registers as to staff attendance for RSG training; and
- (c) Mr Hodge stated that the Applicant has a strong personal relationship with its local Gambler's Help Southern Region venue support worker and is familiar with the referral service for Gambler's Help.

110. The Commission also notes that the Pre-Hearing Report detected nil issues at the Premises from recent gaming and liquor inspections.

111. Notwithstanding the information in paragraphs 109 to 110 above, having regard to the evidence of Mr Hodge and Mr Barrett and, taking into account the Commissioners' visits of the Premises and the Cardinia Club, the Commission is not satisfied as to the Applicant appropriately implementing procedures or strategies in line with best practice guidelines and RSG practices. This is because:

- (a) The Applicant failed to provide the Commission with any evidence from venue managers at the Premises and the Cardinia Club as to actual RSG practices in the venues: In light of the evidence from Mr Hodge and Mr Barrett as discussed below, the Commission considers such information is essential in assisting the Commission to assess the day-to-day workings of the Applicant's RSG practices at the Premises and the Cardinia Club;
- (b) While Mr Hodge stated that compliance and regulatory matters are agenda items to which he reports to the Applicant's board members at monthly meetings for decision-making, the

⁹¹ First Ratio Report, p56.



most recent example of a report for the board on compliance and regulatory matters was over 12 months ago. Mr Hodge admitted that he didn't attend the last meeting, and such meetings were not occurring "monthly".⁹² He was uncertain as to when he had last attended a committee meeting and stated that the structure of agenda reports before the Commission had now changed;⁹³

- (c) Even though Mr Hodge reported to the board on compliance and regulatory matters for decision-making, there was no evidence of Mr Hodge or board members receiving RSG training. In addition, there was no evidence from Mr Hodge that the board had given any strategic consideration to the potential economic and social impact of the Application on the local community at the time of the decision to proceed with the Application. In other words, despite their roles and responsibilities, Mr Hodge and the board seemed distant from RSG matters on a practical level;
- (d) Mr Hodge indicated at the Hearing that Leigh Barrett and Associates is basically the Applicant's "checks and balances" to "make sure all of the things that are necessary to be done to comply and regulate are being done".⁹⁴ No evidence was before the Commission as to any other system by the Applicant for cross-checking compliance and regulatory matters (i.e.: in the event of potential absence of Mr Barrett or inadvertent oversight). The lack of evidence as to operational implementation and adherence to agreed processes and systems was a serious gap in the evidence put to the Commission in support of the Application;
- (e) The system Mr Barrett uses to evaluate the Applicant's adherence to the Responsible Gambling Code of Conduct was a 'voluntary' one, in which on the last occasion only 20-30 self-assessment surveys were collected from patrons (which Mr Barrett regarded as a 'significant' response), with a prize being offered to a chosen staff member and patron after the survey process was finalised. Mr Barrett also confirmed that in the last two years he has not personally been carrying out the audits for the Applicant and only visits the Premises and the Cardinia Club every six months;⁹⁵
- (f) The gaming room at the Cardinia Club is visible from the bistro, bar and eastern entrance. Both Ms Peterson and Mr Barrett identified this as a deficiency in the lay-out of the venue

⁹² See agenda for 5 September 2016 - committee meeting for the Applicant: Day 1 transcript, p32.

⁹³ Day 1 transcript, p32.

⁹⁴ Day 1 transcript, p14.

⁹⁵ Day 1 transcript, p121-123.



and not aligned with best practice guidelines.⁹⁶ However, as argued by the Council, this deficiency had not been addressed within the four years that the Applicant received Mr Barrett's advice until the making of this Application;⁹⁷

- (g) During the Commissioners' visits at the Premises and the Cardinia Club, the requirement for visitors to sign-in prior to entry was not enforced by the venues on those occasions.⁹⁸ Such a failure to enforce is inconsistent with the club rules; and
- (h) Signage at the main entrance to the Cardinia Club shows directions to the gaming room. Signage with directions towards the bistro and non-gambling areas was not easily evident.⁹⁹

112. For a combination of the reasons discussed above, while the Commission is satisfied that the Applicant has RSG policies and an external review process in place, as noted above, the evidence at the Hearing was not sufficient for the Commission to conclude that the CEO and the Board had the knowledge and understanding of Responsible Service of Gambling to ensure that, on a practical level, procedures or strategies to manage risks associated with problem gambling were implemented.

Other factors

113. There are a range of other factors applicable to this Application that the Commission considers relevant in assessing the potential risks associated with problem gambling, including:

- (a) As discussed above, the visibility of the gaming room at the Cardinia Club from other parts of the venue was part of the evidence at the Hearing. After the Hearing, the Applicant proposed conditions were this Application to be granted, which included installing screening prior to installation of the additional EGMs that would be non-permeable and designed to eliminate sight lines into the gaming room.¹⁰⁰ The Commission notes that the letter from Mr Barrett to Mr Hodge, dated 10 November 2017, also recommends screening at the Cardinia Club. The Commission was informed by the Applicant that Mr Barrett made such a recommendation as part of his work with the Applicant on this Application, (as opposed to a "historical recommendation"). While the Commission recognises that the screening would be a measure to assist in mitigating some of the risk of an increase in the incidence of problem gambling caused by granting the Application (including exposure of minors to the

⁹⁶ Day 2 transcript, p34 and Day 1 transcript, p81.

⁹⁷ Day 2 transcript, p160.

⁹⁸ Day 1 transcript, p38.

⁹⁹ Ibid.

¹⁰⁰ Updated proposed conditions provided by the Applicant to the Commission after the Hearing.

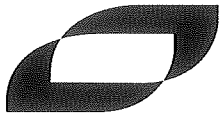


- gaming room), such screening would not prevent sound being heard beyond the gaming room;
- (b) The proposed renovations at the Cardinia Club include moving the TAB up to the sports bar immediately adjacent to the gaming room to make space for the new function room. Even though this reduces the actual size of the area in which gambling occurs, it makes the TAB more prominent and removes the use of the sports bar as a non-gambling area. The Commission does not regard this as an improvement as asserted by Ms Peterson.¹⁰¹ The Commission considers that the long trading hours of the gaming room (18 hours per day), the large number of EGMs (105), and the evidence of Ms Peterson that the ambience of the venue is more like a “hotel” than a “club”,¹⁰² suggests that there is likely to be little change in the predominant gaming characteristics of the Cardinia Club should the proposed renovations be carried out;
 - (c) The Commission has taken into account the Applicant’s proposed condition (were this Application to be granted), that directional signage be installed at all public entrances to the Premises and the Cardinia Club that indicate to patrons the direct route to the bistro and non-gambling activities. The Commission notes that signage (including signage requiring signing-in) is not dependent on whether this Application is granted. Rather, signage could (and, should) be installed by the Applicant at the Premises and the Cardinia Club regardless of the outcome, and consistent with the club rules;
 - (d) The Commission has taken into account the Applicant’s proposed condition (were this Application to be granted), that a minimum of 3 staff members must be rostered on at all times between 12pm and 12am (12 hours) in the gaming rooms of the Premises and the Cardinia Club. However, the Commission notes that this proposal is not entirely consistent with Mr Barrett’s recommendation to the Applicant as given in his evidence at the Hearing that there be a minimum of 3 staff “at all times” (as opposed to 12 hours) in the gaming room at the Premises;¹⁰³ and
 - (e) The Commission notes the submissions received from a local resident of Officer and the Cardinia Ratepayer & Residents Association Inc. Those submissions claim that the additional 20 EGMs would likely increase harm caused to the Shire of Cardinia residents

¹⁰¹ Day 2 transcript, p30.

¹⁰² Day 2 transcript, p43.

¹⁰³ Day 1 transcript, p75. See paragraph 68 above.



who are already experiencing and dealing with gambling-related harm. This factor is further considered below at paragraphs 160 to 166.

The Commission's view

114. Having regard to all of the circumstances, should this Application be granted, the Commission considers that there is a risk of increased problem gambling expenditure associated at the Premises with this Application. That increased expenditure would come from the new expenditure the additional 20 EGMs would generate, discussed in paragraphs 91 to 99 above. Further, the Commission considers there is a risk of potential increased problem gambling expenditure at the Cardinia Club as a result of the proposed renovations and, as acknowledged by Ms Peterson.¹⁰⁴
115. In relation to the Premises, the Commission notes that SEIFA indices indicate a mixed socio-economic profile of the catchment area, including residents coming from within a 5km radius of the venue having a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms (the Pakenham precinct). Over 50% of the Premises' gaming patrons reside in Pakenham. In relation to the risk of an increased incident in problem gambling to the local community were the Application to be granted, the Commission is not entirely persuaded that the impact, (especially in the Pakenham precinct), would be sufficiently mitigated by the factors listed in paragraphs 103 to 104 above by the Applicant.
116. When the matters discussed in paragraph 115 above are considered along with the Pakenham precinct displaying a higher proportion of households in housing stress than both the LGA and Greater Melbourne and the concerns discussed in paragraph 111 and 112 above as to best practice guidelines and RSG practices, on balance, is considered by the Commission to reinforce the potential risk of an increase in gaming expenditure associated with problem gambling. The Commission also notes that the Premises are in a growth area¹⁰⁵ and, as a consequence, the exact risk profile of future patrons remains unclear.
117. Accordingly, and having regard to all the circumstances and factors, the Commission considers with respect to this Application regarding the Premises, that the potential expenditure associated with problem gambling is a negative economic impact upon which it should place a low to moderate weight.
118. In relation to the Cardinia Club, the Commission notes that the immediate area of the venue (the Pakenham precinct) has a SEIFA score that is equal to the lowest 20% of suburbs in Victoria.

¹⁰⁴ See paragraphs 107, 118, 119 and 155 herein.

¹⁰⁵ See paragraph 104(a) above.



The Commission recognises:

- (a) the Pakenham precinct generally shares characteristics with those that are overrepresented as problem gamblers;
- (b) the patron profile for the Cardinia Club includes the Pakenham precinct;
- (c) the proposed renovations of the venue would have the potential to increase its attractiveness to gamblers (including problem gamblers); and
- (d) the number of EGMs at the Cardinia Club is large and the opening hours of the gaming room are long (and, certainly longer than the bistro hours).¹⁰⁶

119. Accordingly, the Commission finds that the residents of the immediate area of the Cardinia Club have a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms. Although the Applicant provided no evidence regarding increased expenditure as a result of the proposed renovations, or indeed any evidence at all regarding expenditure at the Cardinia Club, Ms Peterson agreed that increased venue attractiveness would attract more people, including problem gamblers. As stated in paragraph 99 above, it is self-evident that gaming expenditure will increase as a result of the Application.

120. Considering the matters in paragraphs 118 and 119 above, and the discussion above regarding best practice guidelines and RSG practices, the Commission considers the potential expenditure associated with problem gambling is a negative economic impact upon which it should place a low to moderate weight.

121. Issues relating to the negative social impacts associated with problem gambling regarding the Premises and the Cardinia Club are considered further in paragraphs 152 to 159 below.

Conclusion on economic impacts

122. After considering the economic benefits of the Application and balanced against the disbenefit, the Commission considers that, on balance, the Application is likely to have a neutral economic impact if granted.

Social Impacts

123. The materials before the Commission and the evidence adduced at the Hearing detailed a range of social benefits and disbenefits associated with the Application. As stated in paragraph 50

¹⁰⁶ See footnotes 25 and 27 above.



above, the Commission has taken into account the positive and negative impacts of the Application for both venues.

Increased gaming opportunities for those who enjoy gaming

124. This is a positive impact if the Application will better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs.
125. Although considering the proposed addition of 20 EGMs would improve enjoyment and choice in machines of current patrons, Ms Peterson was of the view that this was a “neutral benefit” given there was little demand for the existing 60 EGMs at the Premises¹⁰⁷ She also believed there was already a wide access to EGMs within the Shire of Cardinia.¹⁰⁸
126. The Commission agrees with Ms Peterson and considers this to be a negligible social benefit to the community in the Shire of Cardinia itself, and hence one on which it places no weight regarding the Premises.

Improved facilities enabling greater range of services

127. According to the Applicant, separate from the economic benefit that may be associated with expenditure involved in capital works at the Cardinia Club, there are also potential social benefits to the community of the Shire of Cardinia from the nature of the proposed renovations at the Cardinia Club.
128. As noted at paragraph 52 above, the proposed renovations to the Cardinia Club include creation of a new bistro/function space and children’s play area adjacent to the bistro, creation of a new cafe/bar lounge at the entrance, the bistro terrace, consolidation of the TAB and sports bar areas, and a community hub as a break out space and place that can be used for the proposed chaplaincy service. In addition, two covered walkways (one for staff and one for guests) between the Cardinia Club and the Mercure Hotel will be constructed. Accordingly, the Applicant submits that the proposed renovations to the Cardinia Club are not solely associated with gaming.
129. Ms Peterson gave low-positive weight to the proposed renovations to the Cardinia Club.¹⁰⁹ She explained that the proposed renovations would improve the overall offer at the Cardinia Club to the wider community. In particular, she stated that the provision of a cafe upon the eastern entrance to the Cardinia Club and the increased function space provides additional options to

¹⁰⁷ First Ratio Report, p60.

¹⁰⁸ Second Ratio Report, p12.

¹⁰⁹ Ibid.



patrons, which would be more in line with best practice requirements.¹¹⁰ Ms Rosen accepted that the proposed renovations at the Cardinia Club were a social benefit, but was of the opinion this was a “neutral benefit” given that the proposed renovations would not provide facilities that are not currently available in the Shire of Cardinia.¹¹¹ In addition, Ms Rosen noted that there was no evidence from the Applicant as to provision of recreational activities from the proposed renovations common for gaming venues operating as a club (as opposed to a hotel).¹¹² The Commission also notes Mr Hodge’s evidence as referred to in paragraph 88 above as to an ‘enormous’ amount of other venues within a 3km radius of the Cardinia Club.¹¹³

130. The Commission considers it is appropriate to consider the social benefits arising from the community’s access to and use of the improved facilities at the Cardinia Club resulting from granting this Application. In particular, the Commission acknowledges that the proposed renovations at the Cardinia Club will include a new café area and function room, facilities not currently available at the venue. However, the Commission notes that this Application has largely been made on the basis of improving the synergies between the Mercure Hotel and the Cardinia Club by the proposed renovations at the Cardinia Club, and that the Mercure Hotel will be constructed regardless of this Application. In addition, the Commission recognises that the proposed renovations largely only improve existing facilities at the Cardinia Club. Also, the Commission accepts, on the evidence available, that a refurbished Cardinia Club would not provide facilities that are not currently available in the municipality. The Commission further notes that the proposed renovations make the TAB area more prominent and remove the use of the sports bar as a non-gambling area, as discussed in paragraph 113(b) above.
131. While focusing on the well-being of the community of the Shire of Cardinia, the Commission considers the proposed renovations at the Cardinia Club would improve the venue’s facilities and provide a social benefit but, in the circumstances, it is appropriate to attribute no to marginal weight to this factor regarding the Cardinia Club.

Community Hubs

132. If the Application is granted, the Applicant states that it would create a designated community hub outside the gaming room at both the Cardinia Club and the Premises. The purpose of the community hub is to provide a designated space for information on gambler’s help services and for the chaplaincy service (as discussed below). The cost to build each community hub would

¹¹⁰ First Ratio Report, p60, Second Ratio Report, p12-14.

¹¹¹ Symplan Report, p57.

¹¹² Ibid.

¹¹³ Day 1 transcript, p45.



purportedly be in excess of \$5,000.¹¹⁴

133. Mr Hodge gave evidence that the community hub in both the Cardinia Club and the Premises would provide a break out area for more detailed or confidential discussions.¹¹⁵ Ms Peterson indicated that the hubs would be multipurpose information centres, not purely focusing on gaming related matters or with a chaplain.¹¹⁶ Mr Barrett stated that materials would be available in the hubs for patrons to collect at their discretion, including (but not limited to) gambling brochures. He believes more patrons are likely to take a brochure if there is a variety of information provided.¹¹⁷
134. In response, the Council argued that provision of the community hubs would be unlikely to provide any additional benefit.¹¹⁸
135. Having regard to the submissions from the Applicant and the Council in respect to the community hubs at the Premises and the Cardinia Club, the Commission accepts that these hubs are a social benefit to the community. However, on the information available, the Commission notes there has been no evidence provided regarding comparative success of community hubs from other venues. Further, the Commission acknowledges additional gambling help material can, and is, provided anonymously in other ways as referred to by Mr Barrett in his evidence.¹¹⁹ The Commission also notes that community hubs are an integral part of the chaplaincy service that is discussed below.
136. In order to avoid the benefit associated with the community hubs being double counted with the chaplaincy service, and in the absence of evidence as to the success of community hubs in other venues where such hubs are currently in place, the Commission considers it appropriate to assign no weight to this benefit regarding the Premises and the Cardinia Club.

Chaplaincy service

137. If the Application is approved, the Applicant states that it will contribute \$18,000 per annum to facilitate a non-denominational chaplaincy service at both the Premises and the Cardinia Club for patrons and staff dealing with a range of issues, including (but not limited to) gambling. This service will be provided through Chaplains Without Borders (**CWB**), which is led by Father Grant. The service will be free and available for two hours per week at both the Premises and the

¹¹⁴ First Ratio Report, p19.

¹¹⁵ Mr Hodge's statement, [64].

¹¹⁶ Day 2 transcript, p88.

¹¹⁷ Day 1 transcript, p68.

¹¹⁸ Day 2 transcript, p161.

¹¹⁹ Day 1 transcript, p102.



Cardinia Club. Such hours may expand on demand.¹²⁰

138. The Applicant submitted that the chaplaincy service through CWB is distinct to others on the basis that an ongoing relationship would be established with each individual who seeks support. In relation to measures for anonymity for patrons seeking the service, the Applicant submitted that the service would not just be provided within the gaming room in both the Premises and the Cardinia Club, but across all areas, including the community hubs.¹²¹ The Commission notes that CWB already has experience in providing support services at venues such as Crown Casino in Melbourne.¹²²
139. At the Hearing, Father Grant explained that the chaplaincy service had a preventive dimension to it that involved building an ongoing relationship with the patrons and staff who attended the venue, and consequently giving them confidence that they have someone to talk to before matters become a crisis. Apart from advertising material about the service, Father Grant also relied on staff at the venue to remind people that the service is available. It generally took three to four months for people to become aware of the service, and start “taking it up”.¹²³
140. In response, the Council argued that the available hours as discussed in paragraph 137 above means access would be excluded for those who might need it at other times. The Council also believed that it would be unlikely patrons who do not identify as religious would seek the counsel of a chaplaincy service.¹²⁴
141. While the Council acknowledged the number of venues where the chaplaincy service is currently provided, the Council noted there was a lack of proof before the Commission as to the effectiveness of the program. The Council believed the chaplaincy service should be given little weight.¹²⁵
142. Having regard to the submissions from the Applicant and the Council in respect to the chaplaincy service, the Commission accepts that the chaplaincy service is a social benefit to the community, and that such a service would not occur without the grant of the Application. The Commission also acknowledged the benefit to staff at the Premises and the Cardinia Club by having this service available. However, in determining the weight to assign to this proposed arrangement, the Commission considers there is limited evidence as to the success of the service and therefore

¹²⁰ Written submissions of the Applicant, p15-17.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Day 1 transcript, p49-51.

¹²⁴ Written submissions of the Council, p9.

¹²⁵ Ibid.



considers it appropriate to assign marginal weight to this benefit.

Social benefit derived from increased community contributions

143. Related to the economic impact associated with increased community contributions, such contributions can also have a positive social impact by improving the social fabric of the community in which they are made. In assessing the weight to be placed on such a benefit, it is important that the Commission does not conflate this benefit with the economic benefit associated with such contributions.
144. The Applicant's proposed conditions were this Application to be granted, include a community contribution condition to donate \$100,000 in cash (increasing each year with CPI) annually from the commencement of the operation of the additional EGMs at the Premises, and continue to do so while and so long as the additional EGMs are in operation at the Premises.¹²⁶
145. Currently, by way of two formal agreements under section 173 of the *Planning and Environment Act 1997* (the **PE Act**), the Applicant contributes \$75,000 per annum from each of the Cardinia Club and the Premises to the community of the Shire of Cardinia (gross distribution of \$150,000 per annum). If this Application is granted, the Applicant proposes to amend the section 173 agreement relating to the Premises to include an additional \$25,000 per annum in community contributions, making a total of \$100,000 per annum (as opposed to \$75,000).¹²⁷
146. Mr Hodge gave evidence that the section 173 agreements relating to the Premises and the Cardinia Club essentially provide that the cash contributions from the Applicant are to be allocated to local sporting groups or clubs, local charities, community organisations or RSG providers (with the exception of Pakenham Football Club).¹²⁸ At the Hearing, Mr Hodge gave evidence that the increase in community contributions would only occur if the Application is granted.¹²⁹
147. Having regard to the section 173 agreements relating to the Premises and the Cardinia Club, the Commission notes that there is a formal process for determining who should receive the community contributions.¹³⁰

¹²⁶ Updated proposed conditions provided by the Applicant to the Commission after the Hearing.

¹²⁷ Written submissions of the Applicant, p14.

¹²⁸ Mr Hodge's statement, [56]-[57].

¹²⁹ Day 1 transcript, p48.

¹³⁰ Condition 3.1, section 173 agreements.



148. Ms Peterson gave low-positive weight to the proposed increase per annum in community contributions. She stated that although the increase would have a positive impact on the social fabric of the local community, she considered the annual amount of \$25,000 to be modest.¹³¹
149. At the Hearing, Ms Rosen informed the Commission that she accepted the proposed increase in community contributions was a potential social benefit, and, in discussing weight for this factor, she believed it was potentially “low to moderate”.¹³²
150. Relying on the conditions in the section 173 agreement relating to the Premises, the Commission is satisfied that the proposed increase in community contributions will result in further funds being distributed to local sporting groups or clubs, local charities, local community organisations and local RSG providers that provide services and facilities to residents of the Shire of Cardinia. Further, the Commission is satisfied that the proposed increase in community contributions will only occur if the Application is granted.
151. In relation to the quantum of the additional contribution, the Commission considers it is relatively small. In the circumstances, the Commission considers the proposed increase in community contributions (distributed in accordance with the section 173 agreement relating to the Premises), to be a positive social benefit to which it accords no to marginal weight regarding the Premises.

Possibility of increased incidence and potential impact of problem gambling on the community

152. Wherever accessibility to EGMs is increased, there is a risk of an increase in problem gambling, which leads to other costs such as adverse health outcomes, family breakdowns and other social costs. Accordingly, the Commission accepts that there is potential for a negative social impact through possible increased problem gambling expenditure.
153. The Commission refers to and relies upon the evidence set out in paragraphs 100 to 121 with respect to the economic impact of problem gambling on the community, which equally apply to the social impact of problem gambling. As is concluded there, the Commission is satisfied that there is potential for increased risk in problem gambling as a result of this Application. This gives rise to a negative social impact. The Commission accepts (as outlined in paragraph 100 above) that harms associated with the incidence of problem gambling are wide-ranging and attributable to all categories of gamblers (‘low-risk’, ‘moderate-risk’ and ‘problem gamblers’) and across the community more broadly.

¹³¹ Second Ratio Report, p12.

¹³² Day 2 transcript, 142.



154. In relation to the Premises, Ms Peterson gave evidence that if the Application was granted she considered the risk of adverse instances in the Shire of Cardinia being created by the additional 20 EGMs at the Premises would be small. Her reasons included the current low demand for EGMs at the Premises, and the provision of additional staffing within the gaming room as discussed above.¹³³
155. In relation to the Cardinia Club, while acknowledging that the proposed renovations of the venue would have the potential to increase its attractiveness to gamblers (including problem gamblers), Ms Peterson believed that the improved attractiveness of the Cardinia Club is unlikely to exacerbate gambling for the reasons discussed in paragraph 104 above.
156. The Council provided a summary of a number of health and wellbeing issues within the Shire of Cardinia. That summary lists adverse physical and mental health and wellbeing issues (including family violence and financial hardship).¹³⁴ However, the Council otherwise provided no evidence as to how such impacts will result from or be exacerbated by the Application.
157. According to Ms Peterson, while there is no evidence that links disadvantage and low incomes with problem spending, there is a lower threshold for tolerance to additional spending in low income areas.¹³⁵ The Commission agrees with Ms Peterson.
158. In relation to the Premises, referring to and relying on its findings in relation to the economic impact of problem gambling at paragraphs 115 to 117 above, the Commission recognises that residents coming from within a 5km radius of the venue have a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms (the Pakenham precinct). As discussed above, over 50% of the Premises' gaming patrons reside in Pakenham. The Commission acknowledges that the Pakenham precinct displays a higher proportion of households in housing stress than both the LGA and Greater Melbourne. The Commission also notes that the Premises are in a growth area¹³⁶ and, as a consequence, the exact risk profile of future patrons remains unclear. As such, the Commission considers this impact is one upon which places low to moderate weight regarding the Premises.
159. In relation to the Cardinia Club, referring to and relying on its findings in relation to the economic impact of problem gambling at paragraphs 118 to 120 above, the Commission accepts that the residents of the immediate area of the Cardinia Club (Pakenham precinct) have a level of socio-

¹³⁴ Written submissions of the Council, p7-8.

¹³⁵ Third Ratio Report, p13.

¹³⁶ See paragraph 104(a) above.



economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms. In addition, the Commission takes into account the large number of EGMs at the Cardinia Club and the long opening hours of the gaming room. Also, the Commission notes the concerns raised in paragraphs 111 and 112 above regarding best practice guidelines and RSG practices. As such, the Commission considers this impact is one upon which it places low to moderate weight regarding the Cardinia Club.

Community attitude

160. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,¹³⁷ the Commission recognises that while community apprehension is not an over-riding factor (in the sense that the Application is not a referendum on gaming), it is certainly a relevant factor in the consideration of the particular social impact within, and as part of, the 'no net detriment' test.
161. In determining this impact, the Commission recognises that the Council's role includes representing the community interest, and, in this instance, the Council has objected to the Application, and provided evidence in support of its objection.
162. In addition, the Commission has considered submissions from people in the community, as detailed in paragraph 113(e) above. Summarised, those submissions seemed directed towards the impact of gambling in the community at large and the concern that the Application might increase the risk of problem gambling.
163. The Applicant made no comment in response to submissions referred to in paragraph 113(e) above. Nor did the Applicant provide any evidence as to the community's attitude in relation to the Application. Ms Peterson did not believe that the additional 20 EGMs would have any impact on the psyche of the residents, as residents already have exposure to gaming at the Premises and also at other venues within the Shire of Cardinia, and so the introduction of the additional machines will only have small, incremental impact.¹³⁸
164. In response to Ms Peterson, Ms Rosen noted in the Symplan Report that neither the Applicant nor the Council undertook any community consultation process to determine the community's attitude to the Application.¹³⁹

¹³⁷ The *Romsey* case (2008) 19 VR 422, [44] per Warren CJ, Maxwell P and Osborn AJA. See also *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [73] per Dwyer DP.

¹³⁸ First Ratio Report, p57.

¹³⁹ Symplan Report, p51.



165. Overall, the Commission is satisfied that the submissions referred to in paragraph 113(e) above suggest there is a negative attitude in parts of the community of the Shire of Cardinia to this Application. However, due to the small number of submissions from people in the community, neither the Council nor the Applicant undertaking any community consultation process, and Ms Peterson's evidence as set out in paragraph 163 above, the Commission is not entirely persuaded that the submissions referred to in paragraph 113(e) above represent the views of the community in the Shire of Cardinia generally. Nevertheless, the Commission recognises that the Council's role includes representing the community interest, and, in this instance, the Council has objected to the Application, and provided evidence in support of its objection.
166. In all of these circumstances, the Commission considers that community attitude is a social disbenefit of this Application to which the Commission considers it appropriate to attribute no to marginal weight regarding the Premises.

Conclusion on social impacts

167. After considering the social benefits of the Application and balanced against the disbenefits, the Commission considers that, on balance, there is likely to be a negative social impact if the Application were granted.

Net economic and social impact

168. The '*no net detriment*' test in section 3.4.20(c) of the GR Act requires the Commission to weigh the likely positive social and economic impacts of an application against the likely negative social and economic impacts. This test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impact of approval on the well-being of a relevant community will be either neutral or positive.¹⁴⁰
169. After consideration of the material before it, including the evidence provided at the Hearing (and weighted as outlined above and summarised in tabular form at Appendix 1 of these Reasons for Decision), the Commission is not satisfied that the social and economic impact to the well-being of the community of the municipal district in which the Premises are located will not be detrimental to the well-being of the community of the Shire of Cardinia. Accordingly, under section 3.4.20(1) of the GR Act, the Commission must not amend the venue operator's licence.

¹⁴⁰ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



CONCLUSION

170. On the material that has been put before it, the Commission has determined that the '*no net detriment*' test has not been satisfied¹⁴¹ and, pursuant to section 3.4.20(1) of the GR Act, the Commission must not grant the Application. Accordingly, the Commission cannot go on to consider the general discretion referred to in paragraph 18 above.

171. The Application is therefore refused.

The preceding 171 paragraphs and the following Appendix are a true copy of the Reasons for Decision of Ms Helen Versey, Deputy Chair, and Mr Des Powell AM, Commissioner.

¹⁴¹ See paragraphs above.



Victorian Commission for
Gambling and Liquor Regulation

Appendix One

Summary of economic and social impacts

The following table is a summation of the economic and social benefits and disbenefits considered by the Commission in reaching its decision. The table is to be read in conjunction with the main body of the Reasons for Decision, as the weight attributed to each factor is determined in light of the particular circumstances of the Application and the evidence presented.

Economic impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Expenditure on capital works	51 to 59	<u>Cardinia Club</u> The Applicant proposes to undertake renovations at the Cardinia Club at an estimated cost of \$1,500,000. The Commission is not satisfied that if the Application was granted, a proportion of the renovation expenditure would occur within the Shire of Cardinia. The amount of the renovation expenditure is not inconsequential. The Commission is also mindful not to double count the benefits associated with the renovation expenditure in relation to both the estimated employment impacts and the social impact that may result from the proposed renovations of the Cardinia Club. Positive impact, no to marginal weight.
			<u>The Premises</u> The Commission acknowledges that this Application has not been made on the basis of undertaking capital works at the Premises. Accordingly, the Commission attributes no weight to this factor regarding the Premises.



	Impact	Paragraph numbers	Comment relevant to weight
	Complementary expenditure	60 to 63	<p><u>Cardinia Club</u> Potential benefit where resulting in increased economic activity in the municipality. The Applicant estimates Commission is satisfied that the food and beverage revenue at the Cardinia Club will increase by \$500,000 and \$350,000 respectively in the first 12 months as a result of the proposed renovations, if the Application is approved. However, the Commission does not consider such new complementary expenditure as significant in the context of the LGA as a whole. In addition, a significant portion of such complementary expenditure is likely to be generated by the commercial arrangements with the Mercure Hotel, which will be constructed regardless of the proposed renovations.</p> <p>Positive impact, no to marginal weight.</p> <p><u>The Premises</u> The Commission notes that the Applicant has not put forward any estimation of new complementary expenditure at the Premises. Accordingly, the Commission attributes no weight to this factor regarding the Premises.</p>
	Additional employment	64 to 72	<p><u>Cardinia Club</u> In relation to the short term benefits associated with renovation activities, there is a lack of evidence in relation to the short term employment benefit associated with the proposed renovations at the Cardinia Club. In relation to the longer term benefits following the introduction of the proposed 20 EGMS, the employment of an additional 9.5 EFT positions at the Cardinia Club is a positive impact. However, the scale of this impact on the municipality at large is not significant.</p> <p>Positive impact, no to marginal weight.</p> <p><u>The Premises</u> Having regard to Mr Hodge's evidence at the Hearing in relation to expected additional employment at the Premises if the Application was granted, given its scale, the Commission considers it to be a benefit, but attributes no weight. In addition, the Commission notes that Mr Barrett made a previous recommendation to the Applicant to roster on a minimum of 3 staff members at all times in the gaming room of the Premises.</p> <p>Positive impact, no weight.</p>



Impact	Paragraph numbers	Comment relevant to weight
Community contributions	73 to 74	<p><u>Cardinia Club</u> The Commission notes that the Applicant has not put forward any proposed amendment to the section 173 agreement relating to the Cardinia Club to include additional community contributions. Accordingly, the Commission attributes no weight to this factor.</p> <p><u>The Premises</u> The additional contribution can have a positive economic impact. However, the quantum of the additional contribution is relatively small.</p> <p>Positive impact, no to marginal weight.</p>
Increased gaming competition in the City of Shire of Cardinia	75 to 84	<p><u>Cardinia Club</u> The Commission attributes no weight to this factor on the information available.</p> <p><u>The Premises</u> Factoring in the non-significant transfer rate of no more than 40%, the Commission is of the view that granting the Application will only increase gaming competition in a minor way. Also taking into account the small number of additional EGMs compared to the overall market in the Shire of Cardinia, the utilisation rates of the current 60 EGMs, and anticipated additional expenditure, does not suggest a substantive increase in gaming competition in the municipal district. The Commission also notes that granting the Application would result in the Applicant increasing its share in the total number of EGM entitlements in the municipality from 165 (50%) to 185 (53%).</p> <p>Positive impact, no weight.</p>



	Impact	Paragraph numbers	Comment relevant to weight
	Increased tourism in the Shire of Cardinia	85 to 90	<p><u>Cardinia Club</u> The Council accepts that a refurbished Cardinia Club would not provide facilities that are not currently available in the municipality. Further, the Mercure Hotel would be constructed regardless of the outcome of this Application. Also, the Commission notes that the social impact of improved facilities at the Cardinia Club is considered below. In addition, the Applicant has been unable to determine the estimated impact of the gaming on tourism in the first 12 months from granting the Application. Positive impact, no weight.</p>
	Gaming expenditure not associated with problem gambling	91 to 99	<p><u>The Premises</u> The Commission attributes no weight to this factor on the information available. <u>Cardinia Club</u> The Commission attributes no weight to this factor on the information available. <u>The Premises</u> The portion of new expenditure not attributable to problem gambling is an economic benefit. The Commission accepts Mr Stillwell's evidence as to transferred expenditure. Having regard to the evidence with respect to the gambling expenditure associated with problem gambling and the estimated level of new expenditure, this factor is allocated no to marginal weight. Positive impact, no to marginal weight.</p>



	Impact	Paragraph numbers	Comment relevant to weight
Disbenefit	Gambling expenditure associated with problem gambling	100 to 121	<p><i>Cardinia Club</i> The immediate area of the Cardinia Club (the Pakenham precinct) has a SEIFA score that is equal to the lowest 20% of suburbs in Victoria. The Pakenham precinct generally shares characteristics with those that are overrepresented as problem gamblers. The patron profile for the Cardinia Club includes the Pakenham precinct. The proposed renovations of the venue would have the potential to increase its attractiveness to gamblers (including problem gamblers). Accordingly, the Commission finds that the residents of the immediate area of the Cardinia Club have a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms. Also, having regard to the evidence of Mr Hodge and Mr Barrett and, taking into account the Commissioners' visits of the Premises and the Cardinia Club, the Commission is not satisfied as to the Applicant appropriately implementing procedures or strategies in line with best practice guidelines and RSG practices. That much reinforces the potential risk of an increase in gaming expenditure associated with problem gambling.</p> <p><i>The Premises</i> SEIFA indices indicate a mixed socio-economic profile of the catchment area, including residents coming from within a 5km radius of the venue having a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms (the Pakenham precinct). Over 50% of the Premises' gaming patrons reside in Pakenham. In relation to the risk of an increased incident in problem gambling to the local community were the Application to be granted, the Commission is not entirely persuaded that the impact would be sufficiently mitigated by the factors listed by the Applicant. Also, the Commission is not satisfied as to the Applicant appropriately implementing procedures or strategies in line with best practice guidelines and RSG practices. That much reinforces the potential risk of an increase in gaming expenditure associated with problem gambling. The Commission also notes that the Premises are in a growth area and, as a consequence, the exact risk profile of future patrons remains unclear.</p> <p>Negative impact, low to moderate weight.</p>



Social impacts

Benefits	Impact	Paragraph numbers	Comment relevant to weight
	Increased gaming opportunities for those who enjoy gaming	124 to 126	<p><u>Cardinia Club</u> The Commission attributes no weight to this factor regarding the Cardinia Club as it is not applicable.</p> <p><u>The Premises</u> Granting the Application will better serve the need of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs. Given the current number of EGMs in the Shire of Cardinia and utilisation rates of the current 60 EGMs, the Commission considers this to be a negligible positive social impact to the Shire of Cardinia.</p>
	Improved facilities enabling greater range of services	127 to 131	<p>Positive impact, no weight.</p> <p><u>Cardinia Club</u> There are social benefits arising from the community's access to and use of improved facilities resulting from granting the Application. However, the Commission accepts that a refurbished Cardinia Club would not provide facilities that are not currently available in the municipality. The Commission further notes that the proposed renovations make the TAB area more prominent and remove the use of the sports bar as a non-gambling area.</p> <p>Positive impact, no to marginal weight.</p> <p><u>The Premises</u> The Commission acknowledges that this Application has not been made on the basis of improving facilities at the Premises. Accordingly, the Commission attributes no weight to this factor regarding the Premises.</p>



	Community hubs	132 to 136	<p><u>Cardinia Club</u> Same as the Premises.</p> <p><u>The Premises</u> The Commission accepts that these hubs are a social benefit to the community. However, the Commission notes that there has been no evidence provided regarding comparative success of community hubs from other venues. This factor is an integral part of the chaplaincy service that is discussed below. Therefore, the Commission is conscious of avoiding the benefit being double counted. Further, the Commission acknowledges additional gambling help material can, and is, provided anonymously in other ways as referred to by Mr Barret in his evidence.</p>
	Chaplaincy service	137 to 142	<p>Positive factor, no weight.</p> <p><u>Cardinia Club</u> Same as the Premises.</p> <p><u>The Premises</u> The Commission accepts that the chaplaincy service is a social benefit to the community, and that such a service would not occur without the grant of the Application. However, given the limited evidence as to the success of the service, the Commission considers it appropriate to assign marginal weight to this benefit.</p> <p>Positive impact, marginal weight.</p>



<p>Social benefit derived from increased community contributions</p>	<p>143 to 151</p>	<p><u>Cardinia Club</u> The Commission notes that the Applicant has not put forward any proposed amendment to the section 173 agreement relating to the Cardinia to include additional community contributions. Accordingly, the Commission attributes no weight to this factor regarding the Cardinia Club.</p> <p><u>The Premises</u> The positive social impact of community contributions is by improving the social fabric of the community in which they are made. The Applicant's proposed conditions were the Application to be granted included donating an additional \$25,000 per annum in community contributions from the commencement of the operation of the additional EGMs at the Premises, and continue to do so while and so long as the additional EGMs are in operation at the Premises. Relying on the conditions in the section 173 agreement relating to the Premises, the Commission is satisfied that the proposed increase in community contributions will result in further funds being distributed to local sporting groups or clubs, local charities, local community organisations and local RSG providers that provide services and facilities to residents of the Shire of Cardinia. The Commission is also satisfied these contributions will occur only if the Application is granted. Having particular regard to the proposed amount of additional community contributions that will occur were the Application to be granted, the Commission determine such contributions to be a positive benefit, which it accords no to marginal weight.</p> <p>Positive impact, no to marginal weight.</p>
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	Impact	Paragraph numbers	Comment relevant to weight
Disbenefits	Possibility of an increased incidence and potential impact of problem gambling on the community (including family violence)	152 to 159	<p><u>Cardinia Club</u> For the reasons set out with respect to "Gambling expenditure associated with problem gambling", the Commission is satisfied there is a disbenefit in the potential for increased risk of problem gambling.</p> <p><u>The Premises</u> Same reasons as above.</p>
	Community attitude	160 to 166	<p>Negative impact, low to moderate weight.</p> <p><u>Cardinia Club</u> The Commission attributes no weight to this factor on the information available.</p> <p><u>The Premises</u> Overall, the Commission is satisfied that the submissions received from people in the community suggest there is a negative attitude in parts of the Shire of Cardinia to this Application. However, due to the small number of submissions from people in the community and neither the Council nor the Applicant undertaking any community consultation process, the Commission is not entirely persuaded that those submissions represent the views of the community in the Shire of Cardinia generally. The Commission also recognises that the Council's role includes representing the community interest, and, in this instance, the Council has objected to the Application, and provided evidence in support of its objection.</p> <p>Negative impact, no to marginal weight.</p>