



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 the Warragul Sporting and Social Club Inc. for amendment of its venue operator's licence to vary the number of electronic gaming machines permitted in the approved premises, the Warragul Sporting & Social Club, located at 55 Victoria Street, Warragul.

Commission:

Mr Ross Kennedy, Deputy Chair
Ms Deirdre O'Donnell, Commissioner

Appearances:

Mr John Larkins of Counsel for the Applicant (instructed by LGS Legal)

Mr Scott May as Counsel Assisting the Commission

Date of Hearing:

26 October 2016

Date of Decision:

21 November 2016

Date of Reasons:

21 November 2016

Decision:

The application is granted subject to the condition outlined at paragraph 85 of the Reasons for Decision.

Signed:

Mr Ross Kennedy

Deputy Chair



REASONS FOR DECISION

INTRODUCTION

1. On 18 July 2016, the Warragul Sporting & Social Club Inc. (**the Applicant**) applied 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 at the Warragul Sporting & Social Club, located at 55 Victoria Street, Warragul (**the Premises**), from 80 to 100 (**the Application**).
2. The relevant municipal authority is the Baw Baw Shire Council (**the Council**). By correspondence dated 19 September 2016 to the Commission, the Council advised that whilst it is extremely concerned with the impact gambling has on the community, it did not wish to make a social and economic impact submission to the Commission.
3. On 28 October 2016, the Commission held a public inquiry to consider the Application (**the Hearing**).¹ The Applicant was represented by Mr John Larkins of Counsel, instructed by LGS Legal. Given it had not made a submission, the Council did not appear and was not represented at the Hearing.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. 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.
5. 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*

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).



- (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.*

6. 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.*

7. The GR Act outlines the process by which a venue operator can apply to the Commission to amend the conditions of their licence, including to increase the number of gaming machines permitted at an approved venue. An applicant must apply to the Commission in an approved form, with the required fee, and make a submission in relation to the net social and economic impact on the municipality in which the approved venue is located (and taking into account surrounding municipal districts).² An applicant must also give notice to the municipal council of the municipal district in which the approved venue is located (before submitting their application to the Commission).
8. After receiving notice of a proposed amendment, a municipal council may make a submission to the Commission within 60 days of receiving such notice. These submissions may address the social and economic impact of the proposed amendment on the municipal district in which the approved venue is located, as well as the impact on surrounding municipal districts.³
9. Section 3.4.17(1)(b) of the GR Act provides for the amendment of the venue operator's licence to vary the numbers of EGMs permitted in an approved venue in accordance with Division 2, Part 4 of Chapter 3 of the GR Act. Section 3.4.20 of the GR Act sets out matters that are required to be considered by the Commission with respect to such a proposed amendment. Relevantly for this Application, this 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 the region or municipal*

² GR Act, section 3.4.18.

³ GR Act, section 3.4.19.



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;*

...

10. 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.⁴
11. The GR Act does not specify the matters which 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.⁵
12. 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.⁶ 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.
13. 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 consequences, and vice versa.⁷ On review, decisions in the Victorian Civil and Administrative

⁴ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [52] per Dwyer DP.

⁵ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA.

⁶ *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #2)* [2009] VCAT 2275, [332], [348] per Bell J cited in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [58] per Dwyer DP.

⁷ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [57] per Dwyer DP.



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.⁸

14. The Commission also notes that, on review, it has been indicated by VCAT that:

*A table of likely economic and social benefits and disbenefits, and with some comments relevant to the relative weight to be given to particular factors ... is a useful way of transparently dealing with the 'no net detriment' test, and might perhaps be considered for wider application.*⁹

This approach has been adopted in a number of VCAT decisions.¹⁰ To enhance the clarity of Commission decisions, and to facilitate greater consistency between the Commission and VCAT, the Commission has adopted the same approach.

15. 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.¹¹ The Commission must decide whether to make the proposed amendment, with or without any changes from that proposed by the applicant, even where an applicant has satisfied the minimum threshold of the 'no net detriment' test.¹²
16. 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;¹³ and

⁸ See *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (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.

⁹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [60] per Dwyer DP.

¹⁰ See, for example: *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* [2013] VCAT 1389; *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Monash CC v L'Unico Pty Ltd* [2013] VCAT 1545; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.

¹¹ 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).

¹² *GR Act 2003*, section 3.4.20(2).

¹³ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [98] per Dwyer DP.



- 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.¹⁴

17. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹⁵ 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.
18. Finally, it is noted that 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. There are no relevant directions issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application.

MATERIAL BEFORE THE COMMISSION

19. The Applicant provided the Commission with the following material in support of its Application:
- a) Application – Amendment to venue operator licence – vary gaming machines, dated 18 July 2016;
 - b) Witness Statement of Jennifer Patricia Smith, Chief Executive Officer of the Applicant, dated 29 July 2016. Ms Smith was a witness at the hearing, adopted her statement as evidence and provided oral evidence to the Commission;
 - c) Witness Statement of Mr Francis Hone, Vice President of the Applicant, dated 26 July 2016.¹⁶ Mr Hone was a witness at the hearing, adopted his statement as evidence and provided oral evidence to the Commission;

¹⁴ *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 *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [7] per Warren CJ, Maxwell P and Osborn AJA.

¹⁵ [2013] VCAT 101, [98].

¹⁶ It is noted that whilst Mr Hone was the Vice President of the Club at the time of his witness statement, at the time of the Hearing, Mr Hone was in fact the President of the Club.



- d) Witness Statement of Mr Robert John South, Club President of the Applicant, dated 27 July 2016;
 - e) Witness Statement of Mr Alan Laidlaw, Operations Manager of the Applicant, dated 25 July 2016;
 - f) Witness Statement of Ms Jacqueline Anne Hutchison, Compliance Officer of Mercury Group Victoria Inc., dated 21 July 2016. Ms Hutchison was a witness at the Hearing, adopted her witness statement as her evidence and provided oral evidence to the Commission;
 - g) Expenditure Report, prepared by Mr David Baldi, General Manager, Mercury Group Victoria Inc., dated 22 July 2016 (**the Expenditure Report**). Mr Baldi was a witness at the hearing, adopted the Expenditure Report as his evidence and provided oral evidence to the Commission;
 - h) Correspondence titled "Instructions to prepare expert report", dated 3 July 2016, authored by LGS Legal;
 - i) Social and Economic Impact Statement, prepared by Harvest Strategy (**the Harvest Report**), authored jointly by Dr Rohan Miller and Assoc. Prof. Gwyneth Howell and dated 28 July 2016. Dr Miller was a witness at the Hearing, adopted the Harvest Report as his evidence and provided oral evidence to the Commission;
 - j) A copy of the floor plan detailing the layout of EGMs, dated 11 July 2005;
 - k) Profit and Loss and Balance Sheet statements of the Applicant for the financial years 2010-2011 to 2014-2015;
 - l) A schedule detailing total community contributions for the last three years (undated);
 - m) Copy of the public notice as appearing in the Warragul and Drouin Gazette, dated 4 October 2016;
20. The following material, prepared by Commission officers, was provided to the Applicant and considered by the Commission:
- a) a report titled *Pre-Hearing Inspection and Compliance Report*, dated 13 October 2016 (**the Pre-Hearing Report**).
 - b) a report titled *Economic and Social Impact Report*, dated October 2016.¹⁷

¹⁷ Commission officers prepared a subsequent report dated 26 October 2016 replacing the previous report, which contained updated statistical material concerning a decision of the Commission in July 2016 (Warragul Country Club Inc at Warragul Country Club premises (Gaming – EGM increase) [2016] VCGLR 18 (18 July 2016))



21. Subsequent to the Hearing, the Applicant provided the Commission with the following additional material:
 - a) a draft condition regarding the Applicant's proposed community contributions; and
 - b) a draft condition regarding the Applicant's proposed building works at the Longwarry Bowls Club.
22. Deputy Chair Kennedy and Commissioner O'Donnell both visited the premises on 17 August and 18 October 2016, respectively.

DECISION AND REASONS FOR DECISION

The Premises and the Baw Baw Shire

23. The Applicant is a sporting and social club venue, located at 55 Victoria Street, Warragul, in the Shire of Baw Baw (**Baw Baw Shire**), a rural municipality located approximately 100km east of Melbourne and covering an area of approximately 4200 square kilometres. Major centres in Baw Baw Shire include Warragul, Drouin and Trafalgar. Baw Baw Shire has an estimated adult population of 36,157. The Victorian Department of Environment, Land, Water and Planning predicts an annual rate of population growth of 2.7% for Baw Bar Shire for the 2016-2021 period, above the Victorian average of 1.7%.
24. Baw Baw Shire is subject to a municipal limit of 299 EGMs.¹⁸ There are four gaming venues currently operating within the municipality with approvals to operate 218 EGMs.
25. Baw Baw Shire has an EGM density of 6.0 EGMs per 1000 adults, which is slightly above the regional average (5.3) and above the State average (5.6). This ranks Baw Baw Shire as the 14th highest of 35 rural municipalities in terms of EGM density per 1000 adults. If the Application is approved, this would rise to 6.5 EGMs per 1000 adults.
26. In 2015-16, Baw Baw Shire had an average gaming expenditure of \$401 per adult, which is 18.4% above the regional average (\$339) but 27.4% less than the State average (\$553). Applying the highest estimate of increased gaming expenditure as received from the Applicant, approval of this Application would result in an increase in average gaming expenditure per adult of 0.52% in Baw Baw Shire. Overall gaming expenditure within Baw Baw Shire has increased 2.84% in real terms over the past five years to June 2016 as compared with a rate of regional average decline in gaming expenditure of 15.63%.

¹⁸ Pursuant to section 3.4A.5(3A)(b) of the GR Act, the Commission determined, in accordance with the criteria specified in the Minister for Gaming's order on 15 August 2012, the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each region.



27. In relation to the area immediately surrounding the Premises (i.e. within a 5km radius), approximately 42.5% of Statistical Area Level 1 (**SA1s**)¹⁹ areas are in the first and second quintiles of the Socio-Economic Indexes for Areas (**SEIFA**)²⁰ index of relative socio-economic disadvantage (indicating high relative disadvantage). Of the remaining SA1s immediately surrounding the Premises, 20% are in the third quintile (indicating neither relative advantage nor disadvantage) and 37.5% are in the fourth and fifth quintiles (indicating low relative disadvantage). Further, the Baw Baw Shire is ranked the 47th most disadvantaged of all 79 Local Government Areas (**LGAs**).
28. The unemployment rate in Baw Baw Shire is 5.4%, which is marginally above the regional Victorian unemployment rate of 5.2%.
29. The Premises itself currently comprises:²¹
 - a) a 100 seat bistro;
 - b) a bar and members lounge;
 - c) a gaming room with 80 EGMs in operation;
 - d) a TAB Lounge;
 - e) a committee room;
 - f) outdoor areas with on-site car parking for 100 cars; and
 - g) a small hall for functions.
30. According to the Harvest Report, there are 15 full time and 35 casual staff employed at the Premises.

Issues for determination

31. Under section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following two matters:²²
 - a) that the regional or municipal limit for EGMs in Baw Baw Shire will not be exceeded by the making of the amendment the subject of the Application; and

¹⁹ SA1s have been designed by the Australian Bureau of Statistics (**ABS**) as the smallest unit for the release of Census data.

²⁰ SEIFA is a product developed by the ABS that ranks areas in Australia according to relative socio-economic advantage and disadvantage. It consists of four different indexes, including the Index of Relative Socio-economic Disadvantage.

²¹ See, collectively, the Harvest Report and evidence of Ms Smith.

²² 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.



- 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 Baw Baw Shire (**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 of the GR Act 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.²³

A. Municipal limit

32. A municipal limit of 299 EGMs applies to Baw Baw Shire.²⁴ At the time of this Application, there are four gaming venues within the municipality with approvals to operate 218 EGMs. Approval of the Application would cause the total number of EGMs approved to be operated in venues in Baw Baw Shire to increase to 238.
33. On that basis, the Commission is satisfied that granting the Application would not cause the municipal limit for the total amount of gaming machines in Baw Baw Shire to be exceeded and considers this aspect of the statutory test set out in section 3.4.20 of the GR Act is therefore satisfied.

B. ‘No net detriment’ test

34. The Commission is required to be satisfied that if the Application is granted, the net economic and social impact of the approval will not be detrimental to the well-being of the community of the municipal district in which the Premises 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.

Social Impacts

Community Contributions

²³ *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT 2606 at [40] (Morris J)

²⁴ While the number of entitlements operating within a particular region or municipality may be capped, the Commission notes that there is nothing to preclude the aggregate number of EGMs for which approved venues may be licensed from exceeding that cap.



35. In determining the net economic and social impact of applications of this nature, both the Commission²⁵ and VCAT²⁶ have regularly treated community contributions as a positive benefit. However, for such contributions to be a benefit that is associated with the Application, it is necessary that they are a consequence of the Application.
36. The Applicant provided evidence in relation to the existing community contributions made. Ms Smith gave evidence that the Applicant currently donates \$40,000 per annum in cash to local community groups, representing an increase from approximately \$15,000 donated in 2009. Ms Smith explained that the Club calls for tenders from community groups and decisions are made via a committee on a monthly basis. Ms Smith also explained that the Club provides discounted function food and room hire to many community groups,²⁷ estimated to be valued at approximately \$45,000 per year.
37. Ms Smith told the Commission that if the Application succeeds, the Applicant would provide an additional \$25,000 cash contribution to a fund that would be administered by a separate committee, which would include a Council and community representative. The committee would consult with the Baw Baw Public Health and Wellbeing Plan Committee (**the Health and Wellbeing Plan Committee**) regarding the distribution to be made and it would confirm payment of the additional contribution to Council each year. In addition to the additional cash contribution, Ms Smith explained that the Applicant would also commit to maintaining their existing cash and in-kind contributions to the value of at least \$40,000 per annum. Accordingly, the Applicant proposed a condition incorporating these factors to be included on the approval, should the Commission determine to approve the Application.
38. Dr Miller, in the Harvest Report and oral evidence, considered the proposed community contributions as a “moderate benefit” due to the greater interaction between Council officers and recipient organisations and the encouragement of recipient organisations to match those benefits.
39. The Commission accepts that there is a social benefit arising from the increased community contributions proposed by the Applicant as part of the Application, noting that they are to be distributed with the involvement of Council’s existing Health and Wellbeing Plan Committee. Additionally, the involvement of the Health and Wellbeing Plan Committee may act to increase the social impact of the distribution of funds - as it would be expected that the distribution would benefit organisations or projects directed towards social and community benefit.²⁸ The

²⁵ See, for example, Application by Richmond Football Club [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

²⁶ See, for example, *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.

²⁷ The Applicant provided the Commission with a list of recipients which included various sporting and junior sporting clubs, Probus, Gippsland Community College and Warragul Police.

²⁸ The Commission notes that the Baw Baw Shire’s *Community Health and Wellbeing Plan* (2013-2017) contains a variety of strategic objectives including reduction of violence, harm from tobacco, alcohol and drugs, protecting public health and



Commission also notes that in its letter to the Commission, Council stated that the contributions would be used to fund initiatives identified within the Baw Baw Public Health and Wellbeing Plan, particularly “initiatives which address the risk factors of gaming addiction”.

40. Further, whilst the existing contributions cannot strictly be considered a benefit of the Application, the Commission notes that the condition proposed by the Applicant acts to “crystallise” existing contributions, whereby the Applicant proposed in its condition that it would maintain its existing contributions at an amount no less than \$40,000 per annum.
41. Having had regard to the quantum, proposed method of delivery and proposed recipients, the Commission considers that a social benefit arises by virtue of the proposed community contribution and that in the circumstances, this benefit should be afforded a low weighting.
42. However, the Commission does not consider that, of itself, any proposed “interaction” between Council officers and recipient organisations can be properly considered a benefit of the Application. According to the evidence before the Commission and the condition proposed by the Applicant, recipient organisations are not required to “match” contributions, and even if that was the case, the Commission is not confident that that would comprise a recognisable social benefit.

Improved facilities at the Longwarry Bowls Club

43. It is generally accepted that new or enhanced facilities provide a social benefit to those who use them.²⁹ Ms Smith told the Commission that in 2014, the Applicant amalgamated with the Longwarry Bowls Club (**the Bowls Club**), whom were in financial stress at the time. Whilst the Applicant has already invested funds into the Bowls Club, it was submitted that the Applicant would be in a better position to properly develop the Bowls Club, should the Application succeed. The proposed redevelopment is estimated to be at a total cost of \$1.2m and comprises two stages:
 - (a) a \$300,000 renovation of the hospitality facilities (**Stage 1**); and
 - (b) installation of a roof, making the Bowls Club an all-weather facility, at a cost of \$900,000 (**Stage 2**).
44. Ms Smith told the Commission that the Bowls Club operates two days per week but following redevelopment, the Bowls Club will be able to operate five days per week, all year. Ms Smith explained that if the Application is not successful, the redevelopment would not occur due to the fiscal position of the Applicant and the significant competitive pressures it currently faces.

enabling more accessible services – see <http://www.bawbawshire.vic.gov.au/Our-Community/Community-Health-and-Wellbeing>.

²⁹ *Mount Alexander SC v VCGLR & Ors* [2013] VCAT 101 (14 February 2013).



45. Mr Hone also gave evidence to the Commission that a redeveloped Bowls Club would be beneficial to club users and it would be a “focal point” for the small (albeit, growing) town of Longwarry, with expected increased patronage.
46. Dr Miller considered that, in his view, the redevelopment would increase the number of patrons attending the Bowls Club and it would also enhance the surrounding amenity of the Bowls Club, stemming from bowls and non-bowls enjoyment by club users. Dr Miller further stated that the redevelopment would increase the opportunity for individuals to play a sport that mainly attracts senior citizens, enhance the opportunity for inter and intra state bowls competitions and revive the hospitality offering at the Bowls Club.
47. In the event the Commission determines to approve the Application, the Applicant provided the Commission with a draft condition, which in summary requires the Applicant to complete Stage 1 within three years and complete Stage 2 within five years of the commencement of the operation of the additional EGMs at the Premises.
48. The Commission accepts that the redevelopment of the Bowls Club will have a positive social benefit, which is emphasised in a small town such as Longwarry³⁰ and as summarised by Dr Miller. The Commission further notes that, unlike many applications involving enhanced facilities, this proposed redevelopment involves an area that is distinct and separate from the actual gaming premises. Given the lack of connection with gaming, this increases the weight that may be afforded to it. However, the Commission notes that the facilities will not be completed for some number of years and accordingly, it must reduce the weight afforded to it as the benefit will not accrue to the wider community for some years. Overall, the Commission considers that there will be a social benefit associated with this factor, to which it attributes a low to moderate weight.

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

49. Where accessibility to EGMs is increased, there is a risk of problem gambling, which leads to other costs such as adverse health outcomes, family breakdowns and other social costs. Clearly, there is a potential for negative social costs arising from the approval of additional EGMs, through possible increased problem gambling expenditure.
50. There are some factors which may act to increase the potential risks associated with problem gambling. Firstly, the Premises is a venue with 80 EGMs, which would increase to 100 (close to the maximum of 105 EGMs)³¹ in the event the Application is granted. After questioning by the Commission, Ms Hutchison acknowledged that a large venue increases the anonymity afforded

³⁰ As distinct from the economic benefit associated with the capital expenditure, which is discussed at paragraph 63.

³¹ Section 3.4.1(3) of the GR Act provides that a venue operator’s licence only authorises the licensee to conduct gaming on 105 approved gaming machines in every approved venue.



to patrons, thereby increasing the risk of problem gambling. However, Ms Hutchison also considered that the sign-in requirements of a club venue³² reduce (but do not eliminate) this risk, particularly for those patrons who have self-excluded. Dr Miller also told the Commission that, to ameliorate anonymity, three staff members work on the gaming floor, allowing them to detect and intervene should patrons display signs of problem gambling.

51. The immediate area surrounding the Premises also contains areas of relative socio-economic disadvantage according to SEIFA data, which has been associated with either increased risks of, or potential for, problem gambling. Dr Miller explained that whilst there are areas close to the Premises with a low SEIFA ranking, there are also elevated levels of education within those statistical areas.
52. Notwithstanding the above, the Commission notes that the Applicant did not provide a patron survey or similar evidence to the Commission during the Hearing or in the Application. Noting that the Premises is a club venue with sign-in requirements, the Commission considers the lack of evidence submitted to be disappointing. Such evidence may have enabled the Commission to more accurately consider whether the patronage of the Premises arises from relatively advantaged or disadvantaged socio economic areas. However, the Commission notes that the Baw Baw Shire community has existing access to EGMs and according to the evidence of Mr Baldi, the estimated new expenditure is not overly large.
53. The Commission further notes that the layout of the Premises, as observed by Commissioners during site visits, causes the gaming room to be predominant upon entry into the Premises. This potentially increases the focus on gaming at the Premises compared to other non-gaming recreational activities. Ms Smith acknowledged this issue at the Hearing and explained that the Applicant is presently renovating the Premises (due to be completed in mid-2017) which will deemphasise the focus on the gaming room upon entry by patrons. Although the renovations at the Premises do not form a part of the Application, the Commission nevertheless welcomes the renovations which will act to reduce the emphasis on the visibility of gaming at the Premises.
54. In addition, the Commission notes that the Premises is proximate to many other social, recreational and business facilities in the town of Warragul, therefore, the Premises may be considered a “convenience” location. It has been recognised that “convenience” locations are at a higher risk of attracting problem gamblers compared to destination venues and this matter was acknowledged by Counsel for the Applicant during the Hearing.³³
55. On the other hand, there are factors that suggest that the risk of increased incidence and impact

³² See section 10(4)(ii) of the *Liquor Control Reform Act 1998* (Vic).

³³ *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* [2013] VCAT 1389, [78]-[80] per Wright SM and Rae M citing *Pink Hills Hotel Pty Ltd v Yarra Ranges SC & Ors* [2013] VCAT 954



of problem gambling is likely to be low as a result of the Application. Dr Miller asserted that most members of the club are aged over 50 years and will have “considerable experience and social learning” regarding EGM play.³⁴ Whilst the Commission accepts that the median age of the Baw Baw Shire is older than that of the Victorian average, the Commission also notes that there is a relatively high level of aged pension recipients in the Shire with fixed incomes. Further, the Commission was not provided with evidence of the age breakdown of the club membership.

56. Mr Baldi gave evidence to the Commission that, despite the high utilisation rates of the EGMs at the Premises, average gaming expenditure per EGM was generally low and lower than all surrounding venues. The Commission considers that higher utilisation but lower levels of average expenditure may reduce the concern from a problem gambling perspective. However, the Commission notes that it is difficult to draw definite conclusions from averaged figures.
57. Another relevant factor in determining the risk of problem gambling is how gambling is conducted by the Applicant at the Premises and in particular, whether the Applicant operates in a manner which promotes the Responsible Service of Gaming (**RSG**). Ms Hutchison told the Commission that following the audits she had performed at the Premises, the Applicant has responded positively to all the recommendations she has made. Specifically, she recommended that the Applicant engage in further promotion of RSG materials and that they attempt to counter the influence posed by the venue’s layout (as discussed in paragraph 53) by utilising additional signage and staff at the entry of the Premises.
58. Dr Miller also explained that the Applicant has defined protocols and systems for the prevention and reporting of RSG related issues, including immediate escalation to the Applicant’s Board and the RSG Manager of Mercury. Dr Miller stated that the Applicant is proactive in promoting RSG materials and providing staff training regarding RSG and the identification of self-excluded patrons. He further indicated that employees have developed longstanding relationships with the regular existing club clientele. Ms Hutchison submitted that the Applicant goes “above and beyond” legislative and regulatory requirements by facilitating Responsible Service of Alcohol and RSG training for members of the Applicant’s Board, additional clocks in excess of regulatory requirements and insistence on RSG training for staff prior to commencement.
59. The Commission accepts the evidence of Ms Hutchison and Dr Miller, in summary that the Applicant has appropriate RSG practices and procedures with evidenced compliance as well as a demonstrated intention to reduce any problem gambling at the venue.
60. In the circumstances, the Commission considers that there is a risk of increased problem

³⁴ The Commission also notes research suggesting lower levels of prevalence of moderate risk and problem gambling amongst those aged 65 and over, see: Billi, R., Stone, C.A., Marden, P., Yeung, K., (2014), The Victorian Gambling Study: A longitudinal study of gambling and health in Victoria, 2008–2012. Victorian Responsible Gambling Foundation p 18.



gambling associated with the Application, which is regarded as a social disbenefit. In assessing the weight to be attributed to this disbenefit, the Commission had regard to the size of the Premises, the layout of the Premises, the location of the Premises within Warragul and the socio-economic profile of the immediate area. The Commission notes that the Applicant has commenced renovations to deemphasise the gaming area upon entry to the Premises. The Commission further notes that the new expenditure that is anticipated as a result of approving the Application is relatively low and the Applicant has also demonstrated a commitment to RSG practices. Accordingly, the Commission ultimately considers that there is a relatively low risk in the potential for an increase in problem gambling as a result of approving the Application, therefore, it attributes a low weight to this social disbenefit.

Economic Impacts

Expenditure on capital works

61. A potential economic benefit associated with this Application is that arising from the expenditure on the proposed refurbishment of the Bowls Club.
62. According to Ms Smith and Mr Hone, the Applicant proposes to undertake renovations at an estimated cost of approximately \$1.2m, if the Application is successful. Further details as to the nature of these renovations are set out in paragraphs 43 to 48. It was Ms Smith's evidence that these renovations could not proceed if the Application was unsuccessful. Dr Miller further advised the Commission that the Applicant intends to give priority in hiring local contractors, should the redevelopment proceed.
63. The Commission accepts that there will be an economic benefit associated with the expenditure on capital works that may provide an economic boost to a small town such as Longwarry. The intention to utilise local contractors will increase the likelihood of the benefit accruing in the LGA. However, as discussed above at paragraph 48, there is a significant time between the commencement of the works and the completion of the works.³⁵ Accordingly, the Commission considers that this economic benefit should be given a marginal weight. The Commission also acknowledges that it is important to avoid double counting the benefits associated with the renovation, having regard to the social impact that may result from the improved facilities. This aspect was considered above at paragraphs 43 to 48.

Employment Creation

³⁵ It is noted that, however, the expenditure of funds would occur prior to completion, and thus unlike the social benefit, the associated economic benefit may accrue earlier than completion.



64. The Application may involve an economic benefit by virtue of increased employment, including temporary employment as a result of the renovation activities and permanent employment, being additional staff required at the Bowls Club and at the Premises following the introduction of additional EGMs.
65. Dr Miller told the Commission that there has been a slight increase in unemployment in the LGA in recent times, although the unemployment rate remains lower than the surrounding LGAs. The Harvest Report predicted that there would be a likely increase of two full time employment (**FTE**) roles at the Premises and three FTE positions at the Bowls Club arising from the Application. Under cross examination, Dr Miller conceded that he had not considered that this estimate may need to be reduced as some roles may be transferred, given the transferred expenditure expected in accordance with Mr Baldi's advice (see paragraph 70) and noting that the estimate was a "forecast". Dr Miller considered that the employment benefit was "Medium+".
66. The Commission considers that an increase in employment may be more significant in an area of higher unemployment, but notes that the Baw Baw Shire only has marginally higher rates of unemployment. Further, the Commission considers that whilst it is predicted that two FTE roles will be created at the venue, it is possible that in the context of the LGA, at least one FTE role may be transferred from another venue due to the transferred expenditure discussed above. Whilst the Applicant argued that three FTE roles would arise at the Bowls Club, the Commission notes that this is necessarily dependent on the completion of the renovation works, which will be some years away. Accordingly, the Commission considers that the benefit by way of employment will likely be at best only one FTE role in the short term, and that any longer FTE benefit is difficult to establish with certainty, therefore, attributes this factor a marginal weight.

New expenditure not associated with problem gambling

67. 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.³⁶ As Bell J notes in *Romsey No. 2*, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use EGMs for social reasons.³⁷
68. The Mercury Report and Mr Baldi gave evidence on the expected increase in gaming expenditure should the application be granted. Mr Baldi explained that, in summary, he was able to analyse expenditure figures derived from the eBet Metropolis system, which analyses usage and

³⁶ *Romsey No. 2* at [351] per Bell J.

³⁷ *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.



expenditure of each EGM at 15 minute intervals and collates them for each hour for each EGM. Mr Baldi then analysed, over the months of May and June 2016, times at which over 70% of machines were utilised, extrapolating what the impact of additional EGMs would be during those peak periods. Mr Baldi added the revenue that would be generated by an additional 20 EGMs during those peak periods, assuming a 70% utilisation rate of the additional EGMs.

69. Mr Baldi also told the Commission that there has been a significant decline in gaming expenditure at the Premises, at an average annual rate of 14.8% over the last four years.³⁸ Mr Baldi attributed this to competition and the need to renovate the Premises, noting the impact of the recent Commission approval of 20 additional EGMs at the Warragul Country Club and its \$10m renovation, which he considered would reduce expenditure at the Premises further.³⁹
70. Based on the utilisation statistics, the historical and recent expenditure trends across the LGA and at the Premises, Mr Baldi estimated that the additional gaming expenditure generated from an increase of 20 EGMs at the premises would be approximately \$195,000 in the first year of operation. Based on his industry experience and analysis, Mr Baldi estimated that approximately 60% of that figure would be transferred from existing venues, resulting in a net increase in gaming expenditure in the LGA of approximately \$78,000 (or 0.52% of existing total LGA gaming expenditure) in the first year of operation.
71. In considering the likely impact of an additional 20 EGMs at the Premises, the Commission notes that the expenditure on EGMs in Baw Baw Shire increased 2.84% in real terms over the past five years, contrary to the general decline experienced in rural areas over the same time period.⁴⁰ The Commission also treats with caution, Mr Baldi's assumption that the utilisation rate would remain constant should an additional 20 EGMs be installed. This was put to Mr Baldi in cross-examination, who noted that if the utilisation rate did decrease (and it may), the expenditure estimates would, in fact, be lower.
72. The Commission considers that there is some uncertainty in predicting expenditure in this matter, given that the impact of the EGMs approved at the Warragul Country Club is still uncertain, however, the Commission generally considers that Mr Baldi's estimate of new expenditure appears to be reasonable and accordingly, it accepts his estimate. Having regard to the factors outlined above and to the evidence outlined above at 49 to 60 with respect to the likely incidence of problem gambling, the Commission considers that majority of the new expenditure will not likely be associated with problem gambling. In any event, the Commission only attributes a marginal

³⁸ Mr Baldi explained that in 2011/2012, the Applicant's expenditure was approximately \$6m, but had reduced to approximately \$5.2m by 2015/2016.

³⁹ *Warragul Country Club Inc at Warragul Country Club premises (Gaming – EGM increase)* [2016] VCGLR 18 (18 July 2016)

⁴⁰ Gaming expenditure in rural areas decreased 15.63% in real terms over the previous five years to June 2016.



weight to this benefit, given the low levels of new expenditure that is anticipated.

Increased gaming competition in the municipal district and increased gaming opportunities for those that enjoy gaming

73. Increased competition in gaming in Baw Baw Shire is also a relevant impact in light of the statutory purposes of the Act and the consumer benefits derived from competition. Dr Miller stated that, in particular, the Premises competes with the other club venue in Warragul (the Warragul Country Club) and that an increased EGM choice will assist the Premises in remaining competitive.
74. Further, Mr Baldi's analysis indicated that during May 2016, there were 41 instances in which machine utilisation rates exceeded 70%, with much of the demand occurring on Thursdays and Fridays of each week. Dr Miller also stated that the population of Baw Baw Shire is rapidly growing, with population expected to grow 30% over 10 years, as compared with the Victorian average of 18%.
75. The Commission is satisfied that the utilisation rates indicate that there is a demand for the supply of gaming, which the current number of EGMs at the Premises may not meet. It also notes that Mr Baldi's report indicates that the utilisation rate was well over 90% in the Premises at various peak times. The Commission has also considered that the area seems to be one where population growth will continue over the medium term. The Commission acknowledges that there is a benefit in not only increasing gaming competition, but also machine choice for recreational players and catering for (non problem gambling) demand. Accordingly, the Commission considers that increased gaming competition and satisfaction of demand comprise an economic benefit, which the Commission considers to be of a marginal to low weight.

Possibility of an increased incidence and impact of problem gambling

76. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.⁴¹ In assessing the extent of this disbenefit, the Commission recognises that it does not include transferred expenditure because such expenditure cannot exacerbate problem gambling.⁴²
77. In assessing the extent of this disbenefit, the Commission accepts the expenditure evidence of

⁴¹ 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.

⁴² See *Bakers Arms Hotel* 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.



Mr Baldi as set out at paragraphs 68 to 70, which indicates that the total new gaming expenditure is estimated to be comparatively slight.

78. The Commission refers to and relies upon the considerations set out in paragraphs 49 to 60 with respect to the social impact of problem gambling on the community.
79. The Commission considers that whilst the area immediately surrounding the Premises does present some possible vulnerability to problem gambling, the Commission is nonetheless satisfied that the potential for an increase in problem gambling at this particular venue is low due to the minimal increase in new gaming expenditure that is expected and the Applicant's demonstrated approach to RSG practices. In forming this view, the Commission is also mindful of the benefits associated with the renovations that are underway, which will reduce the emphasis on the gaming area upon entry to the Premises and ameliorate the potential impact of problem gambling arising from existing (and new) EGMs.
80. Accordingly, the Commission finds that the economic disbenefit associated with the risk of problem gambling as a result of the Application is low, therefore, accords this factor a low weight.

Net economic and social impact

81. 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 the approval on the well-being of a relevant community will be either neutral or positive.⁴³
82. 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 satisfied that there will be a small net positive social and economic impact to the well-being of the community of the municipal district in which the Premises are located if the Application is approved.

Determination of Application

83. According to the material and evidence that was put before it, the Commission has determined that the '*no net detriment*' test has been satisfied and that the total number of EGMs will be under the relevant municipal limit. However, the Commission notes that it retains a discretion in

⁴³ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



determining whether or not to grant the Application.⁴⁴

84. The Commission is satisfied that the Applicant understands and will continue to act in accordance with its obligations to, so far as is reasonable, take measures to prevent problem gambling. Accordingly, the Commission is satisfied that it should exercise its discretion to approve the Application and make the proposed amendment to the venue operator's licence to vary the number of EGMs permitted at the Premises from eighty (80) to one hundred (100), subject to the conditions proposed by the Applicant and designed to secure the benefits alleged.⁴⁵

85. The conditions are as follows:

A. Community Contributions

(a) *The operator of the Premises (**the Venue Operator**) will establish the Warragul Sporting & Social Club contributions fund and will:*

(i) *Make cash contributions annually in the sum of \$25,000 (increased each year by the increase in CPI) (**the Contribution**) from the commencement of the operation of the additional 20 EGMs at the Warragul Sporting and Social Club for the life of the entitlements;*

(ii) *Distribute the Contribution in accordance with the determination of a Committee established by the Venue Operator and comprising one (1) representative of the Venue Operator, one (1) representative of Council and one (1) community representative jointly nominated by the Venue Operator and the Council (collectively, **the Committee**);*

(iii) *Ensure that the Committee consult with the Baw Baw Public Health and Wellbeing plan Committee annually regarding the distribution of the Contribution to be made by the Venue Operator each year;*

(iv) *Ensure that the Committee provide to the Council each year an account confirming the payment of the Contribution as set out above; and*

(v) *Continue making cash and in-kind contributions to a range of community and sporting clubs and other worthy causes (as the Venue Operator currently does) in the Baw Baw Shire to the value of at least \$40,000 per annum.*

(b) *If the Community Contributions are not made in accordance with the conditions described above, this approval will lapse.*

⁴⁴ *Branbeau Pty Ltd v Victorian Commission for Gaming Regulation* [2005] VCAT 2606 per Morris J at [40]; *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [97] per Dwyer DP; *Molwin Pty Ltd v Mornington Peninsula SC* [2015] VCAT 1982 at [9] per Smithers SM

⁴⁵ Under section 3.4.20 GR Act, an amendment may be made subject to any conditions that the Commission thinks fit.



B. Works

- (a) *Within three (3) years of the commencement of the operation of the additional 20 EGMs at the Premises (or such later date as agreed to in writing by the Commission), the Venue Operator will substantially complete a redevelopment of the hospitality facilities at the Longwarry Bowls Club (**the Hospitality Works**);*
- (b) *Within six (6) years of the commencement of operation of the additional 20 EGMs at the premises (or such later date as agreed to in writing by the Commission), the Venue Operator will substantially complete the installation of a roof at the Longwarry Bowls Club to ensure that the bowling green is placed under cover and accessible all year round (**the Bowling Green Works**); and*
- (c) *If either the Hospitality Works or the Bowling Green Works are not substantially completed by the dates listed above (or such later dates as agreed to in writing by the Commission), this approval will lapse and the maximum number of EGMs permitted to be operated at the Premises shall revert to eighty (80) EGMs.*

The preceding 85 paragraphs and the following Appendix are a true copy of the Reasons for Decision of Mr Ross Kennedy, Deputy Chair and Ms Deirdre O'Donnell, Commissioner.



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.

Social Impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Community Contributions of \$25,000	35-42	\$25,000 to be distributed with Council involvement and in accordance to the Baw Baw Shire Community and Wellbeing Plan and with that Committee’s involvement, with focus on problem gambling reduction. Proposed condition provides for existing contributions to be maintained at no less than \$40,000 per annum. Low weight.
	Improved facilities at the Longwarry Bowls Club	43-48	Renovation of hospitality facilities at Longwarry Bowls Club, as well as installation of roof to transform bowling green into all weather, all year facility. Improved facility is a non-gaming facility, increasing in amenity facilities for a small town. However, benefit will not accrue until completion which is some years away. Low to moderate weight.
	Impact	Paragraph numbers	Comment relevant to weight
Disbenefit	Possibility of an increased incidence and potential impact of problem gambling on the community	49-60	Potential for negative social costs through possible increased problem gambling. Venue relatively large resulting in possible patron anonymity (reduced by sign-in requirements), some areas of relative socio-economic disadvantage and difficult to ascertain where patrons are sourced from. Layout of premises appears to focus on gaming upon entry, but renovations underway to reduce emphasis. Venue location close to other facilities in Warragul – a “convenience” venue.



			<p>However, low per EGM expenditure with high utilisation rates as well as relatively low expected new gaming expenditure. Alleged older patronage with experience of EGMs (however, noted that there were high levels of fixed incomes amongst older population and a lack of evidence of older patronage). Applicant operates premises well with respect to RSG including longstanding relationships with club clientele.</p> <p>Low to moderate weight.</p>
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Economic impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Expenditure on Capital Works	61-63	<p>Renovations of \$1.2m, emphasis on local contractors, larger impact in a small town.</p> <p>Marginal weight.</p>
	Employment Creation	64-66	<p>5 FTE positions alleged by Applicant but Commission notes potential transfer effect and some FTE positions may only occur over a long time period.</p> <p>Marginal weight.</p>
	Gaming expenditure not associated with problem gambling	67-72	<p>The portion of new expenditure not attributable to problem gambling is an economic benefit. Overall, the anticipated level of new expenditure at the Premises is expected to be low. In determining the extent of this benefit, regard has also been given to the extent to which the Application will increase the incidence and potential impact of problem gambling (see further below).</p> <p>Marginal weight.</p>
	Increased gaming competition in the municipal district and satisfaction of demand	73-75	<p>The Application will increase the availability of EGMs in an existing venue in which utilisation rates are somewhat high, noting the venue faces competition from another club venue. Evidence of future population growth.</p> <p>Marginal to low weight.</p>
	Impact	Paragraph numbers	Comment relevant to weight



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Disbenefits	Possibility of an increased incidence and potential impact of problem gambling on the community	76-80	A proportion of the new expenditure is anticipated to be associated with problem gambling. However, relatively low levels of total new expected gaming expenditure Whilst there are areas of relative socio-economic disadvantage, Applicant has positive approach to RSG, and current renovations designed to reduce emphasis of gaming area upon entry to Premises. Low weight.
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