



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 Bendigo RSL Sub-Branch Inc for amendment of its venue operator's licence to vary the number of electronic gaming machines permitted in the approved premises, the Bendigo District RSL Sub-Branch, located at 73-75 Havilah Road, Bendigo, from eighty one (81) to ninety three (93).

Commission:

Dr Bruce Cohen, Chair
Mr Des Powell AM, Commissioner

Appearances:

Ms Sarah Porritt of Counsel for the Applicant (instructed by Bazzani Scully Priddle)

Mr Ned Roche as Counsel Assisting the Commission

Date of Hearing:

29 September 2016

Date of Decision:

25 October 2016

Date of Reasons:

25 October 2016

Decision:

The application is granted subject to the condition outlined at paragraph 94 of the Reasons for Decision.

Signed:

A handwritten signature in blue ink, appearing to be 'Bruce Cohen', written over a horizontal line.

Bruce Cohen
Chair



REASONS FOR DECISION

INTRODUCTION

1. On 1 August 2016, the Bendigo District RSL Sub-Branch 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 in the Bendigo District RSL Sub-Branch, located at 73-75 Havilah Road, Bendigo (**the Premises**), from 81 to 93 (**the Application**).
2. The relevant municipal authority is the City of Greater Bendigo (**the Council**). By correspondence dated 26 August 2016 to the Commission, the Council advised that it did not intend to make an economic and social impact submission on the Application.
3. The Commission considered the Application by way of a public inquiry.¹ To this end, a public hearing was conducted on 29 September 2016 (**the Hearing**). The Applicant was represented by Ms Sarah Porritt of Counsel, instructed by Bazzani Scully Priddle. 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*

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



- (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.² An applicant must provide such an application to the Commission in an approved form, with the required fee, and with a submission in relation to the net social and economic impact on the municipality in which the approved venue is located (and surrounding municipal districts).
8. 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).
9. 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
10. The relevant provision concerning this Application is found at section 3.4.17(1)(b) of the GR Act, which 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 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 district in which the approved venue is located will not be exceeded by the making of the amendment; and*

² GR Act, section 3.4.18.

³ GR Act, section 3.4.19.



- (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;*

...

11. 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
12. 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
13. 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.
14. 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 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

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.



economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.⁸

15. 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.

16. If the Commission is not satisfied that the 'no net detriment' test is met, that is clearly fatal to the application before it, given the opening words of section 3.4.20(1) of the GR Act. 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 cast in exhaustive terms. 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 the applicant has satisfied the minimum threshold of the 'no net detriment' test.¹²

17. 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
18. 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.
19. 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 is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this 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 a premises for gaming. As such, it appears strictly 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 this 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 this Application, given that it involves the renovation of the Premises and this renovation relates, albeit only in small part, to changes to the existing children's play areas at the Premises.

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].



MATERIAL BEFORE THE COMMISSION

20. The Applicant provided the Commission with the following material in support of its Application:
- a) Social and Economic Impact Statement, prepared by NBA Group Pty Ltd (**NBA**), referenced '20072016 Final' (**the NBA Report**). Mr Nick Anderson of NBA was a witness at the Hearing, adopted the NBA Report as his evidence and provided oral evidence to the Commission;
 - b) Report of ShineWing Australia, Accountants and Advisors, dated 27 May 2016 (**the ShineWing Report**). Mr Tim Stillwell, Partner of ShineWing Australia, was a witness at the Hearing, adopted the ShineWing Report as his evidence and provided oral evidence to the Commission;
 - c) Witness Statement of Martin Stephan Beekes, General Manager at the Premises, dated July 2016. Mr Beekes was a witness at the Hearing, adopted his Witness Statement as his evidence and provided oral evidence to the Commission;
 - d) Application for approval of modification to a gaming machine area in an approved venue, dated 1 August 2016; and
 - e) Copy of the public notice as appearing in the Herald Sun newspaper, dated 29 July 2016.
21. The following material, prepared by Commission officers, was provided to the Applicant and considered by the Commission:
- a) a report titled *Economic and Social Impact Report*, dated September 2016 (**the VCGLR Report**); and
 - b) a report titled *Pre-Hearing Inspection and Compliance Report*, dated 9 September 2016 (**the Pre-Hearing Report**).
22. At the Hearing the Applicant provided the Commission with the following further material in relation to the Application:
- a) a set of plans of the Premises detailing intended works to be carried out at the Premises prepared by Round 6 numbered from TP0.00 to TP40.06;
 - b) a letter from Mr Leigh Barrett of Leigh Barrett and Associates addressed to the Commission dated 26 September 2016 enclosing a curriculum vitae for Mr Barrett and a 'Bendigo RSL Regulatory Compliance Report' dated 25 September 2014; and



- c) written submissions on behalf of the Applicant prepared by Ms Porritt dated 29 September 2016.
23. Further, on 4 October 2016, the Applicant provided the Commission with the following additional material in relation to the Application:
- a) an amended version of the Leigh Barrett and Associates' 'Bendigo RSL Regulatory Compliance Report' referred to above, amended, now dated 25 September 2016; and
 - b) an amended version of Ms Porritt's written submissions referred to above, dated 29 September 2016.
24. Commissioner Powell visited the Premises on 19 October 2016.

DECISION AND REASONS FOR DECISION

Background

25. The Premises are a RSL club venue located at 73-75 Havilah Road, Bendigo in the City of Greater Bendigo (**Greater Bendigo City**). Greater Bendigo City is a municipal district located approximately 150 kilometres north of Melbourne and covers approximately 3000 square kilometres. Major centres in Greater Bendigo City include Eaglehawk, Heathcote and Bendigo. Greater Bendigo City has an estimated adult population of 85,000. The annual rate of population growth projected by the Victorian Department of Environment, Land, Water and Planning for the period 2016 to 2021 is 2.0% as compared with the Victorian average of 1.8%.
26. Greater Bendigo City is subject to a municipal limit of 756 EGMs.¹⁶ Currently, there are 11 gaming venues operating within the municipality with approvals to operate a total of 629 EGMs.
27. Greater Bendigo City has an EGM density of 7.4 EGMs per 1000 adults, which is 4.4% below the regional average (7.8) and 32.4% higher than the State average (5.6). This ranks Greater Bendigo City the 9th highest of 13 regional municipalities in terms of EGM density per 1000 adults. If the Application is approved, this would rise to 7.6 EGMs per 1000 adults.
28. In 2015-16, Greater Bendigo City had an average gaming expenditure of \$575 per adult, which is 5.8% below the regional average (\$610) and 3.9% higher than the State average (\$553). Applying the 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 0.2%. Overall

¹⁶ 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.



gaming expenditure within Greater Bendigo City has decreased 7.2% in real terms over the past six years to June 2016, which is a lesser decrease than the regional average decline of 21.3%.

29. In relation to the area immediately surrounding the Premises (i.e. within two and a half kilometres), approximately 77.7% of Statistical Area Level 1 (SA1s)¹⁷ areas are in the first and second quintiles of the Socio-Economic Indexes for Areas (SEIFA)¹⁸ index of relative socio-economic disadvantage (indicating high relative disadvantage). Of the remaining SA1s in the area immediately surrounding the Premises, 15.8% are in the third quintile (indicating neither relative advantage or disadvantage) and 6.5% are in the fourth and fifth quintiles (indicating low relative disadvantage).
30. The unemployment rate in Greater Bendigo City is 7.1%, which is above the regional Victorian unemployment rate of 6.6%, and 1.1% higher than the Statewide unemployment rate of 6.0%.
31. The Premises itself currently comprises:¹⁹
- a) a 140 seat bistro;
 - b) two function rooms, which can be used to accommodate 200 patrons, or alternatively expand the bistro capacity to 300 seats;
 - c) a children's electronic games room;
 - d) an outdoor terrace (heated), which includes a large screen TV and a pool table, and has 4 heated booth areas;
 - e) a Sports Bar;
 - f) TAB wagering;
 - g) Members Lounge used as a Café space accommodating 40-50 patrons;
 - h) administration offices and reception;
 - i) a gaming room operating 81 EGMs;
 - j) a Men's Shed facility which is open to both males and females as a community art, craft and manual skills centre;
 - k) a Memorial garden with an extensive range of tanks, planes and associated wartime equipment; and

¹⁷ SA1s have been designed by the Australian Bureau of Statistics (ABS) as the smallest unit for the release of Census data.

¹⁸ 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.

¹⁹ The description of the venue provided by the NBA Report, Applicant's submissions from Counsel and the evidence of Mr Beekes varies. The detail in paragraph 31 is drawn from the evidence of Mr Beekes, as General Manager of the Premises.



- 1) four tennis courts.
32. According to the NBA Report, there are currently 26 full time staff employed at the Premises, as well as a further 49 casual staff. There is also a volunteer base of a further 150 members that support the activities of the Bendigo District RSL.

Issues for determination

33. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following two matters:²⁰
- a) that the regional or municipal limit for EGMs in Bendigo 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 Greater Bendigo City (**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.

A. Municipal limit

34. A municipal limit of 756 EGMs applies for Greater Bendigo City.²¹ At the time of this Application, there are 11 gaming venues within the municipality with approvals to operate a total of 629 EGMs. Approval of the Application would result in the total number of EGMs approved to be operated in venues in Greater Bendigo City increasing to 641.
35. On that basis, the Commission is satisfied that granting the Application would not cause the municipal limit for gaming machines for Greater Bendigo City 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

36. The Commission is required to 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

²⁰ 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.
²¹ While the number of entitlements operating within a particular region or municipality is capped (see Footnote 16), 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.



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.

Economic Impacts

Expenditure on capital works

37. A potential economic benefit associated with this Application is that which arises from the expenditure on the proposed refurbishment of the Premises.
38. According to Mr Anderson, the Applicant proposes to undertake renovations at an estimated cost of around \$1.25m if the Application is successful. Further details as to the nature of these renovations are set out in paragraphs 69 to 71 below. It was Mr Beekes' evidence that these renovations will not proceed if this Application is not successful, although there would likely be some cosmetic changes such as re-painting parts of the Premises.
39. While the proposed renovations involve considerable expenditure, only limited evidence was provided as to the extent to which the goods and services required for these renovations would be procured from within Greater Bendigo City. Recognising that the Premises are located in a regional area, it is anticipated that some proportion of this expenditure would occur within Greater Bendigo City and hence would be an economic benefit associated with this Application. However, given the limited nature of the evidence before it, the Commission considers that this benefit should be given a marginal weight. Further, it is also important that the benefits associated with the renovation are not double counted, having regard to the social impact that may result from the improved facilities. This aspect is considered further below at paragraphs 68 to 72.

Additional employment

40. Employment benefits associated with the Application may involve short term employment benefits associated with renovation activities, and longer term benefits following the completion of the renovations and the introduction of additional EGMs.
41. As noted above, there is only limited information as to the direct short term impact of the renovation on employment, and as such this aspect is given no weight by the Commission.
42. Over the longer term, Mr Beekes stated that should the Application be granted, a Welfare Officer would be employed on a part time basis at a cost of approximately \$30,000 plus superannuation and other employment-related costs. Mr Beekes also stated that direct employment in the gaming



operations as a result of an additional 12 EGMs would be 0.9 to 1 full time equivalent (FTE) workers at a cost of \$40,000 to \$45,000. Further, the anticipated increase in non-gaming expenditure (e.g. Bar and Bistro sales) of approximately \$150,000 was anticipated to result in additional employment of a further one FTE staff. The Commission considers that the additional revenue from non-gaming expenditure would be predominantly transferred from within Greater Bendigo City. Therefore the additional employment would also have a corresponding diminution of employment within Greater Bendigo City. As such the Commission does not include this additional employment within the Premises as a benefit when considering the economic impact of the Application.

43. The Commission finds that the economic impact on employment arising from this Application, would be the employment of 1.5 FTE workers. Given the scale of this impact, the Commission considers this a benefit to the community to which it attributes a marginal weight.

Complementary expenditure

44. 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 for tourism purposes as compared to transferred expenditure from other venues within the municipality, as well as the extent to which that complementary expenditure results in additional spending on local goods and services.
45. In relation to increases in food sales Mr Beekes gave evidence that the Applicant sources all of their food from local producers. Both he and Mr Anderson also noted that a proportion of the patrons at the Premises were tourists that visited from outside Greater Bendigo City, and it was anticipated the Premises would continue to benefit from this tourism trade. In this regard, evidence was given with respect to a range of activities that the Bendigo District RSL was participating in that would be attractive to tourists in the future, including an outdoor World War 1 exhibition at the Premises and a joint investment with the Federal, State and local governments in a Military Museum to be sited at the Soldiers Memorial Institute located in Pall Mall, Bendigo. Reference was also made to other tourism attractions located in and around Bendigo, such as the art gallery. Nevertheless, Mr Beekes also accepted that increases in non-gaming expenditure would involve an element of transfer from other local businesses.



46. Having regard to all of the circumstances relating to this Application, the Commission considers that there is an economic benefit associated with the complementary expenditure arising from this Application. However, having regard to its estimated size and the likely transfer of a substantial portion of it from other venues in the municipal district, it is an economic impact which the Commission considers should be given marginal weight.

Community contributions

47. In determining the net economic and social impact of applications of this nature, both the Commission²² and the Victorian Civil and Administrative Tribunal²³ have regularly treated community contributions as a positive benefit. However, for such contributions to be regarded as a benefit associated with the Application, it is necessary that they are a consequence of the Application
48. In this instance, considerable evidence was provided in relation to the existing community contributions made by the Applicant. The NBA Report (at Appendix 3) contains copies of Community Benefit Statements for the years 2012-13 to 2014-15. These statements show contributions between approximately \$30,000 and \$45,000 to sporting and recreation purposes; subsidies for good and services valued between approximately \$50,000 and \$62,000; services provided to ex-service personnel, their carers and families between approximately \$40,000 and \$70,000 as well as voluntary services which have reduced from \$456,103 in 2012-13 to \$326,130 in 2014-15. While the Commission recognises these contributions are important and beneficial to the community, these contributions disclosed in the Community Benefit Statements and elsewhere in the NBA Report are not subject to change as a result of the Application and hence are not a benefit for the purposes of assessing the 'no net detriment' test.
49. The Applicant has submitted that \$30,000 plus superannuation and other employment related expenses will be spent on the employment of a part-time welfare officer if the Application is granted. That contribution has been assessed already in these reasons and it would be double counting if the Commission were to ascribe a further economic benefit within this heading.
50. The Applicant has also made a commitment of \$500,000 towards the renovation of the Soldiers Memorial in Pall Mall, Bendigo into a Military Museum. The Applicant's commitment to the Museum, while a worthy community contribution, is again a commitment independent of the Application so it would be inappropriate to attribute any benefit to that contribution in the

²² See, for example, Application by Richmond Football Club [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

²³ 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.



assessment of the 'no net detriment' test for the Application.

51. It was further submitted by the Applicant that given the Bendigo District RSL's commitment to the Military Museum redevelopment, that if the Application was not granted the existing level of community contributions could potentially be placed at risk. To the extent that this might be the case, the Commission considers that this is a consequence of the Bendigo District RSL's decision to invest in the Military Museum redevelopment, and hence should not be a factor in its consideration of this Application. Further, the Commission is mindful of the evidence provided by Mr Beekes that over the past three years, the Bendigo District RSL has been able to reduce its debt levels from \$4.2 million to around \$3 million. This suggests that the Premises is operating in a financially sustainable manner, with an ability to meet its existing commitments.
52. As the contributions contained within the Community Benefits Statement and the commitment to the Museum are not contingent on the Application the Commission will give no weight to those contributions for the purpose of the Application. Further, as the proposed employment of a part time welfare officer is counted as a benefit within the 'additional employment' heading the Commission will give no weight to this benefit as a further economic contribution.

Gaming expenditure not associated with problem gambling

53. 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.²⁴ 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.²⁵
54. According to the ShineWing Report:
 - a) in the five year period from 2010-11 to 2014-15 gaming expenditure in Greater Bendigo City ranged between \$45.5m and \$47.7m. Over that time Greater Bendigo City experienced a 1.55% per annum increase in gaming expenditure and the Premises has experienced a 0.06% per annum decrease in gaming expenditure;
 - b) based on utilisation statistics, analysis of historical trends in gaming expenditure and an analysis of the recent trend in gaming expenditure, it is estimated that the additional gross gaming expenditure to be generated from an increase of 12 EGMs at

²⁴ *Romsey No. 2* at [351] per Bell J.

²⁵ *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.



the Premises would be between approximately \$57,800 and \$129,472 per annum in the first 12 months of trade; and

- c) of the additional gross gaming expenditure at the Premises, based on analysis and anecdotal evidence, approximately 50% would be transferred expenditure from existing nearby venues. As a consequence, the new expenditure that would result from the introduction of 12 additional EGMs was estimated to be between \$28,900 and \$64,736 in the first 12 months of their approval.

55. Based on the ShineWing Report and Mr Stilwell's oral evidence, the Applicant submitted that because there are already 81 EGMs operating at the Premises, and that it is already an accessible venue, the expenditure impact of the proposed change in the number of EGMs would be incremental. This was also supported by the evidence of Mr Stilwell that the current utilisation rates at the venue were in the low to mid range, indicating there are currently underutilised machines at the venue.
56. In considering the likely impact of an additional 12 EGMs at the Premises, the Commission notes that the expenditure on EGMs in Greater Bendigo City increased to \$48.7 million in the 2015-16 financial year, an increase of just over 2.1% from the previous year. In that same financial year, gaming expenditure at the Premises increased from just over \$5.8 million to around \$6.4 million, or approximately 10.3%. In his evidence, Mr Stilwell stated that he had regard to the expenditure data for the 2015-16 year, notwithstanding it was not contained in the ShineWing Report. According to both Mr Stilwell and Mr Beekes, the increase in gaming expenditure could be variously attributed to the impact of previous renovations to the Premises, operational improvements, and promotions which had seen it become a more popular venue – an outcome reflected in the increased number of social members and increases in revenue in areas of operation other than gaming.
57. In assessing the extent of the benefit associated with increased gaming expenditure, the Commission has had regard to the evidence outlined in paragraphs 60 to 66 below with respect to the incidence of problem gambling. The Commission accepts the estimate provided by Mr Stilwell, and considers generally that the portion of new expenditure not attributable to problem gambling is an economic benefit. Having regard to factors outlined above and in the sections below related to problem gambling, the Commission considers that the majority of new expenditure will not be associated with problem gambling. However given the estimated low levels of new expenditure, the Commission considers this benefit to be one to which it attributes only marginal weight.



Increased gaming competition in the municipal district

58. Increasing competition in gaming in Greater Bendigo City is a relevant impact in light of the statutory purposes of the Act and the consumer benefits that derive from competition. However the Application is only for a relatively small proportional increase in the number of EGMs in Greater Bendigo City, in an existing gaming venue. Further, the utilisation rates at the Premises do not indicate that supply of gaming is outstripping demand, nor does the anticipated new expenditure suggest a substantive increase in gaming competition in the municipal district. As such, for the purposes of this Application the Commission considers there is negligible benefit associated with an increase in gaming competition in Bendigo as a result of the addition of 12 EGMs at the Premises, and hence gives this impact no weight.

Possibility of increased incidence and impact of problem gambling

59. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.²⁶ In assessing the extent of this disbenefit, the Commission recognises that it does not include transferred expenditure because such expenditure cannot exacerbate problem gambling.²⁷
60. In assessing the extent of this disbenefit, the Commission accepts the expenditure evidence of Mr Stillwell as set out at paragraphs 54 to 56 above.
61. Various factors suggest that the risk of increased incidence and impact of problem gambling is likely to be low should this Application be granted. These include that:
- a) the venue is a club venue with sign in requirements. As the NBA Report states at paragraph 305 on page 74:

It is widely recognised that problem gamblers seek anonymity in large busy venues where they can be "lost in the crowd". Whilst this venue is large in terms of the overall floor area it is clearly a destination venue and [not] conducive to impulse gambling.

²⁶ 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.

²⁷ 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.



- b) according to Mr Anderson, those who gamble at the Premises is an “*older demographic*”, notwithstanding that the Premises has in more recent times begun to attract a younger, more family oriented clientele. According to ‘The Victorian Gambling Study’ released by the Victorian Responsible Gambling Foundation (VRGF) in July 2014, such a demographic is less likely to be at risk of problem gambling. That study found that men aged between 18 and 24 are more likely to be problem gamblers. According to Mr Anderson this cohort do not form part of the actual or target demographics of the Premises;
 - c) the manner in which gambling is conducted at the Premises. The Commission is satisfied that the Applicant has appropriate practices and procedures in place in relation to complying with Responsible Service of Gambling (RSG) obligations. In this regard, the Commission accepts the material from Mr Barrett that indicates the Premises has a good record of compliance with RSG principles and procedures, as well as the evidence from Mr Beekes that the committee to whom he reports have undertaken RSG training and are provided with relevant reports on a weekly basis. The proposed \$1.25m capital works will also significantly improve harm minimisation through increased surveillance of the gaming area and reduced exposure of minors to EGMs by screening off the entry to the gaming area of the Premises; and
 - d) there are already a number of large gaming venues in Bendigo, and as such the risk of problem gaming is not going to be substantially affected as a result of the Application being successful. According to the Applicant’s submissions, this is reinforced by the fact that the increase in the number of EGMs will not be obvious from outside the Premises.
62. There are, however, a number of factors which increase the potential risks associated with problem gambling. First, this is already a venue with 81 EGMs. A venue of this size, and hence one with 93 machines should this Application be granted, is one which the Commission considers to be a large venue. Mr Anderson acknowledged that larger venues are more likely to be associated with problem gambling, although he considered that any such affect arising from additional machines would be ameliorated by the fact that this was an RSL club venue, with sign-in requirements.
63. Secondly, it is of concern that in the 2.5 kilometres surrounding the Premises, there are substantial areas of high relative socio-economic disadvantage. Further, according to Mr Anderson these immediate surrounds also include areas of social housing. Such characteristics have been associated with either an increased risk of, or the potential for greater adverse impact from,



problem gambling. In considering the Application, however, it is necessary to recognise, that these communities already have access to EGMs at the Premises, and the current utilisation rates are relatively low. Further, the amount of new expenditure is also estimated to be low. Such factors militate against the scale of the potential negative impact of an increase in the number of EGMs as proposed by this Application.

64. This issue was also addressed in the evidence of Mr Anderson, who stated that the Premises was a destination venue in a regional centre, and as such a higher than normal portion of its patronage came from beyond the immediately surrounding area. He stated that this position was supported by the patronage study that had been undertaken, noting though that this study was of bistro customers rather than only those utilising the gaming area. It was Mr Anderson's evidence that when regard was given to the socio-economic status of areas beyond the immediate surrounds of the Premises, it appeared that the Premises' clientele were less likely to be from very socio-economically disadvantaged areas, and hence not as susceptible to or at risk from problem gambling. While the Commission accepts the evidence put forward by Mr Anderson, it does not mitigate entirely the concerns that the Commission has regarding this aspect of the Application.
65. Thirdly, the Commission is mindful of the extent of problem gamblers in the broader region in which the Premises are located. During the hearing, it was identified in questioning by Commissioner Powell that a study undertaken by the Department of Justice in 2009,²⁸ identified that 0.78% of gamblers in the Loddon-Mallee region were considered to be problem gamblers in this region. This level was similar to the Victorian average of 0.70%, and hence does not point to an outlying issue of concern.
66. The Commission also notes that the 2009 study²⁹ identifies that harm caused by problem gambling may not only be associated with those who are identified as problem gamblers, but also those who are categorised as low risk and medium risk gamblers. In this regard, the Commission notes that the 2009 Department of Justice study indicates that in the Loddon-Mallee region 6.1% are categorised as 'low risk' gamblers and 2.3% are categorised as 'medium risk' gamblers. This is broadly consistent with the statewide averages for these categories of 5.7% and 2.4% respectively.

²⁸ Department of Justice (Vic), "A Study of Gambling in Victoria – Problem Gambling from a Public Health Perspective", September 2009, page 58.

²⁹ The Commission also notes that this study has been supplemented by further work conducted by the VRGF, see for example, Study of Gambling and Health in Victoria: Findings from the Victorian Prevalence Study 2014, VRGF, November 2015. As to harms associated with 'low risk', medium risk' and 'problem' gamblers, see for example, Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T (2016) Assessing gambling-related harm in Victoria: a public health perspective, VRGF, Melbourne.



67. Having regard to all of the circumstances, the Commission consider that there is a risk of increased problem gambling associated with this Application, which it regards as an economic disbenefit. Given its location of the Premises in an area of relatively high social-economic disadvantage, the Commission considers that notwithstanding the nature of the Premises (i.e. a club venue), the demographics of its clientele, its RSG practices, the proposed renovations to the gaming area and more broadly, the anticipated low level of new gaming expenditure, this is an impact upon which it should place a low weight.

Social Impacts

Improved facilities enabling greater range of services

68. Separate from the economic benefit that may be associated with expenditure involved in capital works at a venue, there are also potential social benefits to the community that may arise having regard to the nature of the renovations that are intended to take place.

69. In relation to this Application, the proposed renovations include:

- a) relocating and renovating the administration areas to provide six offices, reception and waiting area, and a board room that will be available for public hire, and a welfare officer's room for counselling services which is accessible by an entrance way separate from the entertainment related areas of the Premises;
- b) extension and modification of the gaming area, which according to Mr Anderson would lead to an improved RSG outcomes owing to increased surveillance of the gaming area and decreased visibility/accessibility from the entrance of the Premises;
- c) a new outdoor smoking area, and indoor 'break out' zone with a double-sided fireplace;
- d) new reception and cashier area at the entrance to the gaming area; and
- e) the creation of a new indoor/outdoor play area for children, and 'teen zone' for older children.

70. A particular benefit of this Application will be that welfare services clients will be able to access those services without passing through other parts of the Premises. The renovations of the gaming area will also result in improved facilities for the community, as there will be greater physical separation of gaming activities from other parts of the Premises. This should have the related benefit of enhancing the responsible service of gambling, which is discussed elsewhere in these reasons.



71. Other aspects of the capital improvements, such as the enhanced outdoor area, will have a positive impact on the overall amenity of the Premises for both local patrons and visitors alike. Finally, the replacement areas to be provided for children and teenagers will be further away from the gaming area and there will be a greater physical separation between minors and gaming. This aligns with the purposes of the GR Act and in the Commission's view is consistent with the policy intent underlying the Ministerial guideline referred to in paragraph 19.³⁰
72. Having regard to the nature of the proposed renovations and its previous consideration in relation to the capital expenditure associated with the renovations (in particular the need to ensure that it does not double count potential impacts), the Commission finds that the cumulative effect of the improved facilities on the community is a positive impact to which it attributes a low weight.

Increased community contributions

73. Community contributions may have both an economic and social impact. In this instance, the employment of a proposed Welfare Officer has been counted as an economic benefit insofar as it results in additional employment. However, the Commission considers it would not be double counting to look at the nature of the work to be carried out by the proposed Welfare Officer and consider whether that work creates a social benefit distinct from the economic employment benefit.
74. According to Mr Anderson, the duties of the proposed Welfare Officer will be:
- a) working within the Mission, Values, Policies and Procedures of the RSL Victoria Branch;
 - b) providing information and assistance regarding aged care services for members of the veteran community and their families;
 - c) recruiting and training volunteers;
 - d) maintaining effective links with local aged care and health services providers within Greater Bendigo City; and
 - e) working closely with the Bendigo District RSL Pensions Officers, other Welfare and Aged Care Coordinators within the RSL and Aged & Health Support staff at ANZAC House.

³⁰ This is distinct from the play areas being a new benefit in and of themselves. While there was evidence from Mr Beekes that the new areas would make the Premises more attractive to families, he also stated that the area surrounding the Premises was well serviced by children's play areas, thereby diminishing the extent to which such facilities may be regarded as a benefit for the purposes of this Application.



75. In his evidence Mr Beekes was also asked about the types of services to be offered to the clients of the service provided by the proposed Welfare Officer. Mr Beekes explained that the current head of the welfare unit is a volunteer aged in his 70s and it is anticipated that owing to the ageing of volunteers generally that the number of volunteer hours provided on these services may decrease. Mr Beekes clarified that the Welfare Officer would be providing services to ex-servicemen and women and would be able to assist those people access benefits and services as required by them.
76. The Applicant submitted that the proposed Welfare Officer is an additional benefit on top of the number of volunteer hours that may be given to the Welfare Unit. Further, that the benefit was not just quantitative, but qualitative because of the qualifications that the proposed Welfare Officer would be required to hold specific to the service to be provided.
77. The Commission accepts the Applicant's submission and considers the appointment of a Welfare Officer will result in the provision of services which are a community contribution that will have a positive social impact upon which it places a low weight.³¹

Increased gaming opportunities for those who enjoy gaming

78. Related to the economic benefit of increased competition is the social benefit that arises from there being increased gaming opportunities for those who enjoy gaming.
79. During a survey period that Mr Stillwell characterised as being an indicative period for the Premises utilisation rates exceeded 70% for 13 hours from a survey period of 410 hours. The Applicant submitted that owing to the level of utilisation, the weighting that should be given to an increase in gaming opportunities is "not the highest benefit in this case".
80. Having regard to the evidence and submissions made with respect to increased gaming competition in Greater Bendigo City and more generally that contained in paragraph 54 to 56 in relation to the basis upon which expenditure figures have been calculated, the Commission finds that granting approval of the Application will marginally better serve the needs of gaming patrons. However, given the current number of EGMs and venues in Greater Bendigo City, the Commission considers this to be a negligible social benefit and hence one on which it places no weight.

³¹ Insofar as it was stated or inferred that the benefit of the proposed Welfare Officer may be greater because services currently funded by Federal and State governments may be withdrawn, the Commission considers there was no substantive evidence to support that this would actually occur. As a result, it did not consider that greater weight should be placed on this factor on this basis.



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

81. 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 negative social costs through possible increased problem gambling expenditure.
82. The Commission refers to and relies upon the considerations set out in paragraphs 53 to 57 with respect to the economic impact of problem gambling on the community.
83. The Commission finds that whilst the area immediately surrounding the Premises presents as potentially vulnerable to problem gambling, the Commission is satisfied that the potential for an increase in problem gambling at this particular venue is low, on the basis of the low expected increase in new gambling expenditure, the age demographic of patrons at the Premises, and the Applicant's approach to the responsible service of gambling. In forming this view, the Commission is also mindful of the benefits associated with the proposed renovations which will better separate the gaming area from other parts of the Premises, enhancing the capacity for the responsible service of gambling. This not only ameliorates the potential impact of problem gambling arising from new EGMs, it reduces the risk of such problems from existing machines.
84. Consequently, the Commission finds that the social disbenefit associated with problem gambling as a result of this Application is a low risk, on which it places a low weight.

Community attitude

85. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,³² the Commission recognises that whilst 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 particular social impact *within*, and as part of, the 'no net detriment' test.
86. Clause 52.26 of the Greater Bendigo Planning Scheme addresses the location of EGMs. The Planning Scheme prohibits gaming machines in a shopping complex or a strip shopping centre. In this regard, the Planning Scheme appears more relevant to an application for a new gaming venue than for an increase in EGMs at an existing gaming venue. Nevertheless it appears that the location of the Premises is consistent with the Planning Scheme.

³² (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.



87. By letter dated 26 August 2016 the Council advised that it did not intend to make a submission on the Application. Further the Commission has not received any submissions from members of the Bendigo community in relation to the Application. The Commission notes that the Applicant's materials did contain numerous letters of support for the Bendigo District RSL from a variety of community organisations. However, these letters of support do not appear to relate directly to the Application, and hence they are of limited assistance to the Commission's consideration of this Application
88. It was also submitted by the Applicant that the Commission should have regard to, and place positive weight on, the fact the Council did not make a submission in opposition to the Application. However, it should also be noted that Council did not make a positive statement of support for the Application either. In the absence of other evidence, the Commission does not consider that the lack of a submission by Council to be a basis for determining community attitudes with respect to this aspect of the 'no net detriment' test.
89. Noting the level of compliance with the Planning Scheme, the Commission does not consider there is sufficient evidence for it to assess community attitudes with respect to this Application and in the circumstances considers it appropriate to place no weight on this impact.

Net economic and social impact

90. 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.³³
91. 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.

³³ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



Determination of Application

92. On the material that has been 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. The Commission notes that there remains a discretion to determine whether or not to grant the Application.
93. 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 in the Premises from eighty one (81) to ninety three (93) subject to a condition with regard the completion of the proposed renovations.
94. The condition is as follows:

A. Works

- (a) *The Works at the Premises (as defined in clause A(b)) must be substantially completed to the satisfaction of the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) by the date that is twelve (12) months after the commencement of the operation of any of the additional twelve (12) electronic gaming machines (**Additional EGMs**) at the Premises;*
- (b) *For the purpose of this clause, "the Works" comprise the plans prepared by Round 6 Architects with reference project R0160005 as lodged with City of Greater Bendigo in conjunction with Planning Permit Amendment No. AM/336/2011/C;*
- (c) *If the Works referred to in condition A(b) are not substantially completed by the date that is twelve (12) months after the commencement of the operation of any of the Additional EGMs at the Premises then the approval to operate the Additional EGMs at the Premises will lapse; and*
- (d) *The Commission may, on the request of the Venue Operator agree to extend the time for completion of the Works referred to in condition A(b). The request must be made no later than 11 months after the commencement of the operation of any of the Additional EGMs. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.*

The preceding 94 paragraphs and the following Appendix are a true copy of the Reasons for Decision of Dr Bruce Cohen, Chair, and Mr Des Powell AM, 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.

Economic impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Expenditure on capital works	37-39	The extent of the expenditure on capital works that are intended is considerable, but there is some uncertainty as to the extent to which it will be spent on goods and services procured in the relevant municipal district in which the Premises are located. Also, as there is a social benefit associated with the renovations which has been assessed, care must be taken to ensure benefits relating to such work are not double counted. Marginal weight.
	Additional employment	40-43	As no evidence was provided as to employment benefits associated with the proposed renovations, this aspect does not impact on this assessment. Over the longer term, additional employment will occur as a consequence of employment of Welfare Officer and additional gaming staff equivalent to 1.5 FTE. Marginal weight.
	Complementary expenditure	44-46	While considered a benefit, only a low level of complementary expenditure is anticipated as a consequence of this Application, and of this a substantial proportion is anticipated to be as a result of transferred expenditure from other venues within the municipality. Marginal weight.



Victorian Commission for
Gambling and Liquor Regulation

	Community contributions	47-52	<p>While this decision recognises the many important community contributions made by the Bendigo District RSL, including but not limited to their investment in the Military Museum redevelopment located at the Soldiers Memorial in Pall Mall, Bendigo, generally these contributions are either not considered to be a consequence of this Application, or have been assessed as an economic benefit elsewhere (for example, the additional employment associated with the employment of the Welfare Officer).</p> <p>No weight.</p>
	Gaming expenditure not associated with problem gambling	53-57	<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	58	<p>The Application will increase the availability of EGMs in an existing venue in which utilisation rates are not currently high, and which the levels of anticipated new and transferred expenditure are both estimated to be low.</p> <p>No weight.</p>
	Impact	Paragraph numbers	Comment relevant to weight
Disbenefit	Possibility of an increased incidence and potential impact of problem gambling on the community	59-67	<p>Given its location of the Premises in an area of relatively high social-economic disadvantage, the Commission considers that notwithstanding the nature of the Premises (i.e. a club venue), the demographics of its clientele, its RSG practices, the proposed renovations to the gaming area and more broadly, the anticipated low level of new gaming expenditure, this is a disbenefit associated with the Application.</p> <p>Low weight.</p>



Social impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Improved facilities enabling greater range of services	68-72	The proposed renovations will result in improved facilities enabling a greater range of services, including a designated welfare space with separate entrance. Refurbishment will also marginally increase the distance between the gaming area and children's play areas, and make the gaming area visually less accessible. Low weight.
	Increased community contributions	73-77	Additional benefit associated with the work to be undertaken by a part-time Welfare Officer, who will enable services currently provided by ageing volunteer capacity to be continued and enhanced. Low weight.
	Increased gaming opportunities for those who enjoy gaming	78-80	Given the number of EGMs and venues in the municipal district in which the Premises are located, together with the low levels of anticipated new and transferred expenditure, the Commission considers this to be a negligible social benefit in this Application. No weight.
	Impact	Paragraph numbers	Comment relevant to weight
Disbenefits	Possibility of an increased incidence and potential impact of problem gambling on the community	81-84	A proportion of the new expenditure is anticipated to be associated with problem gambling. However, whilst the area immediately surrounding the Premises presents as potentially vulnerable to problem gambling, the Commission is satisfied that the potential for an increase in problem gambling at this particular venue is low, on the basis of the low expected increase in new gambling expenditure, the age demographic of patrons at the Premises, and the Applicant's approach to the responsible service of gambling. The Commission is also mindful of the benefits associated with the proposed renovations which will better separate the gaming area from other parts of the Premises, enhancing the capacity for the responsible service of gambling. This not only ameliorates the potential impact of problem gambling arising from new EGMs, it reduces the risk of such problems from existing machines. Low weight.



Victorian Commission for
Gambling and Liquor Regulation

	Community attitude	85-89	<p>While noting the apparent level of compliance with the Planning Scheme of the municipal district in which the Premises are located, the Commission does not consider there is sufficient evidence for it to assess community attitudes with respect to this Application, in particular having regard to not having the benefit of receiving either written or oral submissions from the Council on this aspect.</p> <p>No weight.</p>
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