

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 Doxa Social Club Inc for amendment of its venue operator's licence to vary the number of electronic gaming machines at the approved premises, the Meeting Place, located at 315-321 Elizabeth Street, Melbourne from fifty six (56) to seventy six (76).

Commission:

Ms Helen Versey, Deputy Chair
Ms Dina McMillan, Commissioner

Appearances:

Mr Nicholas Tweedie SC with Ms Sarah Porritt of Counsel for the Applicant (instructed by Bazzani Scully Priddle).
Mr Ian Munt for the City of Melbourne (instructed by Maddocks)

Mr Ned Roche as Counsel Assisting the Commission

Date of Hearing:

28 & 29 November 2016

Date of Decision:

30 December 2016

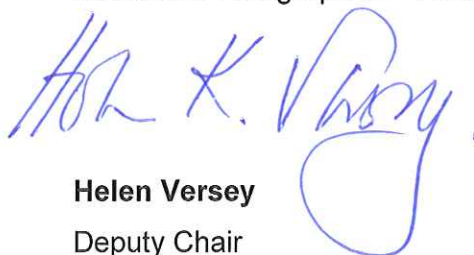
Date of Reasons:

30 December 2016

Decision:

The application is granted subject to the conditions outlined at Paragraph 92 of these Reasons for Decision.

Signed:


Helen Versey
Deputy Chair



REASONS FOR DECISION

INTRODUCTION

1. This is an application by the Doxa Social Club Inc (**the Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) for amendment of its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) permitted at the Meeting Place, located at 315-321 Elizabeth Street, Melbourne (**the Premises**), from 56 to 76 (**the Application**).
2. The relevant municipal authority is the City of Melbourne (**Council**). By a letter dated 26 September 2016 to the Commission, the Council advised that it would be making a submission on the social and economic impact of the Application.
3. The Commission considered the Application at a public inquiry conducted on 28 & 29 November 2016. The Applicant was represented by Mr Nicholas Tweedie SC with Ms Sarah Porritt of Counsel instructed by Bazzani Scully & Priddle. Council was represented by Mr Ian Munt of Counsel instructed by Maddocks.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gambling 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* (**the Act**). The 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 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 Act are set out at section 1.1, which provides:

...

- (2) *The main objectives of this Act are—*
 - (a) *to foster responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling; and*
 - (ii) *accommodate those who gamble without harming themselves or others;*
 - (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*
 - (b) *to ensure that gaming on gaming machines is conducted honestly;*
 - (c) *to ensure that the management of gaming equipment and monitoring equipment is free from criminal influence and exploitation;*



- (d) *to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;*
- (e) *to ensure that-*
 - (i) *community and charitable gaming benefits the community or charitable organisation concerned;*
 - (ii) *practices that could undermine public confidence in community and charitable gaming are eliminated;*
 - (iii) *bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;*
- (f) *to promote tourism, employment and economic development generally in the State.*

6. Chapter 3 of the Act deals with the regulation of gaming machines. Section 3.1.1 of the 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 Act outlines the process for 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).¹ 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.²
9. Section 3.4.17(1)(b) of the 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 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 that section provides:

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

...

(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;*

...

¹ The Act, section 3.4.18.

² The Act, section 3.4.19.



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.³
11. The 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.⁴
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.⁵ The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either neutral or positive.
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.⁶ On review, decisions in the Victorian Civil and Administrative Tribunal (**VCAT**) have held that for impacts that may be both economic and social – for example the benefits of gaming consumption – it does not matter whether the impact is considered on the economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.⁷

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

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

⁵ *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.

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

⁷ See *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #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.



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.⁸

This approach has been adopted in a number of VCAT decisions.⁹ 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, given the opening words of section 3.4.20(1) of the Act. The test is a mandatory pre-condition to approval. However, although section 3.4.20(1) of the Act 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.¹⁰ The Commission must decide whether to make the proposed amendment, with or without any changes from that proposed by the applicant, even where there applicant has satisfied the minimum threshold of the 'no net detriment' test.¹¹

16. In considering the exercise of this discretion:

- it must be exercised having regard to the purposes of the Act and, in particular, the specific purposes of Chapter 3 of the Act dealing with the regulation, supervision and control of gaming machines;¹² and
- it may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the Act as a whole.¹³

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

⁹ 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.

¹⁰ 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 s. 3.3.7).

¹¹ *Gambling Regulation Act 2003*, section 3.4.20(2).

¹² *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [98] per Dwyer DP.

¹³ *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.



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*¹⁴ that, if all of the mandatory considerations under the 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.

MATERIAL BEFORE THE COMMISSION

18. The Applicant provided the Commission with the following material in support of its Application:
- (a) Application to venue operator licence – vary gaming machines form, dated 15 August 2016;
 - (b) Copy of the public notice as appearing in the Herald Sun newspaper, dated 16 August 2016;
 - (c) Social and Economic Impact Assessment, prepared by Ratio Consultants Pty Ltd (**Ratio**), dated 10 August 2016 (**the Ratio Report**) and an addendum thereto dated November 2016 (**the Ratio Addendum**). Ms Coleen Peterson, a Director of Ratio, also appeared and provided oral evidence to the Commission in respect of her written evidence;
 - (d) Expenditure Report, prepared by ShineWing Australia Pty Ltd (**ShineWing**), dated 27 May 2016 (**the ShineWing Report**). Mr Timothy Stillwell, a Director of ShineWing, also appeared and provided oral evidence to the Commission in respect of his written evidence;
 - (e) Report of the Responsible Service of Gaming practices of the Applicant at the Premises, prepared by PVS Australia Pty Ltd (**PVS**), dated June 2016 (**the PVS Report**). Mr Andrew Jeynes, Responsible Gambling Manager at PVS, also appeared and provided oral evidence to the Commission in respect of his written evidence.
 - (f) Witness Statement of Andrew James Patterson, CEO of the Applicant, dated July 2016. Mr Patterson also appeared and provided oral evidence to the Commission in respect of his written evidence;

¹⁴ [2013] VCAT 101, [98].



- (g) Witness Statement of Stephen Silk, CEO of the Doxa Youth Foundation, dated November 2016. Mr Silk also appeared and provided oral evidence to the Commission in respect of his written evidence. Mr Silk adopted as his evidence the Witness Statement of Andrew Cameron, former General Manager of Operations at the Doxa Youth Foundation between January 2013 and July 2016, dated July 2016. Mr Cameron did not appear before the Commission;
- (h) Witness Statement of Sean Thomas Hayter, the Applicant's operations manager for the Premises and an additional gaming venue operated by the Applicant, dated July 2016. Mr Hayter did not appear as a witness nor was his Witness Statement tendered as evidence;
- (i) Witness Statement of Fr James Grant, Chaplains Without Borders, dated July 2016. Fr Grant also appeared and provided oral evidence to the Commission in respect of his written evidence; and
- (j) Witness Statement of Fr Joseph Giacobbe, Director of Doxa Youth Foundation, dated November 2016. Fr Giacobbe. Fr Giacobbe's Witness Statement was tendered as evidence.

19. The Council provided the Commission with the following material:

- (a) An economic and social impact submission in the Commission's standard form signed by Mr Martin Cutter, Acting CEO, dated 31 October 2016. The standard form was supplemented by:
 - (i) City of Melbourne Social and Economic Impact Assessment dated 31 October 2016. The document does not indicate who prepared the Assessment but does list Mr Dean Griggs, Manager, Social Investment City Communities as the Contact; and
 - (ii) Report of Dr Charles Livingstone, School of Public Health and Preventive Medicine, Monash University, dated 31 October 2016. Dr Livingstone also appeared and provided oral evidence to the Commission in respect of his written evidence.



20. The Commission received the following correspondence from municipal authorities adjoining the City of Melbourne:
- (a) Letter from Bryan Lancaster, CEO, City of Moonee Valley, dated 27 October 2016 supporting the Council's objection to the Application;
 - (b) Letter from Tracey Slatter, CEO, City of Port Phillip, dated 28 October 2016 supporting the Council's objection to the Application;
 - (c) Letter from Vijaya Vaidyanath, CEO, City of Yarra, dated 28 October 2016 objecting to the Application; and
 - (d) Letter from Tracey Limpens, Manager Advocacy, Performance and Improvement, City of Stonnington, dated 28 October 2016 supporting the Council's objection to the Application.
21. The Commission received the following submissions from the public:
- (a) Submission of Cohealth Ltd dated 13 November 2016 opposing the Application;
 - (b) Submission of Inner North West Primary Care Partnership dated 14 November 2016 opposing the Application;
 - (c) Submission from Women's Health West dated 18 November 2016 opposing the Application; and
 - (d) Submission from the Council to Homeless Persons dated 18 November 2016 opposing the Application.
22. The following material, prepared by Commission officers, was provided to the Applicant and the Council and considered by the Commission:
- (a) a report titled *Economic and Social Impact Report*, dated November 2016 (**the VCGLR Report**) ; and
 - (b) a report titled *Pre-Hearing Inspection and Compliance Report*, dated 11 November 2016 (**the Pre-Hearing Report**).
23. Prior to the hearing, the Commissioners undertook a site visit of the Premises.



24. During the hearing, the Applicant, Council and the Commission were provided with the following documents:
- (a) An update to section 20 of the VCGLR Report regarding homelessness. The update was to replace statistics from the 2006 census with statistics from the 2011 census;
 - (b) A letter from Bazzani Scully Priddle dated 28 November 2016 on behalf of the Applicant enclosing draft conditions proposed by the Applicant in the event that the Application were granted;
 - (c) A single page table of 20 gaming venues that had increased the number of EGMs in operation between July 2013 and March 2015 and the changes in venue revenue and Net Machine Revenue (**NMR**);
 - (d) A single page calculation by Dr Livingstone leveraging information from the table referred to immediately above. The evidence of Dr Livingstone was that the calculation was not an estimation by him of the likely increase in revenue to be generated as a result of the application;
 - (e) Melbourne Planning Scheme, Local Planning Policies, Clause 22.12 Gaming Premises;
 - (f) Written submissions on behalf of the Applicant prepared by Mr Tweedie SC and Ms Porritt of Counsel; and
 - (g) Written submissions on behalf of the Council prepared by Mr Munt of Counsel.

DECISION AND REASONS FOR DECISION

Background

25. The Premises are located at 315-321 Elizabeth Street, Melbourne, within a retail and commercial area adjacent to the Elizabeth Street tram lines and proximate to Melbourne Central Railway Station. The Premises are proximate to tourist destinations and residential apartment buildings. Elizabeth Street has high pedestrian activity and the Premises can be generally described as highly accessible.



26. Mr Patterson gave evidence that the building containing the Premises is owned by an entity called Doxa Properties. The Applicant leases the Premises and also leases the first floor of the building from Doxa Properties. The Applicant has previously sub-let the first floor to a restaurant business. Mr Patterson gave evidence that the second floor is leased to the Doxa Youth Foundation on a peppercorn rent. Adjacent to the premises to the North on Elizabeth Street is a retail tenancy occupied by a manufacturer of motorcycle leather goods, Mars Leather (**the Mars Tenancy**).
27. The Premises is currently confined to the ground floor, and includes TAB facilities, Bar, EGM gaming lounge interspersed with chairs and tables, Keno, and a smoking area facing Elizabeth Street.
28. The Commission finds, from its own observations when making a site visit to the Premises, that it is currently a venue where the sole focus is gambling and that there is no part of the Premises where patrons are not exposed to the various gambling products on offer.
29. The City of Melbourne as a municipal district (**Melbourne**) is a metropolitan municipality located at the centre of metropolitan Melbourne and covers an area of 37 square kilometres
30. Major centres in Melbourne include Melbourne, Carlton and Kensington. Melbourne has an estimated adult population of 122,123 as of 2016 and the annual rate of population growth is projected by the Victorian Department of Transport, Planning and Local Infrastructure to be 4.7% for the period 2016 to 2021, as compared with the Victorian average of 1.7%.
31. Melbourne is divided into two regions for the purposes of the cap on EGM entitlements.¹⁵ The Premises are within Melbourne B, which does not have an applicable cap. Currently, there are 12 gaming venues within Melbourne (excluding the Crown Casino) with approvals to operate a total of 746 EGMs. Statistics showing expenditure and EGM density per adult resident in Melbourne are of very limited utility to the Commission because the community of Melbourne comprises residents and city users.
32. In relation to the area immediately surrounding the Premises (i.e. within two and a half kilometres), approximately 24.4% of SA1s¹⁶ are in the two most disadvantaged quintiles of the SEIFA¹⁷ index of relative socio-economic disadvantage scores, with approximately over 61.9% of SA1s being

¹⁵ Pursuant to section 3.4A.5(3A)(b) of the Act, the Victorian Commission for Gambling and Liquor Regulation 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.

¹⁶ Statistical Area Level 1 (SA1) have been designed by the Australian Bureau of Statistics (ABS) as the smallest unit for the release of Census data.

¹⁷ Socio-Economic Indexes for Areas (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.



the least disadvantaged (fourth or fifth) quintiles. The remaining 13.7% of the population within the immediate area falls within the third quintile, indicating neither advantage nor disadvantage. These are statistics that refer to the residents of the immediate area and do not include the city users.

33. The unemployment rate in Melbourne is 3.9%, which is below the metropolitan unemployment rate of 5.9%. From June 2015 to June 2016 the unemployment rate decreased from 4.9% to 3.9%. These statistics again refer to the residents of the immediate area and do not include the city users.

Decision-making framework

34. Pursuant to section 3.4.20 of the Act, the Commission must be satisfied that the '*no net detriment*' test is met before considering the discretion of whether to grant or refuse the application.

'No net detriment' test

35. 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.

'Community of the municipal district'

36. Melbourne is a unique municipal district within Victoria with large numbers of people coming into Melbourne for employment, recreation and tourism in addition to the resident population. The statutory expression of the '*no net detriment*' test refers to the "community of the municipal district". Both the Applicant and the Council directed the Commission to the same two decisions within the Victorian Civil and Administrative Tribunal (**Tribunal**) when considering who comprises the "community of the municipal district": *Francis Hotel Pty Ltd v Melbourne CC* [2012] VCAT 1896 (**Francis**); and *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130 (**Kingfish**). Both *Francis* and *Kingfish* concerned applications for EGMs for premises in Melbourne.
37. In *Francis* the Tribunal identified the residents as well as classes of "city users" that could constitute the community: visitors, students and workers. The Tribunal noted that the "city users" have "a level of exposure to the central city that ... gives them a level of connection with the city and its activities"¹⁸. The Tribunal in *Kingfish* explicitly adopted the construction in *Francis* that the community for the purpose of the '*no net detriment*' test includes residents as well as "workers,

¹⁸ *Francis* at [24].



students and visitors". However, the Tribunal in *Kingfish* did not qualify the "city users" relative to their exposure to and connectedness to the city. The Commission accepts that the community of the municipal district in this matter includes the residents of the city and the "city users": workers, students and visitors. The Commission's view is that in assessing the impact of the Application on the different classes of "city users" the respective levels of exposure to and connectedness with the city is relevant.

Economic Impacts

Gaming expenditure not associated with problem gambling

38. 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.¹⁹ 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.²⁰
39. The Commission was provided with written evidence from Mr Timothy Stillwell of ShineWing. Mr Stillwell is Director of ShineWing, an accounting and advisory firm. Mr Stillwell has 19 years experience in the accounting industry and, during that time, has advised a broad cross section of industries including gaming and hospitality.
40. In summary, Mr Stillwell's evidence was that –
- (a) Melbourne has a relatively mature gambling market. Crown Casino has fundamentally different characteristics to the Premises and the Premises' competitors. Crown Casino should not be considered as a source of potential transferred expenditure;
 - (b) Mr Stillwell adopted an empirical evidence method to estimate the likely changes in revenue if the Application were granted. That method entailed an analysis of three venues selected by Mr Stillwell for their characteristics relative to the Premises (**the Comparison Venues**). The Comparison Venues had all experienced an increase in EGMs;
 - (c) Mr Stillwell's conclusion was that for every 1% increase in the number of EGMs at the Comparison Venues there had been an increase in revenue of 0.37%. The number of

¹⁹ *Romsey No. 2* at [351] per Bell J.

²⁰ *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.



additional EGMs sought in the Application represents a potential increase within the Premises of 36%. Based on his experience and the low utilisation rates for the Premises, Mr Stillwell estimates that additional EGMs above a 25% increase for the Premises will derive negligible, if any, additional revenue;

- (d) Based on an increase of 0.37% of revenue for the first 25% increase in EGMs at the Premises, Mr Stillwell estimated a likely increase in revenue for the first 12 months after the installation of the proposed additional EGMs of \$547,959. Applying a 5% margin of variance the range estimated by Mr Stillwell was between \$546,211 and \$603,707;
- (e) Of the additional expenditure predicted at the Premises to result if the Application were granted, Mr Stillwell considers that the level of expenditure transferred from venues within Melbourne would be approximately 55%. This estimate is based on the ability of the Premises to draw existing clients from the three closest venues to it and that significant gaming competition results in the ability to attract market share; and
- (f) As a result of the estimate of transferred expenditure, Mr Stillwell's estimate of new expenditure for the first 12 months following the installation of the proposed EGMs is between \$245,795 and \$271,668.

41. Dr Livingstone (in evidence) and the Council (in its submissions) sought to cast doubt on the accuracy of Mr Stillwell's estimate. In particular, Dr Livingstone and the Council drew the Commission's attention to the NMR performance of venues four years after the installation of additional EGMs. Mr Stillwell did not make a four year forecast²¹ and the Commission accepts that the further forward in time a forecast is made in relation to EGM revenue at any venue, accuracy will decrease, as the passage of time allows a number of variables to have a greater impact. The Commission has been presented with one expert opinion²² as to the likely additional revenue to be generated at the Premises in the first 12 months in the event that the Application is granted. In assessing the economic impact of the Application the Commission accepts the estimate provided by Mr Stillwell is reasonable, that revenue in the Premises will increase between \$546,211 and \$603,707 including a component of new (non-transferred) revenue within Melbourne of \$245,795 and \$271,668 within the first 12 months of the operation of the proposed additional EGMs.

²¹ The Commission's approved form for making an application to vary a venue operator's licence requires the applicant to provide the "anticipated net gaming machine expenditure arising from this proposal over the first 12 months".

²² The Commission acknowledges Dr Livingstone's expertise in gambling and problem gambling, but he did not claim to be an expert for forecasting gambling expenditure.



42. In assessing the extent of the economic benefit of the new expenditure, the Commission has had regard to the current risks of harm associated with problem gambling, the evidence outlined in paragraphs 60 to 68 below in relation to the proposed change in the layout of the Premises and compliance by the Applicant with responsible service of gambling (RSG) principles mitigating the risks of harm from problem gambling. The Commission finds that the portion of new expenditure not attributable to problem gambling as assessed by Mr Stillwell is an economic benefit, but given the limited extent of the expenditure, it is given a marginal weight.

Community contributions

43. In determining the net economic and social impact of applications of this nature, both the Commission²³ and VCAT²⁴ have regularly treated community contributions as a positive benefit.
44. The Applicant initially asserted that the additional revenue generated if the Application were to be successful would be put towards renovation works at the Premises so that the donations that the Applicant makes to the Doxa Youth Foundation do not decrease. Mr Patterson gave oral evidence that the initial estimate in his Witness Statement (a cost of \$750,000) had increased and that the estimated cost of the proposed renovation was, at the time of the hearing, \$960,000.
45. Prior to the hearing the Applicant advised the Commission and Council that if the Application were successful that the Applicant would donate \$100,000 annually towards services for the homeless in Melbourne. The Applicant is not proposing to increase the contribution that it makes to the Doxa Youth Foundation as a result of this application.
46. The Commission accepts that the additional community contribution of \$100,000 annually towards services for the homeless in Melbourne is an economic benefit to the community. The Commission also accepts that this additional contribution would not occur without the grant of the Application. The Commission notes that the Applicant has proposed that the additional community contribution be a condition attached to the licence if the Application is successful.
47. In determining weight to be assigned to this benefit, the Commission has had regard to the relatively small amount of the additional contribution. Accordingly, the Commission has assigned this benefit a marginal weight.

²³ See, for example, Application by Richmond Football Club [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

²⁴ See, for example, *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130;



Employment creation

48. Section 5.2 of the Ratio Report provides an estimate of additional employment expected should the Application be granted. The Applicant is committing to have two persons employed within the re-designed gaming lounge. The Commission notes that the Applicant appears to already employ at least one full time equivalent (FTE) in supervision of the current gaming lounge. The Ratio Report states that there were “approximately 6 staff previously employed by the Afghan Valley Restaurant”, which sub-let the first floor of the premises from the Applicant. The Applicant estimates that 8 FTE will be employed as a result of the operation of the first floor restaurant should the application be successful. The Applicant asserts that the increased FTE related to the first floor food and beverage operation will result from the first floor becoming licensed to supply liquor once it is integrated with the ground floor. The evidence of Mr Patterson, CEO of the Applicant, was that there is an arrangement in place currently for the Tokyo Japanese Restaurant to operate on the first floor and that the Applicant plans to have the Tokyo Japanese Restaurant integrated into the premises. As the Tokyo Japanese Restaurant is already in operation the Commission is not satisfied that there will be any additional employment at the Tokyo Japanese Restaurant if the Application were to be successful.
49. Another feature of the proposed renovations is the creation of a café on Elizabeth Street at the ground floor that does not currently exist that the Applicant estimates will result in the creation of 2 FTE positions.
50. Mr Patterson gave further evidence that Mars Leather has an agreement to stay in the Mars Tenancy until 1 June 2017 and that thereafter they will be vacating the Mars Tenancy because the business is changing to an online model. The evidence was that the change to the business model of Mars Leather is not related to the Application. It follows that any loss of employment that may occur in Melbourne would not be as a result of the Application.
51. The Commission considers that the commitment to have two people employed in active supervision of the gaming lounge if the Application were to be successful would result in an increase in 1 FTE position. Together with the 2 FTE created by the café on Elizabeth Street, if the Application were to be successful the Commission finds that there would be an increase in 3 FTE positions as a result of the Application.
52. Given that the relevant community for the assessment of social and economic impacts includes workers in Melbourne, the residence of any person employed at the Premises is not relevant.



53. Accordingly, the Commission regards the additional employment as a positive economic benefit to which it assigns marginal weight.

Capital works

54. As outlined above the Application includes the proposal to renovate the premises with the most recent evidence being that the Applicant would spend approximately \$960,000. No evidence was given concerning the particulars of the engagement of contractors and the Commission cannot know whether the money to be spent by the Applicant would be spent within the community of Melbourne or not.
55. The Commission considers the funds proposed to be spent on the renovation is modest, particularly for Melbourne. Even if the Commission had evidence of the money to be spent having an economic impact on Melbourne, the Commission would consider such an impact to be marginal at best. In the absence of any evidence of any economic benefits accruing within Melbourne the Commission places no weight on any potential economic benefit from the capital works.

Possibility of increased incidence and impact of problem gambling

56. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.²⁵ In assessing the extent of this disbenefit, the Commission recognises that it does not include transferred expenditure because such expenditure cannot exacerbate problem gambling.²⁶
57. In assessing the extent of this disbenefit, the Commission accepts the expenditure evidence of Mr Stillwell set out at paragraph 41 above.
58. Problem gambling does have an economic cost relating to the provision of services, the financial losses of gamblers and support services for problem gamblers and family.
59. The Application is for an increase in EGMs at an already existing premises. The task of the Commission is to assess the change in risk of harms from problem gambling that would result from the Application being successful. In order to complete its task the Commission must come

²⁵ 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* 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.

²⁶ 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.



to a view of the current risks of harms from problem gambling at the Premises. The Commission's view, from its own observations, is that the Premises currently contains tangible risk. It sits on a highly used pedestrian thoroughfare, adjacent to tram lines and in close proximity to the Melbourne Central retail centre and train station. The character of the Premises itself is solely focussed on gambling with EGMs, betting through the TAB and the Keno games.

60. The Ratio Report, the Ratio Addendum and the Witness Statement of Andrew Patterson outline a number of factors that are asserted to reduce the risk of problem gambling at the Premises as a result of the Application:

- (a) That as a result of the expansion of the premises (into the Mars Tenancy and the first floor of the building), the EGM gaming lounge will occupy a smaller proportion of the premises, reducing from 70% to 25% of the venue;
- (b) That there will be a greater range of services on offer at the Premises. In particular:
 - (i) the café on Elizabeth Street not accessible directly from the Premises;
 - (ii) the restaurant on the first floor incorporated as part of the Premises; and
 - (iii) the creation of a 30 seat "soft lounge" on the ground floor where meals will be provided.
- (c) Visual segregation of the EGM gaming lounge both within the premises and from the street view will occur;
- (d) The Applicant proposes, and has suggested a condition in order to secure compliance, that two employees be in the proposed new EGM gaming lounge providing active supervision at all times; and
- (e) The Ratio Addendum updated the Application in terms of the proposed layout of the Premises by removing the smoking area adjacent to the proposed EGM gaming lounge, the effect being that patrons would have to leave the EGM gaming lounge and access the smoking area adjacent to Elizabeth Street, past the cashier and "soft lounge". Ms Peterson considered this to be significant in the context of the fall in revenue when smoking was banned inside gaming premises in the early 2000's. The Commission observes that under the proposed new floor plan that patrons would also need to leave the EGM gaming lounge to attend the cashier or the bathrooms.



61. At the hearing the Applicant also offered to remove the Keno facilities from the Premises if the application were to be successful so that the “soft lounge” will be free from all gaming and gaming promotion.
62. Dr Livingstone’s evidence was that the proposed changes to the design and layout of the premises would represent a “modest improvement” in terms of the risk of problem gambling.
63. In the Commission’s view, the proposal to effectively screen off the EGM gambling lounge, both from pedestrian traffic on Elizabeth Street and also within the Premises, together with the creation of the “soft lounge” as a place free from immediate gambling promotion would act to reduce the risk of harms from problem gambling at the Premises.
64. The Commission accepts the evidence in the Pre-Hearing Report that the Premises has a good history of compliance when inspected and that the staff are knowledgeable in all aspects of the gaming operations, including in relation to RSG principles. The Commission does not expect that compliance with RSG by staff will change if the Application were successful.
65. Mr Patterson, CEO of the Applicant, gave evidence that one of the purposes of the Application and the associated works is to offer more than just gambling at the Premises. Mr Patterson gave evidence that the first floor bistro and “soft lounge” on the ground floor would hopefully attract patrons for non-gambling purposes and also to offer gamblers places within the Premises with opportunities for leisure and recreation without gambling. The proposed function room for the first floor is also intended to bring people into the Premises for non-gambling purposes. The Commission accepts that the Applicant genuinely seeks to diversify the Premises from its sole focus on gambling as a result of the Application.
66. Mr Patterson stated that the Applicant’s Board has not approved the works proceeding if the Application is not granted. The Commission accepts the submission of Mr Tweedie that it is not for the Commission to make a judgment as to whether the Applicant could undertake the proposed works²⁷. The Commission therefore accepts Mr Patterson’s evidence and in the absence of any evidence to the contrary accepts that the works form part of the Application to be assessed by the Commission.

²⁷ Applicant’s written submissions paragraphs 78-87. *Monash CC v L’Unico Pty Ltd* (Review and Regulation) [2013] VCAT 1545 (4 September 2013) para 23-31



67. Mr Patterson's evidence in his Witness Statement is that the staff are long standing full time employees who have a good working relationship with Gambler's Help. Mr Patterson's evidence was also that the Premises is not open late at night, the Premises does not attract a younger demographic, there are minimal behavioural incidents and a significant CCTV surveillance within the Premises.
68. The Applicant has also proposed to introduce a chaplaincy service to the Premises if the Application were to be successful. The proposal is to engage Father James Grant of Chaplains Without Borders if the application is successful. The proposed service for the Premises would be for Fr Grant to be on the Premises 5 hours per week and Fr Grant gave evidence that in the event of crises he would make himself available. Fr Grant has experience working as a chaplain at Crown Casino under a similar program to the one proposed, and has a degree in trauma counselling. Whilst the chaplaincy service would not be limited to assisting patrons who may have problems with gambling, to the extent that Fr Grant would provide those services, he proposes to do so in a holistic way in terms of addressing matters that contribute to problem gambling. The Commission finds that the introduction of the chaplaincy service would also reduce the risk of harms associated with problem gambling at the Premises.
69. The Commission finds that the grant of this Application will result in new expenditure of approximately \$245,795 and \$271,668 in the first 12 months of operation following installation of the additional 20 EGMs. It accepts that a proportion of this new expenditure may be associated with problem gambling.
70. In considering the extent to which any new expenditure may give rise to problem gambling, the manner in which gambling is conducted at the Premises is a relevant factor. The Commission finds that the proposed changes to the layout and design of the Premises and the introduction of the proposed chaplaincy services would reduce the risk of harms associated with problem gambling at the premises.
71. The Commission is satisfied that the Applicant has appropriate practices and procedures in place in relation to complying with RSG obligations. The Commission notes the Pre-Hearing Report found no issues of concern. As such, the Commission finds that there is an economic disbenefit associated with problem gambling as a result of this Application, and places a low weight on this factor.



Social Impacts

Increased gaming opportunities for those who enjoy gaming

72. For those who enjoy gambling as a legitimate recreational activity, an increase in the number of EGMs at the Premises improves the variety of EGMs offered and may represent a social benefit.
73. A utilisation survey was conducted at the Premises by the Applicant over three weeks in October and November 2015. The results of the utilisation survey are set out in the Ratio Report. During the survey period there were 3 hours from a total of 312 hours when utilisation was above 70% and a further 5 hours when utilisation was above 60%. There was agreement between the Applicant and the Council that utilisation at the Premises is low and the Commission agrees.
74. There was no evidence presented to the Commission regarding how the proposed increase in EGMs would be a benefit by increasing choice for consumers and accordingly the Commission gives no weight to this factor.

Increased community contributions – donation to services for homeless persons

75. As outlined at paragraph 45 above, the Applicant has submitted that it will make cash contributions in the amount of \$100,000 per annum, indexed to CPI, to services for the homeless in Melbourne if the Application is successful.
76. The Applicant's proposal was communicated to the Commission and Council shortly before the hearing and did not form part of the original application. After the hearing, the Applicant has provided further detail in the form of a draft condition. The contribution is proposed to be indexed to CPI and distributed to charitable organisations providing services to the homeless by a committee consisting of a representative of the Applicant and the Council, or in the absence of a Council representative a community member nominated by the Applicant.
77. The Commission characterised the economic impact of the proposed donation, at paragraph 49 above, as a low economic benefit. However the Commission's view is that, properly directed through charitable organisations, \$100,000 could provide goods and services that would have a greater social impact for homeless persons.
78. The Commission considers that the additional community contributions and the impact they will have on homeless people in the local community to be a social, as well as economic, benefit which is given moderate weight.



Increased community contributions – chaplaincy service

79. The evidence of Fr Grant was that the chaplaincy service was not exclusively directed at problem gambling but rather to address any needs presented by people accessing the service. Given the co-morbidities associated with problem gambling²⁸ it is difficult to estimate the benefit to be received by the community distinct from the benefit associated with addressing problem gambling resulting from the service, referred to at paragraph 68 above.
80. The Commission notes that the total time that the chaplaincy service will be offered is 5 hours per week. The Commission ascribes a low weight to this social benefit.

Possibility of increased incidence and 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. In relation to gambling-related harms, Council and Dr Livingstone referred to and relied on a recent study by the Victorian Responsible Gambling Foundation (VRGF) which applied a public health approach to measure the impact of gambling on quality of life.²⁹ This study involved calculating a burden of gambling-related harm in comparison with other common health conditions by reference to a taxonomy of harms and Victorian prevalence statistics for each of the problem gambling severity index (PGSI) risk categories. The report concluded that:
- (a) the overall burden of harm experienced by Victorians equates to approximately two-thirds the harm caused by major depressive disorders and alcohol misuse and dependency;
 - (b) the burden of harm is primarily due to damage to relationships, emotional/psychological distress, health and financial impacts; and
 - (c) a majority of the harm from gambling is attributable to 'low-risk' gamblers (50.2%), as compared with 'moderate-risk' gamblers (34.5%) and 'problem gamblers' (15.2%).

²⁸ Browne, M. et al. (2016) *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne.

²⁹ Browne, M. et al. (2016) *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne.



83. The Commission acknowledges this study and notes that, although the burden of harm approach has been used extensively to inform health policy, its application in the gambling context is new. The Commission also notes the functional definition of gambling-related harm used as part of the study is broad and may, to some extent, be inconsistent with the accepted legitimacy of EGM gambling as a lawful recreational activity and the objectives of the Act (set out in paragraph 5 above). As a consequence, the Commission considers that “burden of harm” research in the gambling context is in its infancy and as this body of research develops it could well be of assistance to the Commission. Despite this and in any event, the Commission accepts that harms associated with the incidence of problem gambling are wide-ranging and attributable to all PGSI categories of gamblers (‘low-risk’, ‘moderate-risk’ and ‘problem gamblers’) and across the community more broadly.
84. The Commission has already described the Premises as currently having features that pose a risk for problem gambling as described in paragraph 59 above. The Commission refers to and relies upon the evidence set out at paragraphs 60 to 68 in relation to the measures to be taken by the Applicant (if the Application were successful) to reduce the risk of harms from problem gambling and mitigate against the incidence of problem gambling.
85. The Commission is satisfied that the Applicant’s approach to RSG as outlined in paragraphs 60 to 68 reduces the risk of problem gambling at the Premises. Consequently, the Commission finds that the social disbenefit associated with problem gambling as a result of this Application is a risk, on which it places low weight.

Net economic and social impact

86. The ‘*no net detriment test*’ in section 3.4.20(c) of the Act requires the Commission to weight 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.³⁰
87. After consideration of the material before it, including the evidence provided at the public hearing (and weighted as outlined above and in tabular form at Appendix 1 of this Decision and Reasons for Decision), the Commission is satisfied that there is likely to 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.

³⁰ *Mount Alexander Shire Council* at [52] per Dwyer DP.



OTHER RELEVANT CONSIDERATIONS

88. On the material that has been put before it, the Commission has determined that the '*no net detriment* test' has been satisfied. The Commission notes that there remains a discretion to determine whether or not to approve the Application.
89. Four adjoining Councils supported the Council's objection to the Application. The adjoining Councils' objections focus on concerns generally about potential for increases in problem gambling and accessibility for residents of those LGAs. The submissions of Cohealth Ltd, Inner North West Primary Care Partnership, Women's Health West and the Council to Homeless persons all dealt with general concerns of the impact of problem gambling on health and homeless persons. While those objections and submissions raised valid concerns about the impact of problem gambling on the health and wellbeing of the community none of them addressed the impact on the community of additional EGMs at the Premises. Therefore, since none of the submissions addressed the matters the Commission must consider in relation to this Application they did not provide a basis upon which the Commission should exercise its discretion to refuse the Application.
90. The Commission's view is that the Premises in its current state poses risks of harms from problem gambling. The Commission's assessment that the '*no net detriment*' has been met is contingent on the Applicant implementing a number of proposed measures to reduce the risks of harm from problem gambling. The Commission was provided with draft conditions that the Applicant would be willing to accept should the Application be approved which all relate to matters that the Commission views as necessary to ensure that the '*not net detriment*' test is met in reality.
91. On the material that has been put before it, the Commission is satisfied that the other matters in section 3.4.20(1) do not apply to the Application. The Commission is also 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.
92. In granting approval, the Commission believes it is appropriate that its approval should be subject to the conditions provided in draft form by the Applicant. In imposing the conditions the Commission has changed the time frame applicable to the conditions:

A - Works

1. *The Works at the Premises (as defined in clause A(2)) must be substantially completed to the satisfaction of the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) before the commencement of the operation of any of the additional twenty (20) electronic gaming machines (**Additional EGMs**) at the Premises.*
2. *For the purpose of this clause, **the Works** must be generally in accordance with the ground and first floor plans of the Premises prepared by Donnelly Design (as presented to the Commission at the hearing) but removing the outdoor smoking area shown as adjacent to the EGM gaming lounge.*

B. - Community Contributions

1. *Chaplaincy Program*
 - a. *The Venue Operator will establish a Chaplaincy Program (generally in accordance with the program detailed in the witness statement of Father James Grant). Alternatively, the Venue Operator will provide a suitably qualified counsellor at the Premises. The Chaplaincy Program or other suitably qualified counsellor will provide services at the Premises for as long as the Additional EGMs are in operation at the Premises. The services provided are to include, but are not limited to, matters related to problem gambling.*
 - b. *The Chaplaincy Program or other suitably qualified counsellor will be available at the Premises for no less than five (5) hours per week. Any increase required in relation to the hours of service will be determined by the service provider.*
2. *Donation to services for homeless*
 - a. *The Venue Operator will make a cash contribution of \$100,000.00 per annum (**the Additional Contribution**) (indexed each year by CPI All Groups Melbourne) to a charitable organisation or other organisations which has or have as one of its purposes, assistance of homeless persons in the City of Melbourne for as long as the additional EGMs are in operation at the Premises.*
 - b. *The distribution of the Additional Contribution in accordance with condition B(2)(a) is to be determined by a committee (**the Committee**) established by the Venue Operator comprising:*



- i. *One (1) representative of the Venue Operator; and*
 - ii. *One (1) representative of Council, or, in the event that Council is unwilling to provide a representative, a community representative nominated by the Venue Operator.*
- c. *If the Additional Contribution is not made within 12 months of the operation of the Additional EGMs, or within any subsequent 12 month period following the anniversary of the operation of the Additional EGMs, the operation of the Additional EGMs must cease immediately for as long the Additional Contribution remains outstanding.*

C - Staffing

1. *A minimum of two staff members must be on duty in the gaming room at all times for as long as the Additional EGMs are in operation at the Premises.*

D - Keno

1. *The Venue Operator will remove all Keno facilities at the Premises following approval of this Application and shall not offer Keno facilities for as long as the Additional EGMs are in operation at the Premises.*

The preceding paragraphs are a true copy of the Reasons for Decision of Ms Helen Versey, Deputy Chair, and Ms Dina McMillan, Commissioner.



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Appendix One

Summary of social and economic impacts

Economic impacts

	Impact	Paragraph number	Comment relevant to weight
Benefit	Gaming expenditure not associated with problem gambling	38-42	<p>The portion of new expenditure not attributable to problem gambling is an economic benefit. This amount is not estimated to be high.</p> <p>The Premises already pose risks in relation to characteristics that present a risk of problem gambling but the Applicant is required by the conditions to make changes to reduce the risk of harms from problem gambling.</p> <p>Marginal weight.</p>
	Community contributions	43-47	<p>The proposed contribution of \$100,000 per annum indexed to inflation is a new initiative and will include a formal process and involve Council in elements of the process.</p> <p>Marginal weight.</p>
	Employment creation	48-53	<p>The Commission has assessed that the likely employment created is 3 FTE positions.</p> <p>Marginal weight.</p>



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	Capital Works	54-55	<p>The capital works proposed will cost approximately \$960,000 and there is uncertainty whether the economic benefits will accrue to the community.</p> <p>No weight</p>
Disbenefit	Possibility of increased incidence and impact of problem gambling	56-71	<p>A portion of new expenditure may be attributed to (or may be sourced from) problem gambling. However, the application includes improvements to the venue that will reduce risk of harm associated with problem gambling. The introduction of the proposed chaplaincy program and the proposed increase of staff actively monitoring the EGM lounge also reduce the risk of harms associated with problem gambling.</p> <p>Low weight.</p>



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Social impacts

	Impact	Paragraph number	Comment relevant to weight
Benefit	Increased gaming opportunities for those who enjoy gaming	72-74	Although additional EGMs may provide greater choice, owing to the current low utilisation rates the Commission does not see any benefit accruing from increased gaming opportunities. No weight.
	Increased community contributions – donations to services for homeless	75-78	Whilst the amount of money to be contributed is modest in the context of the revenue generated at the Premises the Commission acknowledges that the impact of the proposed contribution for people who are homeless may be significant. Moderate weight.
	Increased community contributions – chaplaincy service	79-80	The chaplaincy service will be directed towards reducing the risk of harms associated with problem gambling, but also will assist patrons of the Premises with non-gambling related problems. To the extent the service assists with non-gambling related problems, this is an additional benefit. To the extent that the service assists with gambling related problems these are included in assessing the risks of harm from gambling. Low weight.



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Disbenefit	Possibility of increased incidence and impact of problem gambling on the community	81-85	<p>A proportion of total gaming will be associated with problem gambling, but as stated when assessing the economic disbenefit, there will be improvements to the venue that will reduce the risk of harms associated with problem gambling. The introduction of the proposed chaplaincy program and the proposed increase of staff actively monitoring the EGM lounge also reduce the risk of harms associate with problem gambling</p> <p>Low weight.</p>
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