



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 Ballarat Golf Club Inc to amend its venue operator's licence to vary the number of electronic gaming machines from twenty-eight (28) to thirty-four (34) at the approved premises, Ballarat Golf Club Inc, located at 1800 Sturt Street, Ballarat.

Commission: Ms Deirdre O'Donnell, Deputy Chair
Mr Des Powell AM, Commissioner

Appearances: Mr Rupert Watters, Counsel for the Applicant (instructed by BSP Lawyers)
Ms Breanna Doody, Coordinator for Health and Planning for the Council
Mr Lee Konstantinidis, Counsel Assisting the Commission

Date of Hearing: 29 and 30 November 2018

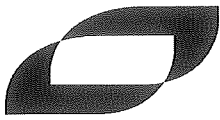
Date of Decision: 24 December 2018

Date of Reasons: 24 December 2018

Decision: The application is granted subject to the conditions set out at Appendix A.

Signed:

Deirdre O'Donnell
Deputy Chair



REASONS FOR DECISION

INTRODUCTION

1. This is an application by the Ballarat Golf Club Inc (the **Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (the **Commission**) to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) permitted in Ballarat Golf Club, located at 1800 Sturt Street, Ballarat (the **Premises**), from twenty-eight (28) to thirty-four (34) (the **Application**).
2. The relevant municipal authority is the City of Ballarat (the **Council**). By correspondence dated 8 October 2018 to the Commission, the Council stated that it intended to make an economic and social impact submission in relation to the Application, and did so on 2 November 2018.
3. The Commission considered the Application by way of a public inquiry.¹ To this end, a public hearing was conducted over two days, namely 29 and 30 November 2018 (the **Hearing**). The Applicant was represented by Mr Rupert Watters of Counsel, instructed by BSP Lawyers. The Council was represented by Ms Breanna Doody.

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:

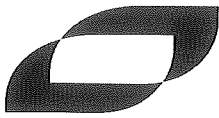
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(2) *The main objectives of this Act are—*

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

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

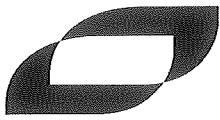
¹ A public inquiry is required to be conducted by the Commission in relation to the Application pursuant to section 28(g)(iii) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (**VCGLR Act**). As to the manner in which the Commission is to conduct an inquiry, see generally Pt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



- (ii) *accommodate those who gamble without harming themselves or others;*
- (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*
- (b) *to ensure that gaming on gaming machines is conducted honestly;*
- (c) *to ensure that the management of gaming equipment and monitoring equipment is free from criminal influence and exploitation;*
- (d) *to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;*
- (e) *to ensure that-*
 - (i) *community and charitable gaming benefits the community or charitable organisation concerned;*
 - (ii) *practices that could undermine public confidence in community and charitable gaming are eliminated;*
 - (iii) *bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;*
- (f) *to promote tourism, employment and economic development generally in the State.*

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

- (1) *The purpose of this Chapter is to establish a system for the regulation, supervision and control of gaming equipment and monitoring equipment with the aims of—*
 - (a) *ensuring that gaming on gaming machines is conducted honestly; and*
 - (b) *ensuring that the management of gaming equipment and monitoring equipment is free from criminal influence or exploitation; and*
 - (c) *regulating the use of gaming machines in casinos and other approved venues where liquor is sold; and*
 - (d) *regulating the activities of persons in the gaming machine industry; and*



- (e) *promoting tourism, employment and economic development generally in the State; and*
- (f) *fostering responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling;*
 - (ii) *accommodate those who gamble without harming themselves or others.*

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

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

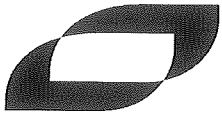
7. The relevant provision concerning the Application is in section 3.4.17(1)(b) of the GR Act, which states that variation of the number of EGMs permitted in an approved venue may be amended in accordance with Division 2, Part 4 of Chapter 3 of the GR Act.
8. Sections 3.4.18 to 3.4.19 of the GR Act provide for the manner in which requests for amendments under section 3.4.17(1)(b) are to be made. Relevantly for the Application, section 3.4.18 provides, inter alia, that:

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

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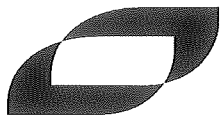
- (c) *in the case of ... an amendment to increase the number of gaming machines permitted in an approved venue, must be accompanied by a submission—*
 - (i) *on the net economic and social benefit that will accrue to the community of the municipal district in which the approved venue is located as a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

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



9. Section 3.4.18(2) provides that if the request is for an amendment to increase the number of gaming machines permitted in an approved venue, the venue operator must give the relevant municipal council a copy of the proposed request before submitting the request to the Commission.²
10. Further, section 3.4.19(1) of the GR Act provides:
- (1) *Subject to this section, after receiving a copy of a request for an amendment referred to in section 3.4.18(2), a municipal council may make a submission to the Commission—*
 - (a) *addressing the economic and social impact of the proposed amendment on the well-being of the community of the municipal district in which the approved venue is located; and*
 - (b) *taking into account the impact of the proposed amendment on surrounding municipal districts.*
- ...
11. 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—*
 - (a) *the Commission is satisfied that the amendment of the licence does not conflict with a direction, if any, given under section 3.2.3; and*
 - (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*
 - (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*

² The Applicant provided the Commission with evidence of advertising the Application in the Herald Sun newspaper on 22 August 2018 (described at paragraph 21(h)), which the Commission regarded as sufficient evidence for the purposes of s 3.4.18(2) of the GR Act.



not be detrimental to the well-being of the community of the municipal district in which the approved venue is located;

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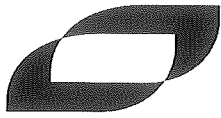
12. Section 3.4.20(1)(c) provides for what is now commonly described as the '*no net detriment*' test. It requires the Commission to be satisfied that there is no net detriment arising from the approval through positively and objectively establishing that the net economic and social impact will not be detrimental to the well-being of the community.³
13. The GR Act does not specify the matters that the Commission must consider in deciding whether the '*no net detriment*' test is satisfied. However, the statutory signposts are provided by the test itself. The Commission must consider:
 - (a) the likely economic impacts of approval;
 - (b) the likely social impacts of approval; and
 - (c) the net effect of those impacts on the well-being of the relevant community.⁴
14. 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.
15. 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

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

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

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

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



the ultimate composite test.⁷ The Commission has adopted the same approach as VCAT in setting out a table of likely economic and social benefits both to enhance clarity of Commission decisions and facilitate greater consistency between the Commission and VCAT.⁸

16. If the Commission is not satisfied that the '*no net detriment*' test is met, that is clearly fatal to the application before it, as given the opening words of section 3.4.20(1) of the GR Act, satisfaction of the test is a mandatory pre-condition to approval. However, although section 3.4.20(1) sets out certain mandatory considerations for the Commission, the provision is not exhaustive. If the Commission is satisfied that the '*no net detriment*' test is met, it still has an ultimate discretion as to whether or not to grant the approval.⁹ The Commission must decide whether to make the proposed amendment, with or without any changes from that proposed by the applicant, even where the applicant has satisfied the minimum threshold of the '*no net detriment*' test.¹⁰
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;¹¹ and
 - (b) it may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the GR Act as a whole.¹²
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*¹³ that, if all of the mandatory considerations under the GR Act favour the grant of an approval, one would expect that the ultimate discretion will commonly favour approval - other than in relatively rare or exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.

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

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

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

¹⁰ GR Act, section 3.4.20(2).

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

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

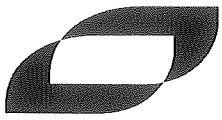
¹³ [2013] VCAT 101, [98].



19. Finally, pursuant to section 3.4.20(1)(a) of the GR Act, the Commission must be satisfied that the proposed amendment does not conflict with a Ministerial Direction given under section 3.2.3 of the GR Act. Further, 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.

MATERIAL BEFORE THE COMMISSION

20. Before the Hearing, the Applicant provided the Commission with the following material in support of its Application:
 - (a) Application form – amendment to venue operator’s licence – vary gaming machines received by the Commission on 15 August 2018 (the **Application Form**);
 - (b) Social and economic impact statement prepared by Ratio Consultants Pty Ltd (**Ratio**) dated August 2018 (the **Ratio Report**);
 - (c) Report of Mr Leigh Barrett, Principal Consultant of Leigh Barrett and Associates, dated 17 June 2018 (the **Barrett Report**);
 - (d) Witness statement of Ms Hannah Louise Mead, dated August 2018;
 - (e) Witness statement of Mr John King, President and Managing Director, dated August 2018;
 - (f) Landscape masterplan prepared by Thomson Perrett on behalf of the Applicant;
 - (g) Expenditure report prepared by ShineWing Australia on 26 July 2018 on behalf of the Applicant (the **ShineWing Report**);
 - (h) A copy of the public notice appearing in the Herald Sun newspaper dated 22 August 2018 along with a covering letter;
 - (i) Conditions proposed by the Applicant to attach to the approval of the Application were the Commission to grant such approval dated 15 November 2018, proposing that the ‘works’ referred to in sections 4.1.2 and 4.1.3 of the Ratio Report must be substantially completed within 24 months after the commencement of the operation of any of the additional EGMs at the Premises;
 - (j) Updated draft conditions proposed by the Applicant which were identical to those dated 15 November 2018, save that they further proposed that:



- i. The Applicant would ensure that its newly appointed board members would undertake responsible service of gaming induction within three (3) months of their appointment; and
 - ii. The Applicant would engage Leigh Barrett & Associates (or an equivalent Independent Consultant) to undertake responsible service of gaming audits every six months while additional EGMs granted as a result of the Application were in operation at the Premises.
21. On 3 November 2018, the Council provided the Commission and the Applicant with an economic and social impact submission in respect of the Application, which included a Social and Economic Impact Assessment prepared by Ms Breanna Doody, Coordinator of Health and Social Planning for the Council (the **Council Report**). In the economic and social impact submission form, the Council expressed concern with respect to the suburbs of Sebastopol, Wendouree and Delacombe which were within the catchment area identified by the Ratio Report and in the 1st, 1st and 2nd decile (respectively) for disadvantage according to the SEIFA Index of Disadvantage 2016 data.
22. On 19 November 2018, Council provided its reply to the conditions proposed by the Applicant on 15 November 2018. Council submitted that if the Commission determined to approve the Application, this should be on the condition that the works referred to in section 4.1.2 and 4.1.3 of the Ratio Report are completed before the commencement of the operation of any additional EGMs.
23. On 22 November 2018, the Commission received a submission in opposition to the Application from the Ballarat Interagency Taskforce for Gambling Reform (**BITGR**), dated November 2018.
24. The following material, prepared by Commission staff, was provided to the Applicant and the Council and considered by the Commission:
 - (a) a report titled *Economic and Social Impact Report* dated November 2018 (the **VCGLR Report**); and
 - (b) a report titled *Pre-Hearing Inspection and Compliance Report* dated 25 October 2018 (the **Pre-Hearing Report**).
25. The Commission also received emails, dated between 19 November 2018 and 21 November 2018, from local residents and persons residing in neighbouring local government areas (**LGAs**) who objected to the Application.
26. The following witnesses gave oral evidence at the Hearing:



- (a) Mr John King, President and Managing Director of the Applicant;
 - (b) Mr Michael Phillips, General Manager of the Applicant;
 - (c) Ms Hannah Mead, Duty Manager of the Applicant;
 - (d) Mr Tim Stillwell, Director of ShineWing Australia;
 - (e) Mr Leigh Barrett of Leigh Barrett and Associates Pty Ltd;
 - (f) Ms Colleen Peterson, Chief Executive Officer of Ratio Consultants Pty Ltd;
27. The Commission also heard oral submissions from Dr Deborah Greenslade, representative of the BITGR who also provided written submissions as referred to at paragraph 23.
28. Prior to the determination of this matter, Commissioner O'Donnell visited the Premises.

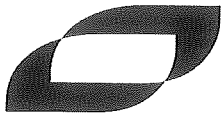
DECISION AND REASONS FOR DECISION

Background

Location

29. The Premises are located at 1800 Sturt Street and are bordered by Ring Road to the east and Gregory Street to the north in the City of Ballarat.¹⁴ The Premises are situated towards the north-western edge of the Ballarat Metropolitan Activity Centre and on the northern side of the suburb of Alfredton. To the north is Flax Mill Swamp, and to the northwest is Winters Swamp and an industrial area. To the west is a residential growth corridor and Lake Wendouree Reserve is to the east. To the south is the Alfredton residential area. At page 14 of the Council's Report, Sturt Street is described as a major traffic corridor in the west of the city and one of few major commuter routes in Ballarat. Sturt Street is part of the route C805 highway which adjoins the (A8) Western Highway en route to Beaufort.
30. The City of Ballarat is a regional municipality located approximately 110 kilometres west of Melbourne and covers an area of 739 square kilometres. Major centres in the City of Ballarat include Ballarat, Wendouree and Sebastopol. The City of Ballarat has an adult population of 82,673 which ranks it as the third most populous region out of 13 regional municipalities. The City of Ballarat's annual rate of population growth of 2.1% in 2018 is projected by DELWP to be lower than the Victorian average of 2.3%.
31. Gaming venue density is calculated by the adult population of the LGA per approved gaming

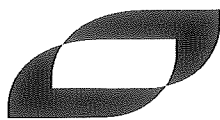
¹⁴ Where reference is made in these reasons to the City of Ballarat, this is a reference to the local government area (LGA).



premises, and a higher density figure indicates fewer gaming premises. The City of Ballarat, with 15 gaming venues and an adult population of 82,673, has fewer adults per venue than the State average and fewer adults per venue than the regional average.

32. The VCGLR Report notes that as at 1 November 2018, the City of Ballarat has an EGM density of 7.9 EGMs per 1,000 adults which is 51.1% more than the state average and 9.2% more than the regional average. The City of Ballarat is ranked 7th of 13 regional LGAs in terms of gaming machines per 1,000 adults, with 1st being the highest. In the 2017/2018 financial year, expenditure on gaming machines in the City of Ballarat was \$55,763,965.38. This equated to an expenditure of \$675 per adult, which is 12.1% more than the regional average and 26.6% more than the state average.
33. Applying the estimate of increased gaming expenditure as received from the Applicant in the first year of operation of the additional six EGMs, the approval of this Application would result in an increase in average gaming expenditure per adult of an estimated 0.1%. The applicant estimates that new expenditure in the City of Ballarat, as a result of this proposal will be an increase of \$36,045.00 in the first year of operation. For the 2017/2018 financial year, gaming expenditure in the City of Ballarat was \$55,763,964.84. Of this, the expenditure at the Premises was \$2,083,080.72. During this period, the expenditure for each of the Premises' 28 machines was \$74,395.74.
34. Ballarat is characterised by a mixed socio-economic profile with indices both above and below metropolitan averages and is ranked 28 out of 79 LGAs in Victoria on the Socio-Economic Indexes for Areas (SEIFA) scale of disadvantage,¹⁵ indicating some disadvantage within the LGA (1st being the LGA with the greatest disadvantage).
35. In relation to the immediate surrounding area of the Club (i.e. within 2.5 kilometres), 32.5% of SA1s are in the 1st quintile of SEIFA scores, with a further 12.5% of SA1s being in the 2nd quintile. This indicates that the area immediately surrounding the Club (in particular the residential areas to the north and south) may be exposed to a significant level of disadvantage.
36. The VCGLR Report also indicates that:
 - (a) the rate of housing stress experienced within the immediate surrounding area of the Club (calculated as the percentage of households in the lowest two equivalised household income quintiles paying more than 30% of income on rent or mortgage) is 51.6%, which is lower than the rate of housing stress for Ballarat (54.7%), for regional

¹⁵ SEIFA is a product developed by the ABS to assist in the assessment of the welfare of Australian communities. The SEIFA Index allows the ranking of regions/areas, providing a method of determining the level of social and economic well-being in each region.



LGAs (51.9%) and for Victoria (60.2%);

- (b) the unemployment rate in Ballarat is 4.6%, which is lower than the regional unemployment rate of 6.0%. Unemployment in Ballarat increased by 0.02% over the period June 2017 to June 2018;
- (c) many residents in Ballarat are welfare recipients and the area was ranked ninth out of 13 regional LGAs for pensions and allowances per 1,000 adults. The crime rate in Ballarat is the fifth highest out of 13 regional LGAs; and
- (d) that the latest statistics (2016) show that the rate of homelessness in Ballarat is at 5.2% which is higher than the regional average of 4.5%. Ballarat is ranked 6th of 13 regional LGAs for homelessness, and 20th of all 79 Victorian LGAs.

37. A regional cap of the permissible number of gaming entitlements made under a Ministerial Order pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act applies to the City of Ballarat.¹⁶ The maximum permissible number of gaming machine entitlements in the area covered by the local government area of the City of Ballarat is 663. Currently, there are 15 gaming venues operating within the City of Ballarat with approvals to operate a total of 663 EGMs, but with 657 attached entitlements (this is explained further at paragraph 52).

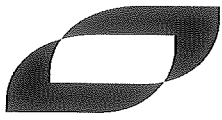
Nature of Premises

38. The Premises itself currently comprises:

- (a) an 18-hole golf course;
- (b) practice putting green;
- (c) practice chipping green;
- (d) a driving range; and,
- (e) a clubhouse consisting of:¹⁷
 - (i) a bistro and bar, 'greenside bistro' with seating for 110 patrons;
 - (ii) board/Committee room for 30 patrons;
 - (iii) main Function Room/Members Lounge 1/Ladies Lounge (capacity for 160 patrons);
 - (iv) Titheridge Room/Members Lounge 2 (capacity for approximately 90 patrons);

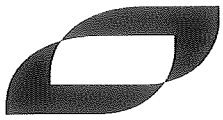
¹⁶ Victorian Government Gazette S318, 20 September 2017.

¹⁷ This was the evidence in Michael Phillips' witness statement.



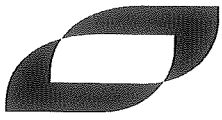
- (v) gaming room with 28 electronic gaming machines (**EGMs**);
 - (vi) outdoor lounge areas with seating for up to 60 patrons;
 - (vii) a 'pro shop' and cart storage; and
 - (viii) male and female change rooms.
39. The club house opening hours are:
- (a) Mon: 10am to 11pm;
 - (b) Tue & Wed: 10am to 12am;
 - (c) Thu to Sat: 10am to late; and
 - (d) Sun: 11am to 11pm.
40. The bistro opening hours are:
- (a) Mon to Wed: 10am to 8:30pm;
 - (b) Thu to Sat: 10am to 9pm; and
 - (c) Sun: 11am to 8pm.
41. The Applicant intends to conduct renovations to its club facilities at a cost of approximately \$980,000.00. However, the Applicant did acknowledge that part of the works to the estimated value of \$345,000.00 will be undertaken even if the Application were refused.
42. The Applicant submitted that the works to the value of \$345,000 which will be undertaken regardless of the outcome of the Application include the cosmetic refurbishment of the premises, including new tables, chairs, carpet and painting. The remaining renovations to the value of \$635,000 to be undertaken if the Application is granted are proposed to include the construction and renovation of the Applicant's facilities attached to the bistro area in order to improve operational efficiencies.
- Catchment area of the Premises*
43. The '*no net detriment*' test refers to 'the community of the municipal district in which the approved venue is located'. In determining the impact of an application of this nature on a municipal district, previous Commission and VCAT decisions have had particular regard to the area serviced by the relevant premises, which is generally referred to as the 'catchment area'.¹⁸ The determination of the likely catchment area in this instance is important in the Commission's

¹⁸ See for example, *Romsey No. 2* [2009] VCAT 2275; *Whittlesea CC v George Adams Pty Ltd* [2011] VCAT 534 (7 April 2011).



consideration of the identity of those residents who will be most affected by the Application in terms of gambling-related benefits and harms.

44. The Applicant, under the guidance of Ratio Consultants, conducted two sets of suburb surveys of the patronage of the gaming room at the Premises during the two weeks between 30 October 2017 and 12 November 2017 (inclusive), and between 14 May 2018 and 27 May 2018. From analysis of these gaming room surveys, Ms Peterson submitted that between 85.9% and 88.7% of gaming room patrons come from within the LGA.
45. The Ratio Report contains two tables summarising data in relation to patron surveys. Table 5.1 in the Ratio Report indicates that for October/November 2017, the primary patron catchment of the venue came from the suburbs of Alfredton (31.6%) and Wendouree (10.4%), which together account for 42.0% of the patrons in the gaming room for the period of October/November 2017. Table 5.2 in the Ratio Report indicates that for May 2018 most gaming patrons came from Alfredton (33.8%) and Wendouree (7.3%), indicating that these suburbs continued to be primary catchment areas with a total of 41.1% of patrons coming from these areas.
46. In this instance, the Commission considers that the gaming room patron surveys provide a reliable indication of the likely gaming patrons for the Premises, with the greatest proportion of patrons residing in the suburb of Alfredton (around one third). Having regard to the material and evidence put forward by the Applicant and the Council, and noting the VCGLR Report analysing the surrounding area as a radius of 2.5km around the Premises, the Commission considers that the appropriate catchment area of the Premises of 2.5km consisting primarily of the suburb of Alfredton followed by Wendouree is appropriate in the circumstances. Various areas of Ballarat including North Ballarat, Central Ballarat, Lucas and Sebastopol appear within 5km of the premises, and while the Commission accepts that some patrons including club members and visitors may come from these areas, the Commission does not consider these to be the primary catchment areas.



Issues for Determination

47. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following four matters:¹⁹
- (a) that the amendment of the venue operator's licence does not conflict with a direction given under section 3.2.3 of the GR Act;
 - (b) that the relevant municipal limit for EGMs applicable to the City of Ballarat will not be exceeded by the making of the amendment the subject of the Application;
 - (c) that the net social and economic impact of the increase in EGMs permitted in the Premises will not be detrimental to the well-being of the community of the City of Ballarat (the '*no net detriment*' test); and
 - (d) if premises are proposed to be added to the Applicant's licence as an approved venue and the Applicant (or an associate of the Applicant) operates an approved venue within 100 metres of the Premises, that the management and operation of the Premises and other approved venues are genuinely independent of each other.
48. 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.²⁰
- A. Directions given under section 3.2.3**
49. 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. Further, section 9(4) of the VCGLR Act 2011 provides that the Commission must, when performing functions or duties or exercising its powers under gambling legislation or liquor legislation, have regard to any decision-making guidelines issued by the Minister under section 5. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application.
50. On this basis, the Commission is satisfied that granting the Application would not conflict with a direction given under section 3.2.3 of the GR Act, and therefore considers that the mandatory

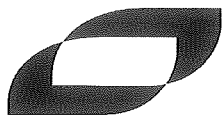
¹⁹ The Commission also considered and was satisfied as to the matters set out in section 3.4.20(1)(a) and (d) of the GR Act.

²⁰ An amendment may be made subject to any conditions the Commission thinks fit: GR Act, section 3.4.20(3).

pre-condition set out in section 3.4.20(1)(a) of the GR Act is satisfied.

B. Regional cap

51. As noted in paragraph 37 above, the City of Ballarat is subject to a regional cap on the number of EGMs under a Ministerial Order under sections 3.3.4 and 3.4A.5 of the GR Act. The maximum permissible number of gaming machine entitlements in the area covered by the LGA is 663.
52. It is the position of the Commission that an approval to increase the maximum permissible EGMs at a venue will not result in a regional cap or municipal limit being exceeded. This is due to the difference between 'Licensed EGM' numbers and 'Attached EGM' numbers:
 - (a) 'Licensed EGMs' are the maximum permissible EGMs within an approved venue (i.e. the premises have been considered suitable and approved to install up to this number); and
 - (b) 'Attached EGMs' are the number of EGMs (together with a corresponding entitlement) attached and operating at an approved venue.
53. While the total number of 'Licensed EGMs' may exceed the cap, this means that not all approved venues can 'attach' the maximum EGMs at the same time, as this would result in more than the capped number of EGMs operating within the relevant area. As outlined on page 7 of the VCGLR Report, there are already 693 licensed EGMs over 15 gaming venues within the capped region, but only 657 attached EGMs. The approval of this Application would result in the licensed number increasing to 699 and if the Applicant obtained entitlements and attached them, then the number of attached entitlements would increase to 663 depending on where the entitlements are likely to be sourced from.
54. Since the introduction of the entitlements regime, the enforcement of capped numbers is managed through applications made under that regime (i.e. where a venue operator applies to the Commission to attach relevant EGM entitlements to an approved venue). At this time, the Commission (via a delegate) determines whether that attachment of EGM entitlements is permissible, taking into account the total current attached EGMs in a particular capped region or municipality and assessed against the relevant cap number. In summary, it is the Commission's position that no application pursuant to section 3.4.17 to increase the permitted EGMs at a venue will result in a cap being exceeded.
55. Overall, the Commission is satisfied that granting the Application would not cause the relevant regional cap for gaming machines for the City of Ballarat to be exceeded, and therefore considers that mandatory pre-condition set out in section 3.4.20(1)(b) of the GR Act is satisfied.



C. 'No net detriment' test

56. The Commission must be satisfied that if this Application is granted the net economic and social impact of approval will not be detrimental to the well-being of the community of the municipal district in which the Premises are located. Set out below (and summarised in tabular form at Appendix B) 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

57. The materials before the Commission and the evidence adduced at the Hearing provided the evidentiary basis for the consideration of a range of economic benefits and disbenefits associated with this Application.

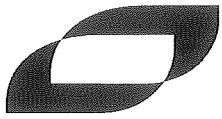
Expenditure on capital works

58. The Applicant submits that a potential economic benefit associated with this Application comes from the expenditure on the proposed renovations of the Premises and the associated economic stimulus in the LGA.

59. In relation to the proposed renovations of the Premises, the Applicant submitted that if the Application were approved, it would expend approximately \$980,000 in renovating and refurbishing the Premises, which would include:

- (a) New tables and chairs for the function room and bistro/café;
- (b) New lighting throughout;
- (c) Improvements to the bar area;
- (d) Internal painting;
- (e) New coolroom, store room and improved delivery area;
- (f) New carpet tile flooring throughout the building; and
- (g) Installation of information and directional signage including digital signage.

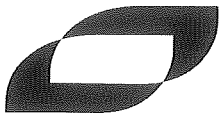
60. The Applicant submitted that the full extent of the proposed renovations to the Premises were contingent upon the revenue generated by the six additional EGMs. The Applicant submitted that it would undertake refurbishment if the Application was not approved, albeit to the lesser value of approximately \$345,000.



61. The Applicant submitted that the lesser works to be undertaken if the Application were not granted would involve cosmetic refurbishment of the Premises including new chairs, lighting, carpet and internal painting. The additional works to be undertaken to the approximate value of \$635,000 if the Application were approved would involve a new cool room, store room and an improved delivery area attached to the bistro within the premises.
62. The Applicant submitted that although all of the renovations to the value of \$635,000 might not be visible to patrons, the effect of these renovations would be to also increase the efficiency of the bistro. The Applicant further submitted that as a Club, all improvements to the Premises would ultimately benefit the community.
63. In addition to this, the Applicant submitted that the Premises was undertaking a five-year golf course enhancement plan which will be completed in the year 2022 at an overall estimated cost of \$810,373. While this plan is not dependent upon the Application being approved, the Applicant has suggested that the quality and extent of these works may be reduced should the additional EGMs not be allowed.
64. The Applicant further submitted that gaming currently subsidises the price of membership and that the rationale behind the works described at paragraph 59 and the Application was to ensure the Applicant's continued financial viability and to ensure that it was able to stabilise its membership base in a climate where many clubs are losing members.
65. Overall, the Commission regards the evidence about capital works as of minor positive impact, noting the Applicant's submission that only \$635,000 will be spent as a result of the Application and that the main benefit of this expenditure will not directly impact the community, but benefit the community indirectly through allowing the Applicant to continue to subsidise its cost of membership.

Additional employment

66. According to the Applicant, employment benefits associated with this Application may involve minor short term employment benefits in the LGA associated with the proposed renovations at the Premises and would involve longer term benefits in the LGA following the introduction of the six EGMs at the Premises.
67. The Commission notes that there is a lack of evidence in relation to the expected short term employment benefits for the LGA associated with the proposed renovations at the Premises. As a result of this, and because of the lack of detail as to additional short term employment created by the proposed renovations at the Premises, the Commission attributes to this particular benefit no to marginal weight.



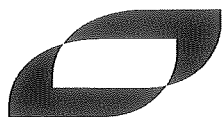
68. In relation to the long-term employment benefits, the Applicant estimated that the operation of an additional six EGMs at the Premises would result in increased employment of 0.7 Equivalent Full Time (EFT) positions at the Premises.
69. The Council Report addressed the economic impact of the additional employment by stating that any rise in employment on EGMs creates a greater reduction in employment in other sectors of the economy due to decreased expenditure in those other sectors due to that expenditure being spent on gambling.
70. Overall, the Commission regards the evidence about additional employment as of minor positive impact; noting that the additional employment of 0.7 EFT is of limited significance to a municipality with an adult population of 82,673 and an unemployment rate that is ranked 6th out of 13 regional municipalities. The Commission also notes that to the extent that expenditure is transferred expenditure, an increase of employment at the Premises is likely to coincide with a decrease in employment elsewhere. The Commission considers it is an economic benefit to the community to which it should attribute no to marginal weight.

Supply Contracts

71. At Table 16.2 of the Ratio Report, the Applicant submitted that the proposed renovations to the Premises would generate increased employment. The Applicant did not provide details of the expected short-term employment associated with supply contracts which would occur with respect to the proposed redevelopment, however the Applicant attributed negligible benefit to this factor.
72. While the Commission accepts that the Applicant's expected expenditure on capital works is not inconsequential, it has no evidence before it as to the extent to which the goods and services required for the works would in fact be procured within the City of Ballarat. Further, at page 63, the Ratio Report attached low benefit to the expected investment in club renovations. Therefore, the Commission considers this expenditure to be an economic benefit, but in the circumstances, one that should be given no weight. Further, the Commission is careful to ensure that benefits associated with the renovation expenditure 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 124 to 143.

Complementary expenditure

73. Complementary expenditure is a potential benefit where it results in increased economic activity in the municipal district in which the premises that are the subject of an application are located. However, the extent of this benefit will depend upon a range of factors, including:



- (a) the extent to which the expenditure is a consequence of new spending (i.e. as a result of additional people coming to the municipal district as tourists as compared to transferred expenditure from other venues within the municipality); and
- (b) the extent to which that complementary expenditure results in additional spending on local goods and services.

74. It is submitted in the Ratio Report that complementary expenditure is expected to be between \$106,717 and \$177,861 in the first year during which the additional six EGMs would operate. This additional revenue is expected by the Applicant as a result of the overall improvement to the look and feel of the venue following the anticipated renovations and refurbishments, but further details were not provided to explain the increase in expected expenditure.
75. On the information available, the Commission considers there is no direct evidence on this impact, and even if increased patronage at the Premises is anticipated following any approval of the Application, there exists significant uncertainty as to the extent that any such increase would generate increased economic activity within the local area (as opposed to transferred activity within Ballarat). The Commission also notes that the rate of transferred expenditure estimated by the ShineWing Report is quite low at 40%. For these reasons, the Commission finds that any benefit associated with complementary expenditure for the municipality would be negligible and as such places no weight on this impact.

Community contributions

76. In determining the net economic and social impact of applications of this nature, both the Commission²¹ and VCAT²² have regularly treated community contributions proposed by an Applicant as a positive benefit. However, for such contributions to be regarded as a benefit associated with the Application, it is necessary that they are properly regarded as community contributions and that they will result as a consequence of the Application being granted. In assessing the weight to be placed on such a benefit, it is important that the Commission does not conflate this benefit with the social benefit associated with such contributions.
77. The Applicant submits that it made cash contributions to the value of \$5,815.10 over the 12 months prior to the Application as follows:

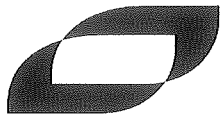
- Fiona Elsey Cancer Research Institute \$4,522.10;
- Ballarat Indoor Bias Bowls \$300.00;

²¹ See e.g., *Application by Richmond Football Club* [2015] VCGLR (24 July 2015).

²² See e.g., *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.



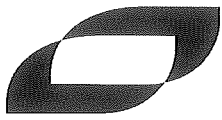
- Ballarat Basketball \$495.00; and
 - The On Track Foundation (Soup Bus) \$498.00;
78. The Applicant's proposed conditions if the Application were granted are to maintain its current cash contributions and increase these in the amount of \$5,000 to the following organisations per annum:
- Rotary Club of Ballarat South \$1,500;
 - Rotary Club of Ballarat \$1,000;
 - Ballarat Sportsmen's Club \$1,000;
 - United Way Ballarat \$1,000; and
 - Rotary Club of Wendouree \$500.
79. The Applicant estimates that in addition to cash contributions, the Applicant makes 'in kind' contributions of an estimated value of \$43,000 (a figure which does not include free room hire contributions valued at approximately \$17,500). The Applicant did not make submissions on whether or how these contributions could be affected by the determination of the Application.
80. With respect to community contributions, Council submitted that only 0.9% of total losses on EGMs in Ballarat for the 2015/16 financial year were given back through community benefits, and that this was significantly lower than in many other LGAs, however the source of this information was not provided.
81. The Council also attributed marginal weight to the proposed increase in cash contributions. While the Applicant proposes to increase its cash contributions, the Commission notes that only a small number of groups will directly benefit from this such as the Rotary Clubs within Ballarat and therefore places low positive weight on this proposed increase.
82. Accordingly, while the Commission considers that the Applicant's proposed cash contributions would be a positive economic benefit, it considers that an annual increase of \$5,000 warrants no to marginal weight.



Increased gaming competition in the City of Ballarat

83. Any increase in competition in gaming in the City of Ballarat is a factor to be considered by the Commission in light of the statutory purposes of the Act²³ and the consumer benefits that derive from competition.
84. In the ShineWing Report, Mr Stillwell indicated that the Premises have four gaming competitors within a 5km radius with the remaining ten venues located within a 10km radius. The venues within a 5km radius are the Ballarat & District Trotting Club with 50 EGMs, the Ballarat Leagues Club with 54 EGMs, the Blue Bell Hotel with 40 EGMs and Craig's Royal Hotel with 45 EGMs.
85. Mr Stillwell used the utilisation survey method of estimating additional gross gaming expenditure to be derived at the Premises, as this method was considered to be most appropriate for comparatively low to mid performing venues with comparatively smaller gaming rooms. Accordingly, Mr Stillwell considered the range of estimated additional gaming expenditure for the Premises if the Application is approved to be between \$40,050 and \$60,076 in the first year of operation.
86. Mr Stillwell estimated that the grant of the Application would result in a 0.06% increase in the average net gaming expenditure per adult in the LGA over the first 12 months of trade following the installation of the additional six EGMs at the Premises.
87. He also estimated that the rate of transferred expenditure within the City of Ballarat would be between \$16,020 and \$24,030 per annum.
88. Having regard to the estimated adult population of 82,673 in the City of Ballarat for 2017/18, the Commission notes that this Application, if approved, would:
- (a) increase the total number of attached licensed EGMs in the municipality by 6, to 663;
 - (b) increase EGM density in the municipality from 7.9 to 8.0 per 1,000 adults, as compared with the regional average of 7.3 and the State average of 5.3 EGMs per 1,000 adults; and
 - (c) on the basis of Mr Stillwell's figures, would result in an estimated increase of approximately \$30,038 of new gaming expenditure to the LGA in the first year of operation.
89. Considering the matters discussed above, while this impact would be a positive economic benefit, the Commission considers that six additional EGMs is a small increase relative to the overall market in the City of Ballarat, being 657 EGMS across 15 venues. The Commission also acknowledges that the EGM density in the LGA is 9.2% greater than the regional average and

²³ See GR Act, s 3.1.1(2).



51.1% greater than the State average, which again lessens the impact on competition of a small increase in EGMs. Accordingly, the Commission considers it appropriate to attribute no to marginal weight to this economic benefit.

Gaming expenditure not associated with problem gambling

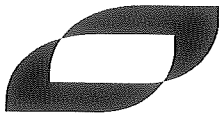
90. As the economic category includes consumption, then to the extent that gaming expenditure is not associated with problem gambling, it has been recognised (by, for example, the Productivity Commission in its 1999 report) that such expenditure can be treated as an economic positive.²⁴ As Bell J further notes, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use machines for social reasons.²⁵
91. In the ShineWing Report and at the Hearing, Mr Stillwell gave evidence regarding the likely increase in gaming expenditure should the Application be granted. Specifically, he gave evidence of the likely increased gaming expenditure in the first 12 months of operation of the additional six EGMs at the Club. The ShineWing Report sets out the different methodologies used to estimate EGM expenditure, and determined that the utilisation survey method was the most appropriate in the circumstances of the Application. On this basis and compared with an analysis of historical and recent trends in gaming expenditure, Mr Stillwell estimated that:
- (a) the level of additional gross gaming expenditure generated from the Application would be between \$40,050 and \$60,076 in the first 12 months of trade;
 - (b) due to the location of the Club and LGA being within a regional area of Victoria, the expenditure would most likely be transferred expenditure from existing venues within the City of Ballarat at the rate of 40%; and
 - (c) adopting the estimated level of 40% transferred expenditure, new gaming expenditure is estimated to be between \$24,030 and \$36,045 in the first 12 months of trade.
92. The Council Report stated that in considering the average expenditure per EGMs in Ballarat clubs and the Ballarat Golf Club over the past three years (consistently at around \$70,000 per EGM) it appears that the Applicant's estimate of additional annual gross gaming expenditure between \$40,050 and \$60,076 generated from the increase in EGMs at the Ballarat Golf Club is quite low.

²⁴ See *Romsey No. 2* [2009] VCAT 2275 [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.

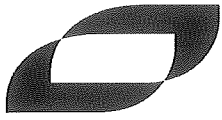
93. Taking into account the Premises' gaming competitors, the Premises being an existing venue, and the understanding that higher rates of transferred expenditure occur where there is a greater concentration of competitors, Mr Stillwell estimated that the rate of transferred expenditure within the City of Ballarat would be approximately 40%, with the remaining 60% consisting of new expenditure. In other words, between \$16,020 and \$24,030 per annum was estimated to be transferred expenditure from other venues in the LGA for the first year and would not represent an increase in gambling expenditure within the LGA.
94. The Commission notes from the VCGLR Report that the average net EGM expenditure per adult in the City of Ballarat, (based on spending in the 2017/8 financial year), (\$675), is significantly more than the average for the State (\$533) and greater than the regional average (\$602).²⁶
95. Mr Stillwell submitted that where EGMs have been added to pre-existing venues which are also within proximity of multiple other gaming venues, transfer rates can be between 50% to 60%. As the Applicant has four competing gaming venues within a 5km radius, Mr Stillwell considered it reasonable to assume that the transfer rate would not be higher than 40%. The VCGLR Report shows only one other venue within the 2.5km catchment area which tends to support Mr Stillwell's lower estimate. Mr Stillwell assumed that peak utilisation at the Premises would be 50% based upon the tendency for small rooms to have lower utilisation rates, with peak utilisation generally occurring at levels between 50% and 60%.
96. At the hearing, Ms Peterson submitted for the Applicant that, given the relatively low EGM utilisation rates, the effect of the additional EGMs was to increase patrons' choice of EGM in a community where there was already above average access to gaming machines. She summarised her analysis of the application as ultimately of low risk and low benefit.
97. As outlined in the Ratio Report, the Applicant's EGM utilisation records for the fortnight from 30 October 2017 to 12 November 2017 indicate that the Premises' gaming room only reached 70% utilisation for four hours per fortnight. Further, for the fortnight from 16 June 2018 to 27 June 2018 there was a 70% utilisation rate for seven hours. The Ratio Report submitted that the Application would increase patrons' choice of EGM rather than increasing the attractiveness of the venue. The Council referred to the ShineWing Report and submitted that given the low utilisation rate at the venue, there were unlikely to be significant benefits with respect to increased opportunities for recreational gaming by patrons.
98. The Council Report did not provide any contrary evidence to Mr Stillwell's gaming expenditure

²⁶ See paragraph 36 above.



figures for the Premises relating to the additional six EGMs at the Premises, however commented that Mr Stillwell's figures were 'quite low' on the basis that EGMs in Ballarat tended to result in expenditure of approximately \$70,000 per machine, per annum. Noting that no alternative figure was put forth by Council, the Commission accepts Mr Stillwell's analysis.

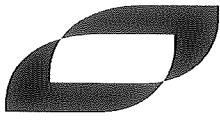
99. Mr Barrett submitted at the Hearing that the Applicant's compliance with responsible service of gaming was very strong. Mr Barrett noted that the Premises was a small venue, that the staff of the Applicant knew its regular patrons well and that the hours of operation were modest in comparison with other venues. He further noted that the Applicant was a club rather than a hotel and was of a limited size and contrasted this to a large hotel where persons with potential problem gambling behaviours could seek to be anonymous and not interrupted from their gaming activity. Mr Barrett also cited research which indicated that the size of a venue, its operating hours, its broad venue offer and the layout of the venue were all protective factors against problem gambling.
100. Mr Barrett also noted that the Applicant had accepted his recommendations as follows:
 - (a) to have computer monitors at the gaming cashier's station display CCTV footage of the gaming room;
 - (b) to provide additional screening limiting the visibility of the gaming room; and
 - (c) to alter the door to the gaming room, such that it would require a push button to open rather than opening automatically.
101. Mr Barrett submitted that the increase in EGMs was unlikely to attract new problem gambling, as potential problem gamblers already have access to alternative venues in the LGA with more features which would be more attractive to a problem gambler.
102. In its closing submissions, the Applicant proposed to commit that each of its new board members would undertake responsible service of gaming induction training within three months of being appointed. Further to this, the Applicant proposed to commit to engage Leigh Barrett & Associates (or an equivalent Independent Consultant) to undertake six monthly responsible service of gaming audits while the Additional EGMs are in operation at the Premises.
103. In assessing the extent of the benefit associated with this increased gaming expenditure, the Commission has had regard to the evidence outlined in paragraphs 105 to 110 below with respect to gaming expenditure associated with problem gambling. In particular, the Commission notes the following in respect to the Premises:
 - (a) within the immediate 2.5km area from the Premises, there are already 217 EGMs over



five venues (including the existing 28 accessible at the Premises);

- (b) the gaming room operates between 13 to 15 hours every day;
- (c) 32.5% of the Premises' gaming room patrons as surveyed reside in the lowest decile of the SEIFA index, and 100% of that amount reside in the LGA;
- (d) the median weekly household income for residents living within the immediate 2.5km radius of the Premises sits well above both the regional and metropolitan average. Income levels are significantly higher in proximity to the Premises relative to the rest of the City of Ballarat;
- (e) housing stress in the City of Ballarat is ranked second highest by regional LGAs, however the housing stress in the immediate surrounding area of the Premises (37.5%) is much lower than housing stress for the City of Ballarat (54.7%);
- (f) the City of Ballarat is ranked 33rd by regional LGAs for pensions and allowances per 1,000 adults;
- (g) in the 2017-18 financial year, the City of Ballarat had an average gaming expenditure which is 12.1% more than the regional LGA average and 26.6% more than the State average; and
- (h) approximately 45% of residents within the 2.5km radius from the Premises are in the lowest two State SEIFA deciles.

104. Generally, the Commission considers that the portion of new expenditure not attributable to problem gambling is an economic benefit. Having regard to the matters discussed in paragraphs 90 to 104 above regarding the Premises and in the section below related to problem gambling, the Commission considers that the level of anticipated new expenditure is not particularly high and there are likely to be portions of new expenditure at the Premises to be associated with a risk of problem gambling. Overall, the Commission attributes this benefit no to marginal weight.



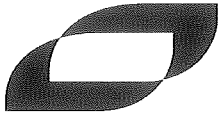
Gaming expenditure associated with problem gambling

105. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.²⁷ In assessing this impact (and other effects of problem gambling), the Commission recognises that harms associated with problem gambling may be experienced directly and indirectly as a consequence of gambling undertaken by those who may be defined as ‘problem gamblers’, as well as those who may be otherwise regarded as ‘low-risk’ or ‘moderate-risk’ gamblers.
106. In assessing the extent of this disbenefit, the Commission has had regard to the expenditure evidence set out in paragraph 103 above. In doing so, the Commission recognises that in considering this aspect of the ‘*no net detriment*’ test it does not include consideration of transferred expenditure because such expenditure cannot be said to exacerbate problem gambling.²⁸
107. The extent to which it can be considered that new expenditure will be associated with problem gambling and hence may be regarded as a disbenefit associated with this Application will be influenced by the socio-economic status and vulnerability of the community of the City of Ballarat, and particularly those living in the catchment area surrounding the Premises. This is because communities characterised by socio-economic disadvantage and greater vulnerability are considered to be more susceptible to the harms arising from problem gambling.²⁹
108. In relation to the Premises, the Applicant accepted that the overall catchment area surrounding the Premises exhibits signs of relative disadvantage. However, while the relevant SEIFA indicia indicate that the catchment area includes areas of relative disadvantage, on the whole, the SEIFA scores associated with the area 2.5km from the premises show substantially fewer indicators of disadvantage compared to the regional average. In summary:
- (a) the LGA is ranked the eighth most disadvantaged municipality in the State (out of 13). Approximately 45% of residents within the 2.5km radius from the Premises are in the lowest two State SEIFA deciles;

²⁷ 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.

²⁸ See *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192 at [11] per Code PM and Nelthorpe M; *Kilsyth and Mountain District Basketball Association Inc v Victorian Commission for Gambling Regulation* [2007] VCAT 2, [40] per Morris J.

²⁹ This approach accords with the VCAT’s treatment of this issue in *Molwin Pty Ltd v Mornington Peninsula SC* [2015] VCAT 1982 (23 December 2015), [68].



- (b) the equivalised household income for residents within the 2.5km radius of the Premises is 8.8% greater than that of the City of Ballarat, 9.1% greater than the regional average and 5.2% less than the Victorian average;
- (c) the unemployment rate in the City of Ballarat as at the end of 2017 (4.6%) was lower than the regional average (6.0%) and lower than the Victorian average (5.6%); and
- (d) housing stress in the City of Ballarat is ranked second highest by regional LGA.

109. In the Ratio Report, it was submitted that various factors suggest that it is unlikely the risk of problem gambling at the Premises would increase should this Application be granted, including that:

- (a) The addition of six EGMs to an existing gaming venue and the subsequent expected level of increase in expenditure represents a low risk;
- (b) The increase of six EGMs at the premises is largely offset by the removal of six Hotel EGM entitlements from an area with greater indicia of disadvantage;
- (c) The low to modest EGM utilisation rates indicate that the additional EGMs will serve to provide existing patrons with additional choice of machine, rather than increasing the availability of machines;
- (d) The addition of six EGMs would not increase the anonymity of patrons and therefore will not represent a significant increase in attractiveness of the Premises to problem-gamblers;
- (e) There is a relatively high level of access to EGMs and venues in the municipality, whereas the incremental change sought by the Application is minor; and
- (f) The high-quality fit-out, sign-in requirements and range of services on offer at the Premises will continue to act as a protective factor against problem gambling.

110. In contrast, the Council argued in the Council Report that the social and economic factors in paragraph 103 above would suggest that the risk of increased incidence in problem gambling at the Premises would likely be increased should this Application be granted. The Council also made reference to:

- (a) The relative disadvantage of two of the primary catchment suburbs of the Premises;
- (b) A higher number of EGMs per 1,000 adults in the City of Ballarat which is associated with increased levels of problem gambling within a community; and



- (c) The City of Ballarat's Gaming Machine Community Policy which states that: "*The City of Ballarat is not supportive of EGMs being highly accessible to vulnerable communities*".

Tax relief

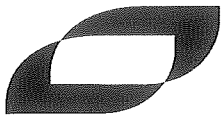
111. The Ratio Report indicates that the Applicant will benefit from tax relief of approximately \$45,000 were the Application granted. While this represents a loss of \$45,000 spread over all of Victoria, it represents a \$45,000 benefit to the Applicant. As the funds will be reinvested, the benefits of the savings will be enjoyed by the Ballarat community who use the facilities of the Applicant. Therefore, while the net result is positive for the LGA, the Commission considers it appropriate to attribute no to marginal weight to this factor.

Responsible Service of Gaming Practices

112. In considering the extent to which any new expenditure may give rise to an increased risk of problem gambling, the manner in which gaming is to be conducted at the Premises is also a relevant consideration.

113. The Applicant provided evidence in relation to its Responsible Service of Gaming (**RSG**) practices which can be summarised as follows:

- (a) Ms Mead stated that she had completed RSG training and that all gaming staff were required to hold an RSG certificate and undertake the necessary refresher courses every year with the Premises' Venue Support Worker. She also:
- (i) stated that a Responsible Gambling Officer was on duty at all times at the Premises;
 - (ii) described the manner in which gaming room staff would actively interact with patrons and make efforts to manufacture interactions;
 - (iii) described how gaming staff would provide patrons with access to material related to problem gambling and link them to referral services; and
 - (iv) described the processes established by the Applicant and its adoption of Mr Barrett's code of conduct.
- (b) Mr Barrett gave evidence for the Applicant that the Applicant had adopted his recommendations with respect to responsible gaming measures, including to provide additional screening, frosted glass screening and to make doors between the bistro and gaming areas require a patron to push a button to open the door. Mr Barrett gave evidence that the adoption of these measures reduced the visibility of the gaming area and were a significant protective factor against impulse gambling.



- (c) Mr Barrett also noted that the operating hours at the Premises are modest, allowing for a nine-hour closure of the club which exceeds the Productivity Commission's recommendation of a minimum six-hour shut down. He further regarded the Applicant's 'sign-in' requirements for non-members and the distance of the Premises from Ballarat's central business district as protective factors against impulse gambling.
- (d) Mr Phillips stated that RSG training is given to all staff involved with gaming. Mr Barrett provided an opinion that RSG training should be a mandatory requirement for all incoming Directors. The Applicant later adopted this recommendation by Mr Barrett as a proposed condition for the grant of the Application.
- (e) Within the Barrett Report, Mr Barrett stated that, having conducted a review of the Applicant's current RSG processes and staff training programs, he:
 - (i) was confident that the Applicant is committed to ensuring that the services offered at its venues are provided in a responsible manner with an emphasis on venue wide customer care;
 - (ii) considered that the approval of the Application would have a negligible effect on problem gambling prevalence in the City of Ballarat; and
 - (iii) was also confident that the venue staff are appropriately trained and skilled in dealing with issues that might arise with customers to minimise the incidence of problem gambling.

114. The Council acknowledged that the Applicant adheres to a responsible service of gaming code of conduct and commended the Applicant for taking steps to reduce the visibility of the gaming room to other club patrons, including the frosting of all gaming room entrance doors.

115. The Commission notes that the Pre-Hearing Inspection Report detected issues at the Premises from gaming and liquor inspections on 11 August 2018 and 26 September 2018. With respect to the first incident on 11 August 2018, a notice was issued after it was found that no Responsible Service of Gaming Register was able to be produced at the time of the inspection. On 26 September 2018, an audit was conducted and it was found that:

- There was a blind spot where a responsible service of gaming poster was not visible from the EGM machines; and
- A responsible service of gaming poster was not displayed at the gaming room entry from the Bistro.

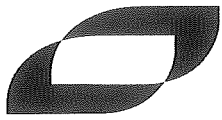
These issues were rectified by 26 September 2018 and no enforcement action was taken with respect to these breaches.

The Commission's view

116. Having regard to all the evidence provided in relation to the Application and practices at the Premises should this Application be granted, the Commission considers that there is a risk of expenditure associated with problem gambling arising out of the Application. The additional estimated expenditure associated with the six EGMs would be between \$24,030 and \$36,045 in the first 12 months of operation, with \$30,038 being the midpoint. Further, the Commission considers from the evidence before it that the proposed renovations at the Premises would have the potential to increase the attractiveness of the venue for all categories of gamblers, which could include problem gamblers and those at risk of harm from problem gambling.
117. The Commission also finds that the SEIFA indices indicate that some of the Premises' gaming room patrons surveyed experience a level of socio-economic disadvantage and financial vulnerability that could make them more susceptible to gambling-related harms. Specifically, 7.4% of the Premises' gaming room patrons as surveyed reside in the lowest decile of the SEIFA index.
118. Further, in relation to the potential risk of an increased incidence in problem gambling to the community of the City of Ballarat were the Application to be granted, whilst the Commission regards the factors raised by the Applicant, such as those listed in paragraph 100 above as positive factors with respect to mitigating harms, the Commission considers that there is still a risk of harm to the community.
119. Accordingly, and having regard to all the circumstances and factors discussed above, the Commission considers that the potential increased expenditure associated with problem gambling is a negative economic impact upon which it should place a low weight.
120. Issues relating to the negative social impacts associated with problem gambling regarding the Premises are considered further in paragraphs 124 to 144 below.

Diversion of trade from non-gaming businesses

121. The Council Report made a general submission that expenditure on EGMs diverted expenditure from other sectors of the economy, however did not provide an indication of what level of expenditure might be diverted as a result of granting the Application.
122. The Commission recognises that the impact that could be felt by local non-gaming businesses is the value of the new expenditure from this Application, being approximately \$30,038 in the



first year of operation. However, the Commission notes that it is difficult to determine whether that expenditure would necessarily have been spent elsewhere in the LGA. The Commission finds that there is an economic disbenefit associated with any diversion of trade from retail facilities or other businesses in the City of Ballarat as a result of this Application, and considers it appropriate to attribute no to marginal weight to this impact.

Conclusion on economic impacts

123. After considering the economic benefits of the Application balanced against the disbenefits, the Commission considers that, on balance, the Application is likely to have no to marginal positive economic impact if granted.

Social Impacts

124. The materials before the Commission and the evidence adduced at the Hearing detailed a range of social benefits and disbenefits associated with this Application.

Increased gaming opportunities for those who enjoy gaming

125. Increased gaming opportunities is a positive impact if the Application will better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs. Mr Stillwell submitted that based on the Applicant's ongoing EGM utilisation records, the Premises' gaming room is rarely at full utilisation throughout the year. He said that while the number of hours of peak utilisation does vary, there are sufficient peak hours to indicate a need for additional EGMs. The evidence of Ms Peterson indicated that additional machines would add greater machine choice to serve existing clientele.

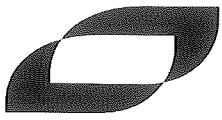
126. The Council Report attributed marginal detriment to this factor, however Council did so due to conflating this with the possibility of an increase in the incidence of problem gambling.

127. While the Commission considers that the approval of the Application would have a positive effect of increasing gaming opportunities for those who enjoy gaming, the addition of a low number of EGMs to an existing venue is unlikely to have a significant impact. The Commission therefore attributes no to marginal weight to this factor.

Improved facilities enabling greater range of services

128. Separate from the economic benefit that may be associated with expenditure involved in capital works at the Premises, 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.

129. As noted at paragraph 56 above, the proposed renovations to the Premises include refurbishing



the function room and bistro/café areas with new lighting, painting, tables and chairs throughout. The proposed renovations also include providing for a new cool room, store room and improved delivery area which the Applicant submits will allow the Applicant to provide better efficiency of service to its patrons. Council attributed marginal benefit to the proposed renovations and noted that some renovations would occur irrespective of the approval of the Application.

130. The Commission considers the community's access to and use of the proposed improved facilities at the Premises resulting from the granting of this Application would provide a social benefit to the community of the City of Ballarat for the purposes of the 'no detriment' test. However, the Commission refers to its comments at paragraph 65 and notes that the proposed renovations largely only improve existing facilities at the Premises as opposed to creating new facilities. Also, the Commission accepts, on the evidence available, that the refurbished Premises would not provide facilities that are not currently available elsewhere in the municipality. Therefore, the Commission considers it is appropriate to attribute no to marginal weight to this factor.

Social benefit derived from increased community contributions

131. Related to the economic impact associated with increased community contributions, such contributions can also have a positive social impact by improving the social fabric of the community in which they are made. In assessing the weight to be placed on such a benefit, it is important that the Commission does not conflate this benefit with the economic benefit associated with such contributions.
132. For the reasons discussed in respect to community contributions as set out in paragraphs 76 to 82, while the Commission considers this impact to be a social benefit, the Commission assigns it no to marginal weight.

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

133. Wherever accessibility to EGMs is increased, there is a risk of an increase in problem gambling, which leads to other costs such as adverse health outcomes, family breakdowns and other social costs. Accordingly, the Commission accepts that there is potential for a negative social impact through possible increased problem gambling expenditure.
134. The Commission refers to and relies upon the evidence set out in paragraphs 105 to 110 with respect to the economic impact of problem gambling on the community, which equally apply to the social impact of problem gambling. As is concluded there, the Commission considers that there is potential for increased risk in gambling related harms as a result of this Application. This gives rise to a negative social impact. The Commission accepts that harms associated with



gambling are wide-ranging and attributable to all categories of gamblers ('low-risk', 'moderate-risk' and 'problem gamblers') and across the community more broadly.

135. Mr Barrett's witness statement noted that if the Application was granted he considered the risk of adverse impacts associated with problem gambling to be low, which was an opinion put forth by the Ratio Report. His reasons included the fact that there is a range of other entertainment options for patrons besides gaming including a golf course, a bistro, children's play areas and lounge areas. He also noted that the gaming room being screened from external view, and staff in the gaming room being experienced in RSG, were protective factors against problem gambling.
136. In the Council Report, the Council set out several adverse physical and mental health and wellbeing issues (including family violence and financial hardship) within the City of Ballarat. While the Council Report set out that rates of domestic violence, crime, mental illness and risk of alcohol harm were above metropolitan and regional Victorian indicia, the Council Report otherwise provided no evidence as to what factors associated with this Application represented a particular risk to the community, or as to how the Application would likely impact on the community or whether it would lead to an increase in risk of harm.
137. Having regard to all of the evidence relating to the Application and the particular circumstances of the Application, for the reasons discussed in relation to the economic impact of problem gambling at paragraph 109 and the primary catchment area defined at paragraph 46 above, specifically that most patrons are likely to be from within the LGA and primarily from within 2.5km which is an area of Ballarat which shows less indicia of disadvantage than the regional average, the Commission considers it appropriate to attribute marginal to low weight to this negative social impact.

Community attitude

138. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,³⁰ the Commission recognises that while community apprehension is not an over-riding factor (in the sense that the Application is not a referendum on gaming), it is certainly a relevant factor in the consideration of the particular social impact within, and as part of, the 'no net detriment' test.
139. As put forth in the Ratio Report and by Ms Peterson at the hearing, there were specific circumstances in the Romsey case which led to VCAT forming the view that community opposition to gaming would have a significant social detriment to that community. These factors

³⁰ The *Romsey* case (2008) 19 VR 422, [44] per Warren CJ, Maxwell P and Osborn AJA. See also *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [73] per Dwyer DP.



related to how the community would change as a result of the introduction of gaming machines where none existed beforehand. Ms Peterson submitted that, in the present case, the community already had above average access to gaming machines and that the community opposition to the application was therefore of neutral weight.

140. The evidence before the Commission with respect to community attitude is found in the submissions received from members of the community and the BITGR mentioned at paragraph 25 and 27 in relation to this Application. These submissions oppose the granting of the Application. In summary, these submissions against the granting of the Application are directed towards the impact of gambling in the community at large and the concern that this Application might increase the risk of problem gambling and a range of gambling related harms.
141. As referred to at paragraph 27 above, the Commission also heard oral submissions from Dr Greensdale of the Ballarat Interagency Taskforce for Gambling Reform, who prepared written submissions and gave oral submissions objecting to the Application. Summarised, she noted the indicia of disadvantage in Ballarat and expressed a firm and considered view that the community would therefore be vulnerable to gambling-related harm.
142. Overall, the Commission is satisfied that the submissions referred to at paragraph 25 and 27 indicate that, while there is a negative attitude by some members of the City of Ballarat to pokies generally, these are not specific to the current Application. The Commission also recognises that the Council, as the representative body of the relevant community, has objected to the Application, and provided a submission in support of its objection.³¹ However, the Commission notes that Council's objection did not include a submission as to whether the granting of the Application would change the social character of the community as was the decision in the Romsey Case.³²
143. The Commission notes that there are 15 gaming venues operating within the City of Ballarat with approvals to operate a total of 663 EGMs (but with 657 attached entitlements). The Commission therefore does not consider that the granting of this Application would be likely to have a significant impact upon the social character of the community in this case. Taking into account the Council's position, the local community member objections and evidence in relation to the Application, the existing levels of gaming in the LGA and the small proposed increase, the Commission considers it appropriate to attribute no to marginal weight to this negative social impact.

³¹ See *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT at 2606 at [42]; *Romsey No. 2* [2009] VCAT 2275 at [249] and [288]-[321].

³² The *Romsey* case (2008) 19 VR 422, [45] per Warren CJ, Maxwell P and Osborn AJA.



Conclusion on social impacts

144. After considering the social benefits of the Application and balanced against the disbenefits, the Commission considers that, on balance, there is likely to be no to marginal positive social impact if the Application were granted.

Net economic and social impact

145. 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

146. 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 B of these Reasons for Decision), the Commission is satisfied that the social and economic impact on the well-being of the community of the municipal district in which the Premises are located will not be detrimental. Accordingly, the pre-condition set out in section 3.4.20(1) of the GR Act is satisfied and the Commission may amend the venue operator's licence in line with the Applicant's request.

D. Independence from other gaming venues

147. Section 3.4.20(1)(d) of the GR Act requires the Commission to be satisfied that, if the Premises are proposed to be added to the Applicant's licence as an approved venue and the Applicant (or an associate of the Applicant) operates an approved venue within 100 metres of the Premises, then the management and operation of the Premises and other approved venues are genuinely independent of each other.

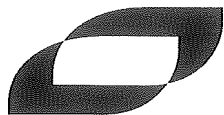
148. The Commission finds that the Application is not proposing to add the Premises to the Applicant's venue operator's licence (as it already exists on the licence), nor does the Applicant (or an associate) operate an approved venue within 100 metres of the Premises.

149. On this basis, the Commission considers that the mandatory pre-condition set out in section 3.4.20(1)(d) is not applicable to this Application.

CONCLUSION

150. On the material that has been put before it, the Commission has determined that the '*no net*

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



detriment' test has been satisfied³⁴ and that the total number of EGMs resulting from an amendment to the venue operator's licence will not exceed the municipal limit. Pursuant to section 3.4.20(1) of the GR Act, 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 28 to 34, subject to the conditions set out in Appendix A.

151. The Application is therefore granted.

The preceding 151 paragraphs and the following Appendix are a true copy of the Reasons for Decision of Ms Deirdre O'Donnell, Deputy Chair, and Mr Des Powell AM, Commissioner.

³⁴ See paragraphs above.



Appendix A

Conditions of the Decision of the Commission dated 24 December 2018 to vary the number of EGMs permitted in the approved premises, the Ballarat Golf Club Inc located at 1800 Sturt Street, Ballarat, **(the Premises)** from twenty-eight (28) to thirty-four (34).

1. Community Contributions

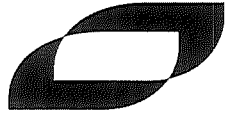
- a) The Venue Operator will make cash contributions annually in the sum of \$5,000 (increased each year by the increase in CPI) **(the Additional Contribution)** for as long as any of the six additional electronic gaming machines **(Additional EGMs)** are in operation at the Premises.
- b) The Additional Contribution will be allocated each year to not-for-profit community groups and sporting organisations providing services and facilities to residents in the City of Ballarat.
- c) The Venue Operator will continue to pay existing cash contributions to not-for-profit community and sporting groups in the City of Ballarat in the sum of \$5,815 per annum **(the Existing Contributions)**, in addition to the Additional Contribution, for as long as any of the Additional EGMs are in operation at the Premises.

2. Works

- (a) The Works at the Premises (as defined in clause 2(b)) must be substantially completed to the satisfaction of the Victorian Commission for Gambling and Liquor Regulation **(the Commission)** by the date that is 24 months after the commencement of the operation of any of the Additional EGMs at the Premises.
- (b) For the purpose of this clause, the Works must generally accord with the plans concerning works identified at section 4.1 of the Social and Economic Impact Assessment report prepared by Ratio Consultants and dated August 2018.
- (c) If the Works referred to in condition 2(b) are not substantially completed by the date that is 24 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.
- (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 2(b). The request must be made no later than the date that is 21 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.



- (e) If the Commission agrees to extend the time for completion of the Works in accordance with condition 2(d), the Commission may require that any of the Additional EGMs cease operation during the period of any extension of time granted by the Commission.



Appendix B

Summary of economic and social impacts

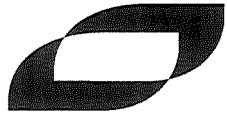
The following table is a summation of the economic and social benefits and disbenefits considered by the Commission in reaching its decision. The table is to be read in conjunction with the main body of the Reasons for Decision, as the weight attributed to each factor is determined in light of the particular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

Economic impacts

| | Impact | Paragraph numbers | Comment relevant to weight |
|-----------------|------------------------------|--------------------------|--|
| Benefits | Expenditure on capital works | 58 to 65 | <p>The Applicant proposes to undertake renovations at the Premises at an estimated cost of \$980,000 if the Application is approved. If the application is not approved, the capital expenditure is estimated by the Applicant to be \$345,000.</p> <p>The potential economic benefit is with reference to the proposed expenditure on capital works to the value of \$635,000.</p> <p>Positive impact, no to marginal weight.</p> |



| | Impact | Paragraph numbers | Comment relevant to weight |
|--|---------------------------|--------------------------|--|
| | Additional employment | 66 to 70 | <p>In relation to the short term benefits associated with renovation activities, there is a lack of evidence as to any short term employment benefit associated with the proposed renovations at the Premises.</p> <p>In relation to the longer term benefits following the introduction of the proposed six EGMs, the employment of an additional 0.7 EFT position at the Premises is of low impact.</p> <p>Positive impact, no to marginal weight.</p> |
| | Supply Contracts | 71 to 72 | <p>No evidence was presented to show that additional employment would result as a result of this factor.</p> <p>Positive impact, no weight.</p> |
| | Complementary expenditure | 73 to 75 | <p>Complementary expenditure is expected to be \$106,717 in the first year of EGM operation.</p> <p>Positive impact, no to marginal weight.</p> |
| | Community contributions | 76 to 82 | <p>In relation to the cash contributions, there is a proposed increase to the Applicant's existing cash contributions of \$5,000 per annum to community organisations as a result of this Application.</p> <p>Positive impact, no to marginal weight.</p> |



| | Impact | Paragraph numbers | Comment relevant to weight |
|--|---|--------------------------|--|
| | Increased gaming competition in the City of Ballarat | 83 to 89 | <p>The small number of additional EGMs compared to the overall market in the City of Ballarat would not likely result in a substantive increase in gaming competition in the municipal district.</p> <p>Positive impact, no to marginal weight.</p> |
| | Gaming expenditure not associated with problem gambling | 90 to 104 | <p>The portion of new expenditure not attributable to problem gambling is an economic benefit. The Commission accepts the ShineWing analysis.</p> <p>The Commission notes the submission of the Ballarat Interagency Taskforce which states that 40% of gambling-related losses can be attributed to problem gambling.</p> <p>Having regard to the evidence with respect to the gambling expenditure associated with problem gambling and the factors outlined therein, the Commission considers that it is likely that portions of the new expenditure will be associated with problem gambling.</p> <p>Positive impact, no to marginal weight.</p> |



| | Impact | Paragraph numbers | Comment relevant to weight |
|--------------------|---|--------------------------|--|
| | Tax Relief | 111 | <p>The Applicant is expected to receive approximately \$45,000 in tax relief.</p> <p>While this money will not be available to the State of Victoria, the money will be available for reinvestment in the LGA and the concentration of funds is likely to have a positive impact of no to marginal weight.</p> |
| Disbenefits | Gambling expenditure associated with problem gambling | 105 to 110 | <p>The portion of new expenditure attributable to problem gambling is an economic disbenefit.</p> <p>SEIFA indices indicate a marginally disadvantaged socio-economic profile of the catchment area, including residents having a level of socio-economic disadvantage and financial vulnerability that could make them more susceptible to gambling-related harms.</p> <p>In relation to the risk of an increased incidence in problem gambling to the local community were the Application to be granted, the Commission notes that all gambling carries some risk of problem gambling, and that the introduction of six EGMs at the Premises represents a relatively small risk.</p> <p>Negative impact, no to marginal weight.</p> |



| | Impact | Paragraph numbers | Comment relevant to weight |
|--|---|-------------------|--|
| | Diversion of trade from non-gaming businesses | 121 to 122 | <p>It is estimated that the new EGMs would generate approximately \$30,038 of new expenditure in the first year of operation.</p> <p>While the diversion of trade may be a disbenefit, the amount diverted from non-gaming businesses is difficult to determine. Given the low amount, the Commission gives this disbenefit no to marginal weight.</p> |



Social impacts

| | Impact | Paragraph numbers | Comment relevant to weight |
|-----------------|---|--------------------------|--|
| Benefits | Increased gaming opportunities for those who enjoy gaming | 125 to 127 | <p>Granting the Application will better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs. Given the current number of EGMs in the City of Ballarat, the Commission considers this to be a negligible positive social impact to the City of Ballarat.</p> <p>Given the low utilisation rate, the Commission considers that gaming opportunities are already available. Further, given that only six EGMs will be introduced at the Premises, the Commission gives this no to marginal weight</p> |
| | Improved facilities enabling greater range of services | 128 to 130 | <p>There are social benefits arising from the community's access to and use of improved facilities resulting from granting the Application.</p> <p>The Commission notes that the Applicant's evidence is that the improved facilities will not be visible to patrons and that the scale of the proposed renovations is limited.</p> <p>While improved facilities are a benefit, the Commission gives this no to marginal weight.</p> |



| | | | |
|--|---|------------|---|
| | Social benefit derived from increased community contributions | 131 to 132 | <p>The positive social impact of community contributions is by improving the social fabric of the community in which they are made.</p> <p>The Commission refers to and relies on its findings in relation to the economic impact of the proposed community contributions.</p> <p>Positive impact, no to marginal weight.</p> |
|--|---|------------|---|



| | Impact | Paragraph numbers | Comment relevant to weight |
|--------------------|---|--------------------------|--|
| Disbenefits | Possibility of an increased incidence and potential impact of problem gambling on the community (including family violence) | 133 to 137 | <p>The Commission refers to and relies on its findings in relation to the economic impact of gambling expenditure associated with problem gambling.</p> <p>Negative impact, marginal weight.</p> |
| | Community attitude | 138 to 143 | <p>Overall, the Commission is satisfied that the submissions received by the Commission suggest that there is a negative attitude in portions of the City of Ballarat to this Application.</p> <p>In determining this impact, the Commission also recognises that the Council, as the representative body of the relevant community charged with statutory duties under various pieces of legislation, has objected to the Application, and provided evidence in support of its objection.</p> <p>However, the Commission notes that the objections to the Application concerns the other social and economic disbenefits which have already been considered.</p> <p>No submissions were made to suggest that the character of the community would be fundamentally altered were the Commission to grant this 'top-up' application for six EGMs. Therefore, the Commission gives this no weight.</p> |