

Victorian Commission for Gambling and Liquor Regulation

DECISION AND REASONS FOR DECISION

In the matter of an application under section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* by Highlands Hotel Craigieburn Pty Ltd for amendment of its venue operator's licence to vary the number of electronic gaming machines permitted in the approved premises, the Highlands Hotel, located at Cnr Grand Boulevard and Aitken Boulevard, Craigieburn, from sixty (60) to eighty (80).

Commission:

Dr Bruce Cohen, Chair
Dr Dina McMillan, Commissioner

Appearances:

Mr Matthew Townsend of Counsel for the Applicant (instructed by Williams Winter Solicitors)
Mr Lewis Whittington, Counsel Assisting the Commission

Date of Hearing:

29, 30 March 2017

Date of Decision:

28 April 2017

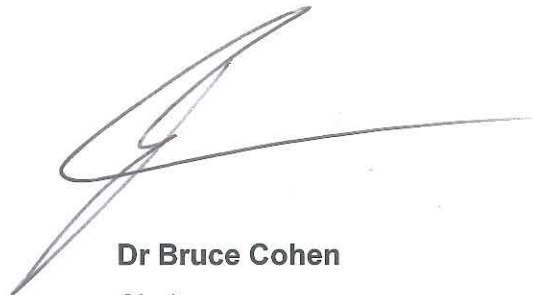
Date of Reasons:

28 April 2017

Decision:

The application is granted subject to the conditions set out in paragraph 141 of these reasons for decision.

Signed:



Dr Bruce Cohen
Chair



REASONS FOR DECISION

INTRODUCTION

1. On 19 December 2016, Highlands Hotel Craigieburn Pty Ltd (**the Applicant**) applied to the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) permitted in the Highlands Hotel, located at Cnr Grand Boulevard and Aitken Boulevard, Craigieburn (**the Premises**) from sixty (60) to eighty (80) (**the Application**).
2. The relevant municipal authority is the Hume City Council (**the Council**). By correspondence dated 23 January 2017 to the Commission, the Council stated that it intended to make an economic and social impact submission on the Application.¹
3. The Commission considered the Application by way of a public inquiry.² To this end, a public hearing was conducted on 29 and 30 March 2017 (**the Hearing**). The Applicant was represented by Mr Matthew Townsend of Counsel, instructed by Williams Winter Solicitors. The Council had previously informed the Commission by email on 15 March 2017 that the economic and social impact submission it had prepared with respect to the Application could stand on its own merit, and so the Council would not be appearing at the Hearing.³

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.

¹ On 6 February 2017, the Council wrote to the Commission requesting an extension of time from 4 March to 12 April 2017 to make its economic and social impact submission in order to include submissions in relation to a community attitudinal survey, which had not yet been sent out. On 15 February 2017, applying the test in section 3.4.19(1A) of the GR Act, the Commission was not satisfied that exceptional circumstances existed to warrant granting the extension request, and so refused the request.

² 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).

³ This meant that the writer of the Council Report was not called to give evidence at the Hearing and was not available to be cross-examined by the Applicant. This necessarily affected the weight that could be given to the Council Report by the Commission.



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

...

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

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

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

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

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

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

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

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

(e) *to ensure that-*

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

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

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

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

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

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

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



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

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

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

7. The GR Act outlines the process by which a venue operator can apply to the Commission to amend the conditions of their licence.⁴ An applicant must provide such an application to the Commission in an approved form, with the required fee, and with a submission in relation to the net social and economic impact on the municipality in which the approved venue is located (and surrounding municipal districts). An applicant must also give notice to the municipal council of the municipal district in which the approved venue is located (before submitting their application to the Commission).
8. After receiving notice of a proposed amendment, a municipal council may make a submission to the Commission within 60 days of receiving such notice. These submissions may address the social and economic impact of the proposed amendment on the municipal district in which the approved venue is located, as well as the impact on surrounding municipal districts.⁵

⁴ GR Act, section 3.4.18.

⁵ GR Act, section 3.4.19.



9. The relevant provision concerning this Application is found at section 3.4.17(1)(b) of the GR Act, which provides for the amendment of the venue operator's licence to vary the numbers of EGMs permitted in an approved venue in accordance with Division 2, Part 4 of Chapter 3 of the GR Act. Section 3.4.20 sets out matters that are required to be considered by the Commission with respect to such a proposed amendment. Relevantly for this Application this section provides:

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

...

(b) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the regional limit or municipal limit for gaming machines for the region or municipal district in which the approved venue is located will not be exceeded by the making of the amendment; and*

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

...

10. Section 3.4.20(1)(c) provides for what is now commonly described as the '*no net detriment*' test. It requires the Commission to be satisfied that there is no net detriment arising from the approval through positively and objectively establishing that the net economic and social impact will not be detrimental to the well-being of the community.⁶

11. The GR Act does not specify the matters which the Commission must consider in deciding whether the '*no net detriment*' test is satisfied. However, the statutory signposts are provided by the test itself. The Commission must consider:

- (a) the likely economic impacts of approval;
- (b) the likely social impacts of approval; and

⁶ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [52] per Dwyer DP.



(c) the net effect of those impacts on the well-being of the relevant community.⁷

12. As such, the ‘no net detriment’ test is a composite test requiring consideration of a single net impact in economic and social terms on the well-being of the community.⁸ The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either neutral or positive.
13. The Commission recognises that the task of identifying likely benefits and disbenefits will not always be straightforward given the overlap of socio-economic issues, and the quality and availability of relevant data and cogent evidence. Some economic outcomes may have social consequences, and vice versa.⁹ On review, decisions in the Victorian Civil and Administrative Tribunal (VCAT) have held that for impacts that may be both economic and social – for example the benefits of gaming consumption – it does not matter whether the impact is considered on the economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.¹⁰
14. The Commission also notes that, on review, it has been indicated by VCAT that:

A table of likely economic and social benefits and disbenefits, and with some comments relevant to the relative weight to be given to particular factors ... is a useful way of transparently dealing with the ‘no net detriment’ test, and might perhaps be considered for wider application.¹¹

This approach has been adopted in a number of VCAT decisions.¹² To enhance the clarity of Commission decisions, and to facilitate greater consistency between the Commission and VCAT, the Commission has adopted the same approach.

15. If the Commission is not satisfied that the ‘no net detriment’ test is met, that is clearly fatal to the application before it, as given the opening words of section 3.4.20(1) of the GR Act, satisfaction

⁷ *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’).

⁸ *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.

⁹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [57] per Dwyer DP.

¹⁰ 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.

¹¹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [60] per Dwyer DP.

¹² See, for example: *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* [2013] VCAT 1389; *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Monash CC v L'Unico Pty Ltd* [2013] VCAT 1545; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.



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.¹³ 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.¹⁴

16. In considering the exercise of this discretion:
 - (a) it must be exercised having regard to the purposes of the GR Act and, in particular, the specific purposes of Chapter 3 of the GR Act dealing with the regulation, supervision and control of gaming machines;¹⁵ 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.¹⁶
17. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹⁷ that, if all of the mandatory considerations under the GR Act favour the grant of an approval, one would expect that the ultimate discretion will commonly favour approval - other than in relatively rare or exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.
18. Finally, it is noted that pursuant to section 3.4.20(1)(a) of the GR Act the Commission must be satisfied that the proposed amendment does not conflict with a Ministerial direction, if any, given under section 3.2.3 of the GR Act. Additionally, pursuant to section 9(4) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR Act)*, the Commission must have regard to Ministerial guidelines issued under section 5 of the VCGLR Act when performing functions under gambling legislation.
19. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates

¹³ See *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32] and following per Morris J; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [126] per Code PM and Nelthorpe M; see also *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [97] and following per Dwyer DP (with respect to section 3.3.7 GR Act).

¹⁴ GR Act, section 3.4.20(2).

¹⁵ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [98] per Dwyer DP.

¹⁶ *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.

¹⁷ [2013] VCAT 101, [98].



specifically to this Application. However, on 16 October 2013 a Ministerial guideline was published in the Victorian Government Gazette pursuant to section 5 of the VCGLR Act concerning applications for approvals of venues for EGMs and children's play areas incorporated in the venue. This guideline concerned the assessment of the suitability of a premises for gaming. As such, it appears primarily to apply to a premises applying to be a new gaming venue, rather than an increase in the number of EGMs at an existing gaming venue. While this guideline is therefore not directly applicable to this Application, the Commission's view is that it is proper for the Commission to have regard to the underlying policy intent of such a guideline (which in this instance appears to relate to the legislative objective under section 1.1(2)(ab) of the GR Act that minors are neither encouraged to gamble nor allowed to do so) when considering this Application. This is notwithstanding that the renovation proposed in this Application does not give rise to any change to existing children's play areas at the Premises.

MATERIAL BEFORE THE COMMISSION

20. The Applicant provided the Commission with the following material in support of its Application:
- (a) Application form – Amendment to venue operator licence – vary gaming machines dated 19 December 2016;
 - (b) Social and Economic Impact Statement prepared by NBA Group Pty Ltd (**NBA**) dated 13 December 2016 (**the NBA Report**). Mr Nick Anderson of NBA was a witness at the Hearing, adopted the NBA Report as his evidence and provided oral evidence to the Commission;
 - (c) Report of ShineWing Australia, accountants and advisors dated 3 October 2016 (**the ShineWing Report**). Mr Tim Stillwell, partner of ShineWing Australia, was a witness at the Hearing, adopted the ShineWing Report as his evidence and provided oral evidence to the Commission;
 - (d) Witness Statement of Mr Mazen Tabet, sole director, secretary and shareholder of the Applicant dated 24 October 2016. Mr Tabet was a witness at the Hearing, adopted his witness statement as his evidence and provided oral evidence to the Commission;
 - (e) Witness Statement of Ms Diana Asmar, Manager of the Premises dated 9 September 2016. Ms Asmar was a witness at the Hearing, adopted her witness statement as her evidence and provided oral evidence to the Commission; and
 - (f) a copy of the public notice appearing in the Age newspaper dated 21 December 2016.
21. On 6 March 2017, the Council provided the Commission and the Applicant with a Social and Economic Impact Assessment in respect of the Application, prepared by the Council and dated



March 2017 (**the Council Report**). The Council endorsed the Council report on 14 March 2017, and, on 15 March 2017, provided the Commission with its Council report number HE053, which included the Council Report as an attachment.

22. 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 March 2017 (**the VCGLR Report**); and
 - (b) a report titled *Pre-Hearing Inspection and Compliance Report* dated 13 March 2017 (**the Pre-Hearing Report**).
23. In addition, the Commission received correspondence in opposition to the Application from a number of community organisations and a neighbouring council:
- (a) a letter from Women's Health in the North (**WHIN**) dated 14 March 2017 enclosing WHIN's submission;
 - (b) an email from Banyule Community Health dated 27 March 2017;
 - (c) a letter from Highlands Community Resident's Group dated 24 March 2017;
 - (d) a letter from UnitingCare Lentara dated 6 March 2017 and a submission dated March 2017;
 - (e) an email from Ms Kelly Lee Hickey dated 22 March 2017; and
 - (f) a letter from the City of Whittlesea dated 16 March 2017.
24. At the Hearing the following further material was provided to the Commission in relation to the Application:
- (a) written submissions for the Application prepared by Mr Townsend;
 - (b) a map from the Stockland Highlands masterplan of the area surrounding the Premises, referred to in the oral evidence of Mr Anderson and tendered;
 - (c) a table of expenditure changes at 20 venues which had increased their EGM numbers, prepared by Mr Stillwell and referred to in his oral evidence;
 - (d) a copy of the Premises' Responsible Gambling Code of Conduct, which was tendered;
 - (e) a copy of six pages from the Premises' incident gaming register, referred to in the evidence of Ms Asmar and tendered;
 - (f) an email from Mr Anderson dated 29 March 2017 at 9:56 PM entitled 'FW: SEIFA analysis of Hume – IRSAD' and its attachment entitled 'IRSAD v IRSD – SEIFA Analysis.xlsx'; and



- (g) a document entitled 'Highlands Hotel Craigieburn – Community attitudinal survey – Timeline of events', including multiple enclosures of correspondence between the Applicant's solicitor and the Council, referred to by Mr Anderson.

25. After the Hearing, and at the Commission's request, the Applicant provided the Commission with:

- (a) on 6 April 2017, the collated community attitudinal survey responses;
- (b) on 6 April 2017, its submissions in relation to the community attitudinal survey responses;
- (c) on 6 April 2017, hard copies of the community attitudinal surveys, as well as hard copies of the survey completed by patrons and loyalty members of the Premises; and
- (d) on 7 April 2017, an email attaching Mr Stillwell's analysis in relation to ShineWing Australia's expenditure estimates and the actual additional revenue resulting from the installation of additional machines.

26. On 13 April 2017, the Council, as requested by the Commission, provided submissions in relation to the community attitudinal survey.

27. Prior to the determination of this matter, both Commissioners Cohen and McMillan separately visited the Premises.

DECISION AND REASONS FOR DECISION

Background

Location

28. The Premises are located on the corner of Grand Boulevard and Aitken Boulevard in the City of Hume (**Hume**). Hume is a metropolitan Local Government Area (**LGA**) located approximately 40 kilometres north-west of Melbourne and covers an area of 504 square kilometres. Major centres in Hume include Broadmeadows, Craigieburn and Sunbury. According to the VCGLR Report, Hume has an estimated adult population of 147,127. The annual rate of population growth projected by the (then) Victorian Department of Transport, Planning and Local Infrastructure for the period 2016 to 2021, is 2.7% as compared with the Victorian average of 1.8%.
29. Hume is subject to limits on the number of EGMs under two determinations made by the Commission pursuant to section 3.4A.5(3A) of the GR Act. First, the maximum permissible number of EGMs in the area covered by that part of postcodes 3043, 3047, 3048, 3060 and 3061 included in the local government area of the City of Hume as at 12 October 2006 is 435. Secondly,



that part of Hume that is not covered by this first regional limit is subject to a municipal limit of 725 EGMs.¹⁸ Currently, there are 14 gaming venues operating within Hume with approvals to operate a total of 846 EGMs. Of these, 6 operate in the area subject to regional limit of 435 with approvals to operate a total of 444 EGMs (but with 413 attached entitlements);¹⁹ the remaining 8 venues operate in the area subject to the municipal limit of 725, with approvals to operate a total of 402 EGMs. The Premises are located in the area that is subject to the municipal limit of 725.

30. In the VCGLR Report it is noted that Hume has an EGM density of 5.5 EGMs per 1000 adults, which is 4.7% higher than the metropolitan LGA average (5.3) and 1.4% less than the State average (5.6).²⁰ This ranks Hume as the 19th highest of 31 metropolitan LGAs in terms of EGM density per 1000 adults. Also in the VCGLR Report, in 2015-16 Hume had an average gaming expenditure of \$721 per adult (based on the 2011 census data for population), which is 25.3% more than the metropolitan LGA average (\$575) and 30.3% higher than the State average (\$553). Applying the estimate of increased gaming expenditure as received from the Applicant, approval of this Application would result in an increase in average gaming expenditure per adult of 1.1%. Gaming expenditure within Hume has decreased 0.04% in real terms over the past five years to December 2016, which is a smaller decrease than the metropolitan LGA average decline of 5.69%.

Nature of the Premises

31. The Premises itself currently comprises:
- (a) a gaming lounge operating 60 EGMs;
 - (b) a 300 seat bistro;
 - (c) a function room, accommodating 120 people seated or 300 people standing;²¹
 - (d) a variety of bar areas;

¹⁸ Pursuant to section 3.4A.5(3A)(b) of the GR Act, the Commission determined, in accordance with the criteria specified in the Minister for Gaming's order on 15 August 2012 (see *Victorian Government Gazette S279 and S280, 15 August 2012*), the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each specified region and each municipality (or that part of the municipality for which a regional cap did not apply). The maximum number of entitlements that apply for areas subject to regional caps and for those areas for which municipal limits apply are set out in *Victorian Government Gazette G 31, 13 September 2012 (pp. 2042-45)*. While the number of attached entitlements (AEs) operating within a particular region or municipality is capped, the Commission notes that there is nothing to preclude the aggregate number of EGMs for which approved venues may be licensed from exceeding the regional cap.

¹⁹ AEs indicates the number of EMGs actually operating. The collective number of AEs must not be greater than the regional cap in the area.

²⁰ Note that the rates of gaming machines per adult and percentage variations are presented to one or two decimal places for ease of comprehension, whereas the calculations have been made using the real underlying numbers, which explains any discrepancy in the percentages.

²¹ This is according to the evidence of Ms Asmar. In contrast, Mr Anderson's evidence was that the Premises contains three function rooms with a 713-capacity in total. The Premises' website suggests there are two function rooms, the Atrium and the Terrace Room.



- (e) formal and informal lounges;
 - (f) a Sports bar with a TAB facility, where DJ and other live entertainment is held on a Friday evening;
 - (g) a 30 seat café;
 - (h) four dedicated smoking areas;
 - (i) a prayer room;
 - (j) a children's play area;
 - (k) a reception in the foyer; and
 - (l) a main office.
32. According to Ms Asmar, the Applicant has approximately 81 employees, comprising 12 full time employees and 69 casual employees.²² Ms Asmar also noted that the clientele of the Premises is primarily families together with senior groups, who often arrive in busloads.
33. Mr Tabet gave evidence that his vision for the Premises was specific to the area and was for growth and quality. Mr Tabet says he ensures that the Premises sets a high standard for presentation and cleanliness, budgeting and spending an estimated \$175,000 per annum on maintenance.

Catchment area of the Premises

34. 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'.²³ The determination of the likely catchment area in this instance is important in the Commission's consideration of the identity of those residents which will be most affected by the Application in terms of gambling-related benefits and harms.
35. In both the NBA Report and the Council Report, the catchment area was defined as a 5km radius around the Premises, which is greater than the 2.5km radius common for metropolitan gaming venues. This was argued on the basis of research identifying people travelling between 2.5km

²² Taken from the evidence of Ms Asmar, Manager of the Premises.

²³ See for example, *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor (Occupational and Business Regulation)* [2009] VCAT 2275 (12 November 2009); *Whittlesea CC v George Adams Pty Ltd* [2011] VCAT 534 (7 April 2011).



and 5km on average to access EGMs in outer metropolitan areas,²⁴ an analysis of the loyalty members at the Premises, of which 58% were from the Craigieburn and Roxburgh Park postcode,²⁵ and the Premises' relative isolation from other gaming venues in the LGA.²⁶

36. Having regard to the material and evidence put forward by the Applicant and the Council, and notwithstanding the VCGLR Report analysing the immediate surrounding area as a radius of 2.5km around the Premises, the Commission accepts that the appropriate catchment area of the Premises consists of a radius of 5km around the Premises. This incorporates a large part of Craigieburn, parts of Mickleham, Yuroke and Donnybrook, and the northern area of Roxburgh Park.

Issues for determination

37. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following two matters:²⁷
- (a) that the relevant regional or municipal limit for EGMs applicable to Hume will not be exceeded by the making of the amendment the subject of the Application; and
 - (b) that the net social and economic impact of the increase in EGMs permitted in the Premises will not be detrimental to the well-being of the community of Hume (the '*no net detriment*' test).

If having determined that these matters have been satisfied, the Commission is then required to exercise its discretion under section 3.4.20 to determine whether or not the Application should be granted; that is, whether or not the proposed amendment to the venue operator's licence should be made.²⁸

A. *Municipal limit*

38. As noted in paragraph 29 above, Hume is subject to limits on the number of EGMs under two determinations made by the Commission pursuant to section 3.4A.5(3A) of the GR Act. The location of the Premises is within the area that is subject to a municipal limit of 725 EGMs. At the time of this Application, there are 8 gaming venues within the area subject to this municipal limit, with approvals to operate a total of 402 EGMs. Of these, 393 EGMs are presently in operation. Approval of the Application would result in the total number of EGMs permitted to be operated in

²⁴ The Council Report, p.10, referring to *Rennie v Darebin CC* [2010] VCAT 1719 (22 October 2010); NBA Report, p.40.

²⁵ The Council Report, p.11-12; NBA Report, p.43.

²⁶ NBA Report, p.30, 32, 36

²⁷ 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.

²⁸ An amendment may be made subject to any conditions the Commission thinks fit: GR Act, section 3.4.20(3).



this area increasing to 422.

39. On that basis, the Commission is satisfied that granting the Application would not cause the relevant municipal limit for gaming machines for Hume to be exceeded, and hence considers this aspect of the statutory test set out in section 3.4.20 of the GR Act to be satisfied.²⁹

B. 'No net detriment' test

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

Economic Impacts

Expenditure on capital works

41. A potential economic benefit associated with this Application is that arising from the expenditure on the proposed refurbishment of the Premises.
42. According to Mr Tabet, if the Application is successful, the Applicant proposes to undertake renovations at an estimated cost of \$975,000, costed by the Applicant's interior designer, and comprising of \$900,000 of building works and approximately \$75,000 in 'soft' costs, such as carpet and furniture costs. The works would be an extension of the gaming room and removal of part of the terrace facing Aitken Boulevard, as well as updating the façade facing Aitken Boulevard. No other part of the Premises would be renovated. Mr Tabet believed the renovation costs could run up to as much as \$1,000,000. Mr Tabet further estimated that the works would take six to seven months, and would employ a couple of dozen tradespeople at least. Mr Tabet gave evidence that this renovations would not proceed if this Application were refused.
43. Mr Tabet also gave evidence as to the extent of local tradespeople who would be engaged in relation to the proposed renovations, listing local painters, electricians, plumbers and tilers. However, Mr Tabet had not yet contracted with local tradespeople for the works, and did not give

²⁹ While the number of entitlements operating within a particular region or municipality is capped (see footnote 18), the Commission notes that there is nothing to preclude the aggregate number of EGMs for which approved venues may be licensed from exceeding that cap.



a breakdown of the anticipated expenditure that would be paid to local tradespeople as opposed to others.

44. The Commission is satisfied that if the Application were to be granted, a proportion of the renovation expenditure would occur within Hume. However, while the Commission is of the view that the amount for the proposed renovations is not insignificant, it also considers that it is not clear what proportion will be spent on goods or services purchased within the municipality of Hume. As such, the Commission considers that this benefit should be given a low weight. Further, it is important that benefits associated with the renovation expenditure are not double counted, having regard both to the estimated employment impacts of the proposed renovations and to the social impact that may result from the improved facilities. These aspects are considered further below at paragraphs 53 to 54 and 106 to 107 respectively.

Community contributions

45. In determining the net economic and social impact of applications of this nature, both the Commission³⁰ and VCAT³¹ have regularly treated community contributions as a positive benefit. However, for such contributions to be regarded as a benefit associated with the Application, it is necessary that they are properly regarded as community contributions and that they will result as a consequence of the Application.
46. In this Application, two different forms of expenditure have been proposed as community contributions that require consideration by the Commission:
- (a) a proposed cash contribution of \$50,000 per annum for five years to be paid by the Applicant to the Council for services and facilities for Hume residents or donated to not-for-profit community groups and sporting organisations providing services and facilities to Hume residents;³² and
 - (b) discounted meals, award dinners, the provision of a community bus and ad hoc payments to other community groups as the Applicant considers appropriate.
47. With respect to the first category of proposed community contribution, the Commission is satisfied that it will result in funds being distributed to not-for-profit community groups and sporting organisations providing services and facilities to residents of Hume. Further, the Commission is satisfied that these contributions will only occur if the Application is granted. In this, the

³⁰ See, for example, *Application by Richmond Football Club* [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

³¹ See, for example, *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.

³² The Applicant initially proposed an additional \$100,000 cash donation to Council to go towards local recreation projects. However, during the Hearing, the Applicant amended this proposal to that as set out in paragraph (a).



Commission notes that the Applicant has not only set out the proposed amount to be paid, but also a suggested process for determining who should receive those amounts.³³ Having regard to the proposed amount of this community contribution that will occur, the Commission considers it to be a positive economic benefit in relation to which it accords a moderate weight.

48. With respect to the second category of community contribution, Mr Anderson detailed their proposed nature by reference to cash and in-kind community contributions made by the Applicant from July 2014 to June 2016, amounting to approximately \$576,066.42.³⁴ This included cash contributions to a variety of community groups to the value of approximately \$5,145 and in-kind contributions to the value of approximately \$512,979.³⁵ These in-kind contributions consisted of items such as discounted meals, award dinners and the provision of a community bus. Mr Anderson stated that to date these payment fulfilled a commitment made by the Applicant in relation to an application granted in 2010 for 60 EGMs at the Premises (**the 2010 Decision**). In that decision, the Victorian Commission for Gambling Regulation (as the Commission was then called) noted that the Applicant had proposed to provide \$75,000 per annum in contributions to community groups between 2012 to 2017.³⁶ While the 2010 Decision appears to have placed weight to these payments being made, the approval of that application was not made conditional on the making of those payments. It is further noted that in the Council Report, the Council expressed its concern in relation to how this commitment had been operationalised. Specifically, it expressed its dissatisfaction that the contributions appeared to be dispersed not directly for the community's benefit but predominantly towards meals, drinks and venue discounts for patrons and loyalty members.³⁷
49. According to Mr Anderson, payments of similar cash and in-kind contributions into the future were a factor upon which the Commission should place weight as being a positive benefit. In this, Mr Anderson argued that the future payment of such cash and in-kind contributions was dependent on the Applicant enjoying a level of additional expenditure that would be generated if the Application was granted.³⁸

³³ As to the conditions that the Commission has determined to apply in this matter, see paragraph 141 below.

³⁴ NBA Report (at pages 21-22 and Appendix 5). While the Premises provided these benefits pre-July 2014, from July 2014 it started to record them more accurately: Transcript of the Hearing, 29 March 2017, p-38.

³⁵ These subtotals do not include payments in relation to the courtesy bus.

³⁶ See in the matter of an application under section 3.3.4 of the *Gambling Regulation Act 2003* by Highlands Hotel Craigieburn Pty Ltd for approval of premises at Highlands Hotel, Corner of Grand and Aitken Boulevards, Craigieburn for gaming with 60 gaming machines, 6 May 2010 (Mr FB Thompson and Ms G Owen), [53]. The Applicant also proposed to make a once-off donation of \$100,000 to the Council to assist with the construction of a sporting pavilion: (at [55]). Mr Tabet give evidence that the building of the Premises was delayed, and by the time it was built, the Council had already constructed the pavilion. The \$100,000 was therefore put towards an athletics centre, closer to Craigieburn Shopping Centre. Mr Anderson noted this was paid by way of three instalments, with two instalments of \$33,000 already paid and the third instalment of \$34,000 to be paid in March 2017.

³⁷ The Council Report, p.48-9.

³⁸ Applicant's outline of written submissions, paragraph 56.



50. It is not clear to the Commission, however, that this proposed form of community contribution is in fact dependent upon the granting of the Application, and hence a factor to be considered for the purposes of the 'no net detriment' test. In particular, the Commission refers to the evidence of:
- (a) Mr Anderson, who noted that the in-kind and other contributions would continue even were the Application to be refused;³⁹
 - (b) Mr Tabet, who said that these in-kind and other contributions would continue 'for as long as we can afford to do it';⁴⁰ and
 - (c) Ms Asmar, who agreed that the in-kind and other contributions would continue even without any EGMs at the Premises.⁴¹
51. In light of this evidence, the Commission is not satisfied that these payments are dependent on the outcome of this Application, and hence such amounts should not be considered as part of the 'no net detriment' test.
52. Given this finding, it is not necessary for the Commission to determine whether the type of payments or in-kind discounts are of a form which it should treat as community contributions for the purposes of this Application.

Additional employment

53. Employment benefits associated with the Application may involve short term employment benefits associated with renovation activities, and longer term benefits following the introduction of the 20 EGMs at the Premises.
54. The Applicant provided only limited evidence in relation to the short term employment benefit associated with the renovation activities (as discussed at paragraph 42 above). Given that the expenditure associated with this work has already been separately considered, based on the evidence before it, in this instance the Commission accords this particular benefit of additional employment created by the renovation no weight.
55. Ms Asmar stated that the operation of an additional 20 EGMs at the Premises would result in direct employment of up to 2 full time equivalent (FTE) workers, each with 40 hours per week, at the Premises.

³⁹ Transcript of the Hearing, 29 March 2017, p-40, 41.

⁴⁰ Ibid, p-126.

⁴¹ Transcript of the Hearing, 30 March 2017, p-218.



56. Given that the introduction of an additional 20 EGMs is associated with relatively low levels of transferred expenditure (see paragraphs 64(g) and 70 below), the Commission finds that the economic impact arising from this Application would be the employment of the equivalent of 2 FTE workers. While the Commission regards this as a positive impact, given its scale the Commission considers it is a benefit to the community to which it should attribute only marginal weight.

Complementary expenditure

57. Complementary expenditure is a potential benefit where it results in increased economic activity in the municipal district in which the premises the subject of an application are located. However, the extent of this benefit will likely depend upon a range of factors, including the extent to which the expenditure is a consequence of new spending, for example, as a result of additional people coming to the municipal district as tourists as compared to transferred expenditure from other venues within the municipality, and the extent to which that complementary expenditure results in additional spending on local goods and services.
58. Ms Asmar gave evidence that the patronage of the Premises is primarily families together with senior groups, which come in by busloads.⁴² At the Hearing, Ms Asmar noted that the bus groups come from all over Melbourne, and all the way from Dandenong and Geelong, coming both for the buffet and for gaming.⁴³ Similarly, Mr Tabet gave evidence that a large proportion of the Premises' patronage is family and other large social and business groups, including groups from outside Craigieburn, attracted to the Premises' buffet and other facilities.⁴⁴ As such, the Commission accepts that a portion of the new expenditure that would result following the introduction of the additional 20 EGMs were the Application to be successful would be new complementary expenditure, as compared expenditure simply transferred from other venues within the municipality of Hume.
59. In its Application, however, the Applicant was unable to accurately determine the level of any complimentary expenditure. Mr Anderson, in the NBA report, noted revenue from complimentary sources of income including from the buffet-style bistro, the income from which for the 2015/16 financial year was reported to be \$3.776 million. However, his evidence did not go on to estimate the likely increase in complementary expenditure at the Premises that would be associated with this Application. Likewise, Mr Tabet, while of the view that there would be an increase in complimentary expenditure were the Application to be approved, could not estimate the likely

⁴² Ms Asmar's statement, p.2, paragraphs 18-21.

⁴³ Transcript of the Hearing, 30 March 2017, p-200-1.

⁴⁴ Mr Tabet's statement, p.4, paragraph 18; Transcript of the Hearing, 29 March 2017, p-123.



increase. Accordingly, while the Commission considers this factor represents a positive economic impact of the Application, given the limited evidence upon which it can rely, the Commission attributes this benefit marginal weight.

Diversion of trade from other gaming venues

60. Mr Stillwell gave evidence that the introduction of EGMs at the Premises would cause a diversion of trade from other gaming venues within the municipality. More specifically, he estimated 25% of the additional gaming expenditure would be transferred from the Craigieburn Sporting Club and 5% from other venues within Hume. He did not specify the extent to which other retail expenditure may be diverted.
61. The Council Report further suggested that this transfer rate would have a 'knock-on' effect in applications by other venues to increase EGMs, the effects of which the Commission should consider for the purposes of the 'no net detriment' test. The Applicant submitted that any such effect should not be considered as part of this Application, given the uncertainty as to whether any such applications would occur, and what their impact would be.
62. Given that the introduction of an additional 20 EGMs is associated with relatively low levels of transferred expenditure (see paragraphs 64(g) and 70 below), the Commission considers that there may be some impact on other venues (in particular, the Craigieburn Sporting Club) that any diversion of trade would be minor and offset by additional spending at the Premises.⁴⁵ Further, given their inherent uncertainty, the Commission does not consider it should have regard to potential applications for EGMs or EGM increases that have not yet been made and may not ever be made. Having regard to these factors, the Commission assigns no weight to this impact.

Gaming expenditure not associated with problem gambling

63. To the extent that gaming expenditure is not associated with problem gambling, it has been recognised that such expenditure can be treated as an economic positive.⁴⁶ As Bell J notes in *Romsey No. 2*, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use EGMs for social reasons.⁴⁷
64. Mr Stillwell, in the ShineWing Report and his oral evidence, gave the following evidence regarding

⁴⁵ This effect is distinct from that addressed in paragraphs 60 to 62.

⁴⁶ See *Romsey No. 2* [2009] VCAT 2275 [351] per Bell J.

⁴⁷ *Ibid.* Bell J further notes at [352] that the other approach is to say (as Morris J did in *Branbeau Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2005] VCAT 2606 at 79) that gaming extends 'substantial economic and social benefits' to gaming machine users, which treats consumption as a benefit without saying whether it is economic or social. While Bell J states both approaches are correct, for the purposes of this Application, this benefit is treated as an economic benefit.



the likely increase in gaming expenditure should the Application be granted:

- (a) Hume is divided into three SLAs,⁴⁸ being Craigieburn, Broadmeadows and Sunbury. The Premises are located in the Craigieburn SLA, which exhibits a very low gaming expenditure per adult of \$297, as compared to the State average of \$553 and the Hume total average of \$721. As such, Mr Stillwell was of the view that when drilling down to the catchment area of the Premises, the gaming expenditure per adult is significantly lower than the State and clearly distinct from Hume;⁴⁹
- (b) that within Hume, there are four venues, being the Gladstone Park Hotel, the Meadow Inn Hotel, the Roxburgh Park Hotel and the Sylvania Hotel that, while contributing approximately 38% of EGMs in Hume, account for approximately 54% of EGM expenditure;
- (c) one option for assessing future revenue was the utilisation survey method, which looks at the utilisation of the current EGMs, where utilisation of over 70% is indicative of periods when additional gaming expenditure is potentially foregone by a venue due to limited capacity and access to an appropriate choice of EGMs. This method extrapolates the utilisation of the current EGMs to the proposed additional EGMs. In a utilisation survey for the existing 60 EGMs at the Premises from 15 to 28 February 2016, the EGMs were 50% or above utilisation for 29 out of 294 hours, or 9.52% of the time, 60% or above utilisation for 14 out of 294 hours, or 4.76% of the time, and 70% or above utilisation for 5 out of 294 hours, or 1.70% of the time. However, as Mr Stillwell determined that the Premises were not a comparatively low-mid performing venue, he did not believe the utilisation survey method was the most appropriate method to estimate additional EGM expenditure at the Premises that would result if the Application was granted;
- (d) it was also not appropriate to adopt the benchmarking analysis method. This method assess a selection of venues currently operating EGMs in Victoria to determine an appropriate estimate for the expenditure to be derived from the proposed additional EGMs. Mr Stillwell explained that he could not find a comparable venue with 80 EGMs (ie the number of EGMs in the Premises were the Application to be successful) that was reasonably similar in like criteria to the Premises;
- (e) the best approach for estimating future revenue was the empirical evidence method, which looks at venues that have recently introduced additional EGMs, and analyses the impact the introduction of the additional EGMs on the expenditure in the venues. In adopting the empirical evidence methodology, Mr Stillwell determined what he regarded was an

⁴⁸ Statistical Local Area. One or more SLAs makes an LGA.

⁴⁹ Transcript of the Hearing, 30 March 2017, p-136.



appropriate sample group of the most relevant mid-to-high performing hotels in metropolitan regions that had increased EGMs. Mr Stillwell took the Commission through each of the six hotels in the sample group, explaining why each was more or less comparable to the Premises, and how this affected the range and the quotient Mr Stillwell adopted to derive his proposed new expenditure. Averaging out the combined totals of the six hotels gave an increase in expenditure per 1% of EGM increase of 0.54%, which Mr Stillwell adopted as the low end of the range, adopting 0.59% and 0.62% as the medium and high range figures. When multiplying these quotients by the 2015/16 financial year expenditure the Premises earned for the current 60 EGMs, Mr Stillwell calculated the estimated level of additional gross gaming expenditure to be generated from an increase in 20 EGMs at the Premises over the first 12 months of trade as between \$1,469,235 and \$1,686,900;

- (f) that the Premises was located in a high-growth, greenfield area with a very low concentration of competitors, with a catchment area of residents living in its direct vicinity. Mr Stillwell was of the view that, given the development and population growth of Craigieburn, that expenditure at the Premises had largely grown 'organically' at a much faster rate than its competitors.⁵⁰ Mr Stilwell also noted the indication from the evidence in the Hearing that patrons came from beyond the catchment area as well; and
- (g) of the increased gaming expenditure at the Premises, it is estimated conservatively that 30% of this will be transferred expenditure from other gaming venues, most likely within Hume. This was based largely on an analysis of the transferred expenditure when the Premises first opened in late 2012, adopting particularly a 24% transfer rate from the Craigieburn Sporting Club. When asked whether this particular transfer rate would apply to the current Application, given the population growth and that the 24% figure was at a point-in-time, Mr Stillwell accepted that the 24% may be a high figure but was still of the view that it was a good guide.⁵¹ Mr Stillwell believed the remaining 5% would be transferred from other venues within Hume, as he noted it would be reasonable to conclude that there would not be a material amount of transferred expenditure from venues outside Hume.⁵²

65. In relation to the sample used for the empirical evidence method, Mr Stillwell agreed with the Commission that the Cove Hotel and the Settlement at Cranbourne had very similar characteristics to the Premises, including where the hotels were located, their hub nature for residents, and that a lot of residential growth had occurred in surrounding suburbs.⁵³ However,

⁵⁰ Ibid, p-150-1.

⁵¹ Ibid, p-152-3.

⁵² The ShineWing Report, p.17, paragraph 9.6.

⁵³ Transcript of the Hearing, 30 March 2017, p-141.



Mr Stillwell preferred his approach of adopting a median range for all six sample hotels, rather than using a sample of just those two hotels.

66. In the Council Report, the Council submitted that what it termed the low levels of estimated expenditure needed to be questioned, in particular referring to the calculations in relation to the 2010 Decision. The Council suggested that in that 2010 application, it was estimated the expenditure for the first 12 months from 60 EGMs would be \$2,031,602, whereas the expenditure for the first 12 months to June 2013, when the EGMs only became operational in December 2012, was in fact \$3,051,768. However, while Mr Stillwell was not involved in the 2010 application, he queried Council's analysis. Mr Stillwell noted that the Council's calculation appeared to be based on the difference between the weekly new venue expenditure and the transferred expenditure, \$125,187 and \$86,117 respectively, multiplied by 52 to get the yearly figure.⁵⁴ However, Mr Stillwell pointed out that the yearly total expenditure figure should not take into account transferred expenditure, and so should be \$125,187 by 52 weeks, equating to approximately \$6.5 million. Mr Stillwell characterised the estimate as quite reasonable, having regard to the expenditure that actually occurred at the Premises in its first year of operation.
67. Mr Stillwell also took issue with the Council essentially replicating the expenditure per machine for the existing EGMs to the proposed additional EGMs. Mr Stillwell took the Commission through an analysis ShineWing Australia had conducted of successful applications to increase EGMs for 20 case studies, and only in two did the net machine revenue stay the same or increase after the introduction of new EGMs.
68. In relation to previous expenditure reports that ShineWing Australia had prepared for other venue operators that had had successful EGM increase applications, Mr Stillwell was asked about the accuracy of his projected expenditure figures as compared with what the EGMs had actually earned. After the Hearing, Mr Stillwell provided the Commission with a spreadsheet of eight such applications, where the actual earning was within ShineWing Australia's estimate in four of the eight, and the actual was lower in three of the eight.
69. In considering the likely impact of an additional 20 EGMs at the Premises, the Commission notes that there has been an increase in expenditure on EGMs at this Premises since their introduction in 2012, and further that it has risen by 10.84% between the 2014/15 and 2015/16 financial years. The Commission also notes the relatively low current utilisation rates of EGMs at the Premises according to the utilisation survey.

⁵⁴ See the 2010 Decision, [39], p.11.



70. The Commission prefers Mr Stillwell's evidence over the Council Report in relation to the use of the empirical evidence method in attempting to estimate the anticipated expenditure of the proposed 20 additional EGMs. That said, the Commission is of the view that the empirical evidence method is better conducted by relying on the venues that were the most similar and relevant to the Premises. As such, the Commission notes Mr Stillwell's evidence that the Cove Hotel and the Settlement at Cranbourne had very similar characteristics to the Premises, and as such, the Commission chooses to use the adopted rates of 0.66% and 0.72% in order to derive low and high range of anticipated expenditure. The Commission finds that the range is \$1,795,731 to \$1,958,980, being the additional gross expenditure the 20 additional EGMs would generate, were the Application to be granted. The Commission prefers and accepts Mr Stillwell's evidence as to an estimated transfer rate of 30%.
71. In assessing the extent of the benefit associated with this increased gaming expenditure, the Commission has had regard to the evidence outlined in paragraphs 72 to 99 below with respect to the gambling expenditure associated with problem gambling. Generally the Commission considers that the portion of new expenditure not attributable to problem gambling is an economic benefit. Having regard to factors outlined above and in the sections below related to problem gambling, the Commission considers that it is likely the majority of new expenditure will not be associated with problem gambling. However, given the estimated levels of new expenditure that the Commission considers will result if this Application is granted, and the evidence that a considerable proportion of that expenditure is from clientele who come to the Premises from outside the municipality of Hume, the Commission considers this benefit to be one to which it attributes low weight.

Gambling expenditure associated with problem gambling

72. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.⁵⁵ 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.

⁵⁵ 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.



73. In assessing the extent of this disbenefit, the Commission has regard to the expenditure evidence set out in paragraphs 63 to 71 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 exacerbate problem gambling.⁵⁶

The vulnerability of Hume and the catchment area

74. 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 Hume, and particularly those living in the catchment area surrounding the Premises. This is because communities characterised by socio-economic disadvantage and greater vulnerability are more susceptible to the harms arising from problem gambling.

75. According to Mr Anderson in the NBA Report and his oral evidence, various factors suggest that the area shows very few signs of disadvantage, meaning that, were the Application to be granted, the risk of an impact due to increased problem gambling was likely to be low. These factors included:

- (a) the Socio-Economic Indexes for Areas (SEIFA)⁵⁷ scale of advantage and disadvantage based on 2011 census data which ranked the Hume LGA in the 5th decile in Australia, and with a SEIFA score of 950, ranked the Hume LGA as the 21st most disadvantaged area out of the 79 LGAs in Victoria, suggesting a slightly higher than average level of socio-economic disadvantage compared with other LGAs in Victoria.⁵⁸ Further, the SEIFA ranking on advantage and disadvantage for the SA2⁵⁹ in which the Premises are located (Craigieburn - Mickelham) scores 983, and is ranked 155th out of 433 SA2s, equating to a relatively average level of disadvantage in socio-economic status within SA2s in the State;
- (b) 'Metro-fringe' urban growth municipalities are changing significantly, and trending upwards, between census periods.⁶⁰ On this point, according to Forecast ID, the total population for Hume is anticipated to increase from 167,562 in 2011 to 345,446 by 2041.⁶¹ Mr Anderson

⁵⁶ 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.

⁵⁷ SEIFA is a product developed by the Australian Bureau of Statistics (ABS) that ranks areas in Australia according to relative socio-economic advantage and disadvantage. It consists of four different indexes, including the Index of Relative Socio-economic Disadvantage.

⁵⁸ NBA Report, p.45.

⁵⁹ SA2 (Statistical Area 2) are general purpose medium sized area built from whole SA1s, generally having a population of 3,000 to 25,000 (for a description of SA1s, see footnote 69 below). Where possible, SA2s are designed around whole suburbs.

⁶⁰ NBA Report, p.46

⁶¹ NBA Report, p.45, paragraph 133.



argued this growth will have a considerable impact on the SEIFA ranking of Hume over the coming data collection periods, which he anticipated would improve if the growth experienced over the past two collection periods is a guide;⁶²

- (c) the Premises and a large part of the catchment area are zoned 'Comprehensive Development Plan', envisaging significant infill residential development. Further the Premises are on land subject to the Development Plan Overlay, with the Premises forming part of a master-planned residential estate. As the development continues, it would be expected that the SEIFA index will improve as more residents move to the area to the good quality, master-planned residential development.⁶³ Finally, the areas that are indicated on the SEIFA map to be of higher disadvantage are zoned for industrial and public purposes;
- (d) while EGM expenditure, acknowledged both by the Council and Mr Anderson as an indicator of the prevalence of problem gambling, is \$721 per adult in Hume and \$575.20 per adult in metropolitan Melbourne, based on the 2016 adult population, in the area surrounding the Premises, it was estimated that the expenditure per adult is considerably lower. In both the NBA Report and the ShineWing Report, it was estimated that the expenditure is \$297 per adult for the Craigieburn SLA and factoring in ShineWing Australia's estimated proposed increase in expenditure caused by the 20 EGMs, this would rise to \$316; and
- (e) based on the results of '*The Victorian Gambling Study: A longitudinal study of gambling and health in Victoria, 2008-2012*',⁶⁴ the statistically significant predictors of at-risk gambling for Victorians were males age between 18-24, women aged between 54-60, speaking a language other than English at home, having year 10 or lower education, living in a group household and being unemployed or not at work. When looking at these factors for Hume and Craigieburn in relation to 2011 census data, the NBA Report noted:
 - i. Craigieburn has a slightly smaller population of at-risk groups based on age;
 - ii. Hume has a lower level of the population attending a tertiary education facility;

⁶² With respect to this growth, Mr Anderson referred to aerial images taken in December 2010, January 2012 and January 2016, showing substantial residential development since 2010, particularly to the area immediately west of the Premises. Mr Anderson noted that this residential new development had not been captured in the 2011 Census statistics, and so was not reflected in the SEIFA data.

⁶³ NBA Report, p.46-7.

⁶⁴ Billi, R., Stone, C.A., Marden, P., Yeung, K., (2014). *The Victorian Gambling Study: A longitudinal study of gambling and health in Victoria, 2008–2012*. Victoria, Australia: Victorian Responsible Gambling Foundation.



- iii. both Hume and Craigieburn's unemployment rates were higher than metropolitan Melbourne⁶⁵ but the planning and zoning was looking to create growth in Hume;
 - iv. Craigieburn has a higher individual income than in Hume and metropolitan Melbourne, which suggests Craigieburn is slightly more affluent when compared with the remainder of metropolitan Melbourne (although median family income was slightly lower for Craigieburn than metropolitan Melbourne);
 - v. an analysis of dwelling and household structure suggests the number of group households, as compared to family and single person households, is considerably smaller than metropolitan Melbourne;
 - vi. an analysis of housing tenure suggested that 61.5% of houses were owned with a mortgage in Craigieburn, considerably higher than the 36.8% in metropolitan Melbourne, suggesting mortgages packages and land prices were enticing younger families;
 - vii. in relation to non-English speaking households, 11% of Craigieburn residents and 13% of Hume residents do not speak English at all or very little, compared to 13% of metropolitan Melbourne residents; and
 - viii. in relation to mortgage stress, while Craigieburn has a considerably higher proportion of households facing mortgage stress than Hume or metropolitan Melbourne, mortgage stress has risen dramatically over the last 10 years State-wide, with Craigieburn no different to other developing areas of Victoria.
76. Having regard to these statistics, Mr Anderson concluded that given the social and economic profile of Hume, approval for the 20 additional EGMs would unlikely exacerbate problem gambling within the municipality.⁶⁶
77. In contrast, according to the Council Report various factors suggest that the risk of increased incidence and economic impact of problem gambling at the Premises are likely to be high should this Application be granted on the basis that:
- (a) according to the SEIFA scale of disadvantage, Hume is the 3rd most disadvantaged municipality in metropolitan Melbourne and contains three of the most disadvantaged suburbs, being Broadmeadows, Dallas and Coolaroo;

⁶⁵ Both the NBA Report and the Council Report use the terms 'Greater Melbourne' and 'metropolitan Melbourne'. For the purposes of these reasons, assuming the terms have the same meaning, the Commission solely uses the term 'metropolitan Melbourne'.

⁶⁶ NBA Report, p.72, paragraph 219.



- (b) when looking at the SEIFA scores for collection districts based on 2011 census data within the catchment area,⁶⁷ as well as Hume and metropolitan Melbourne, the catchment area scored 980, Hume 950.3 and metropolitan Melbourne 1021.1. This indicated the catchment area experienced higher levels of disadvantage when compared to metropolitan Melbourne and State averages. However, Council also noted that Hume is considered an 'interface community', a rapidly growing area, where SEIFA indicators did not take into account key factors in the wellbeing of such communities;
- (c) another potentially useful index is the Vulnerability Analysis or Mortgage, Petrol and Inflation Risks Expenditure (**VAMPIRE**), which can be relevant to growth areas such as Hume. The VAMPIRE index is made up of car dependence, income level and mortgages to produce a vulnerability score. Based on the 2011 census data, significant populated areas of Hume are vulnerable on the VAMPIRE index;
- (d) in relation to housing stress and affordability, the high level of socio-economic disadvantage indicates that communities in Hume already lack the opportunities, capacity and resources to face changing circumstances,⁶⁸ and
- (e) a range of vulnerable groups are present in Hume, Craigieburn and the catchment area, in relation to which the Council referred to:
 - i. the 2015 longitudinal Jesuit Social Services (**JSS**) study 'Dropping of the Edge', indicating Broadmeadows was the most disadvantaged postcode in the State, and that the majority of Hume demonstrated high levels of disadvantage;
 - ii. many residents within Hume, and Craigieburn and Mickelham, are on Centrelink benefits (e.g., 146 out of 1000 in Craigieburn – Mickelham having a Health Care Card);
 - iii. the Victorian gambling prevalence study⁶⁹ conducted in 2014, which estimated the rate of problem gambling to be 0.81% of the population, with the Productivity Commission estimating that problem gamblers contribute 40% of the total EGM losses, and for each problem gambler, another 7 to 10 people are adversely affected. However, data on the incidence of problem gambling in Hume was not possible to be generated in the timeframe of this assessment process.

⁶⁷ Termed 'local neighbourhood' in the Council Report: See the Council Report, pp.12, 30.

⁶⁸ The Council Report, p.34.

⁶⁹ Hare, S. (2015) Study of Gambling and Health in Victoria, Victorian Responsible Gambling Foundation and Victorian Department of Justice and Regulation.



78. The Council also referred to the *Health Promotion Resources Guide for Problem Gambling Prevention in Northern Melbourne*⁷⁰ as identifying a number of research papers showing at risk groups potentially vulnerable to problem gambling, including young people and young males, senior Victorians, people experiencing substance abuse, people experiencing mental health issues, people of Culturally and Linguistically Diverse backgrounds, people of Koori/indigenous backgrounds, people with intellectual/cognitive disabilities, people in community services or corrections, and families and friends of problem gamblers. In relation to these issues, the Council Report detailed:

- (a) the median age of residents within 5km of the Premises are 28 years as compared to 33 in Hume and 36 in metropolitan Melbourne;
- (b) the catchment area has a significantly higher proportion of indigenous community members (1.4%, compared to 0.6% and 0.5% in Hume and metropolitan Melbourne respectively);
- (c) in the catchment area, 44.7% of the population speak a language other than English, contrasted to 29% of people in Melbourne, and approximately 14% of catchment area residents do not speak English well or at all, compared to 18.1% in Hume and 12.9% in Melbourne. The Council Report noted this may be higher, as since 2011 new families from Sri Lanka and India have settled in the area;
- (d) the catchment area has larger households, with 44% having four or more people (compared to 39.3% and 27.8% in Hume and metropolitan Melbourne respectively), meaning problem gambling by an individual would have higher ramifications given the higher number of persons affected; and
- (e) from the 2011 census data, unemployment within the 5km radius was at 6.7%, lower than that of Hume (7.6%) and metropolitan Melbourne (3%). One parent families with children under 15 and an unemployed parent is 5.3% (compared to Hume at 5.0% and metropolitan Melbourne at 3.0%);
- (f) in relation to disabilities, 3.5% of residents between the ages of 25 and 65 in the catchment area had a profound or severe disability, as compared to 2.5% in metropolitan Melbourne; and
- (g) a higher percentage of residents in the catchment area were employed in lower skilled industries, with 17.2% employed in the manufacturing, compared to 14% for Hume and 10.9% for metropolitan Melbourne.

⁷⁰ Rennie, Susan: *Health Promotion Resources Guide for Problem Gambling Prevention in Northern Melbourne*, Banyule Nillumbik PCP, June 2009, referred to in the Council Report, p.42.



79. In his oral evidence, Mr Anderson made a number of comments with respect to the Council Report, which included:
- (a) he did not see the relevance of the three suburbs listed by the Council in its report (summarised at paragraph 77(a) above) of Broadmeadows, Dallas and Coolaroo, as none were near the catchment area of the Premises;
 - (b) the Centrelink statistics were not necessarily an indicator of vulnerability to problem gambling, as Mr Anderson noted that people may have things such as pension and health care cards for a variety of reasons, and that he stood by his report, and the underlying research, that the people at highest risk of becoming problem gamblers are not necessarily the lowest income earners;⁷¹
 - (c) he chose not to rely on the VAMPIRE index, relying on the ABS SEIFA data instead as the 'source of truth'.⁷² On SEIFA and its relevance to interface communities, Mr Anderson sought to present it in context, with a zoning map and aerial photographs; and
 - (d) responding specifically to housing affordability and mortgage stress in Craigieburn, Mr Anderson characterises the levels as 'normal' as it is common in growth areas for people to have mortgage stress.
80. Further, in relation to the additional EGM expenditure estimates contained in the Council Report, Mr Anderson stated that the Craigieburn Sporting Club, located 2.6km from the Premises, had a decrease of 7 EGMs to 63 EGMs, which had not been accounted for in the Council Report. Also, in relation to the calculation of EGM density, Mr Anderson noted that the Roxburgh Park Hotel had been included, despite being 7.2km as the crow flies and 12-15km by road from the Premises, and outside the catchment area. Mr Anderson also critiqued the Council's reliance on 2011 census data for EGM density when privy to the same ID profile population data on which he relied. Further, Mr Anderson was not sure how the Council had calculated the number of adults in the total population.
81. An issue arose at the Hearing as to Mr Anderson's use of the SEIFA advantage and disadvantage index (**IRSAD**) as compared the SEIFA index of disadvantage (**IRSD**). In his report, Mr Anderson referred to using the IRSD but clarified at the Hearing that he had in fact used the IRSAD. The difference between the indices for Hume is that on the IRSAD, Hume ranks 21st in Australia out of 79 LGAs and at 950 whereas on the IRSD, it ranks 12th out of 79 LGAs and at 952.

⁷¹ Transcript of the Hearing, 29 March 2017, p-98-9.

⁷² Ibid, p-100.



82. Subsequent to giving evidence, Mr Anderson explained in an email dated 29 March 2017 that the difference is partially explained by three other LGAs being at 952 on the IRSD, and also due to the manner by which rank across Australia is calculated, pushing Hume further down the ranking. Mr Anderson believed the IRSAD should be preferred over the IRSD due to the ABS's explanation that the IRSAD is used where the user wants a measure of advantage and disadvantage in the analysis, and wants advantage to offset any disadvantage in the area, whereas the IRSD is preferred where the user wants to look at disadvantage and the lack of disadvantage, and wants a broad measure of disadvantage. Mr Anderson viewed the IRSAD as providing a more balanced indicator of a municipality, not simply focusing on the disadvantages.
83. For completeness, it is noted that the VCGLR Report stated that in relation to the area immediately surrounding the Premises (i.e. within two and a half kilometres), approximately 8.1% of Statistical Area Level 1 (SA1s)⁷³ areas are in the first quintile and 45.9% of SA1s are in the second quintile of the SEIFA index of relative disadvantage (indicating high relative disadvantage). Of the remaining SA1s in the area immediately surrounding the Premises, 32.4% are in the third quintile (indicating neither relative advantage nor disadvantage) and 13.5% are in the fourth and fifth quintiles (indicating low relative disadvantage). The VCGLR Report also noted that the unemployment rate in Hume is 9.8%, which is above the metropolitan Victorian unemployment rate of 5.9%.
84. While the Commission accepts that the SEIFA indices, and to some extent the VAMPIRE index, indicate that residents in the catchment area have a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms, the Commission is persuaded by the evidence of Mr Anderson, particularly in relation to the SEIFA score for the SLA in which the Premises are situated (Craigieburn – Mickelham) exhibiting a relatively average level of advantage and disadvantage, and that the zoning of a large part of the catchment area, zoned Comprehensive Development Zone, is likely to improve the SEIFA index as more residents move to master-developed area. On this point, the Commission accepts Mr Anderson's evidence that the growth evidenced in the last two census periods for Hume can be expected to continue, particularly in the catchment area.
85. Taking into account all the material before it, the Commission considers that overall the municipality of Hume is an area of below average socio-economic status, and generally more vulnerable than average to the risks of problem gambling. The catchment area surrounding the Premises, however, exhibits characteristics of lower vulnerability than other parts of Hume, noting

⁷³ SA1s have been designed by the ABS as the smallest unit for the release of Census data, and generally have a population of 200 to 800 persons, with an average of 400 persons.



however that the level of indebtedness expected in such a growth area is likely to make it more susceptible to gambling-related harm than would otherwise be the case.

RSG practices at the Premises

86. 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. Specifically in relation to the Premises' Responsible Service of Gaming (RSG) practices:
- (a) Mr Anderson noted the Premises are committed to the policy of responsible gambling although when taken to the factors listed on page 20 of the NBA Report, agreed that the factors were all standard, regulatory requirements. Mr Anderson characterised Mr Tabet as an experienced operator, with a proven track record of RSG practices across all venues he owns. He referred in particular to the Commission's Pre-hearing Report, and noted the report was positive with only one incident recorded in three years of inspections. Mr Anderson believed that problem gambling risks are handled appropriately and adequately;⁷⁴ and
 - (b) more specifically, Mr Tabet noted in all his time as owner and operator of various hotels and taverns with gaming, since 1992 he has only ever had one issue, which involved validating a ticket on the wrong side of a counter. Mr Tabet also referred to a responsible gaming self-exclusion photo board, which staff look at every day, and where staff recognise a person on the board, they ask the person to leave straight away.⁷⁵ Any gambling issues that arise are brought to the attention of the gaming room manager, escalated to the venue manager (Ms Asmar), and from there to Mr Tabet.
87. Further evidence as to the day-to-day workings of RSG at the Premises came from Ms Asmar. Ms Asmar commenced working as the manager of the Premises at the beginning of 2014. She referred to the Premises' Responsible Gaming Code of Conduct, which was tendered. She also discussed the venue's self-exclusion program, the gaming shift procedures, which included checking RSG brochures are available, and the Premises' gaming incident register, six pages of which were also tendered. Ms Asmar also detailed how the venue employs a floor walker in the gaming area, to ensure that all machines are visible, and as to a security guard standing at the entrance of the gaming room from the foyer. Ms Asmar also said she worked closely with

⁷⁴ NBA report, p.59.

⁷⁵ Transcript of the Hearing, 29 March 2017, p-119.



Gamblers Help, and noted the venue's contact with Mr Stuart Barton, a venue support worker with Banyule Community Health, who had visited the venue as recently as 9 October 2016.

88. Ms Asmar was asked specifically in relation to patrons who demonstrate distress of any kind while at the EGMs, as to staff with specialist training to discuss or counsel such patrons. Ms Asmar noted that all staff are RSG trained but could not point to any such particular staff members, apart from four supervisors, that would be more confident speaking to such patrons. She also said she was not aware of any such patrons exhibiting such signs during her time at the Premises.
89. The Commission considers that the Applicant is conscious of its requirements relating to RSG practices but feels its oversight of gaming operations could benefit from a process of continuous improvement with increased awareness across all staff. In this regard, Ms Asmar's evidence created some uncertainty for the Commission as to how well staff at the Premises would adequately identify and address instances of problem gambling.

Other factors

90. There is a range of other factors applicable to this Application that the Commission considers relevant in assessing the potential risks associated with problem gambling.
91. First, this is already a venue with 60 EGMs. The Premises would become a venue with 80 EGMs should this Application be granted, and, as such, would become one which the Commission would consider to be a large venue. This is likely to increase the risk of problem gambling at the Premises. However, Mr Anderson, while acknowledging that potential increase from 60 EGMs to 80 EGMs took the venue from a medium-sized venue to the bottom of the scale in terms of a large venue, was of the view that the risk would only be slight, referring to the studies as showing problem gamblers preferring larger venues due to anonymity. In terms of internal surveillance, Ms Asmar gave evidence of the majority of the 60 EGMs being visible from the bar area in the gaming room, and also a floor walker constantly observing EGMs. Mr Anderson noted that the proposed renovation would not change the nature of surveillance that occurred in the Premises. The Commission accepts Mr Anderson's evidence on this point.
92. Secondly, while Mr Anderson characterised the venue as 'isolated' and a 'destination venue', in having its own carpark and requiring a conscious decision on the part of a visitor to enter the gaming area, the Commission notes that the venue is surrounded by residential neighbourhoods and is proximate to a shopping centre. In this instance, these aspects suggest that the characterisation of it as purely a 'destination venue' appears somewhat overstated.
93. Thirdly, an issue as to the visibility of the gaming room from other parts of the Premises was also



raised at the Hearing. Mr Anderson noted that the main entrance of the gaming room was visible from the foyer, and that this was not anticipated to change as a result of the proposed renovations. Ms Asmar gave evidence that a security guard stood at the entrance of the gaming room. The Commission is satisfied that staff sufficiently conduct surveillance of the gaming room, protecting against the possibility of a minor entering the gaming room. However, the Commission is concerned that the visibility of the gaming room may create a risk with respect to children attending the Premises. This issue is considered further in paragraphs 130 to 135 below.

94. Fourthly, the Commission has taken into account the submissions received from community organisations and a neighbouring Council opposed to the grant of the Application. In this regard, the Commission notes the submission from Lentara Uniting Care (**Lentara**), which operates a financial counselling service in Broadmeadows, Craigieburn, Dallas and Sunbury, and sees many clients from the Craigieburn area. Lentara states the effects of problem gambling are prevalent in Hume.⁷⁶ Further, the City of Whittlesea (**Whittlesea**), a neighbouring municipality, in its submission, noted that residents in Whittlesea formed part of the loyalty club of the Premises, and argued that an increase in EGMs exacerbates gambling-related harm, and submitted that there were 27 venues operating 1,548 EGMs within 5km radius of the Hume and Whittlesea border. Banyule Community Health Service, whose Craigieburn services are located 3.8km from the Premises, assist individuals and families struggling with gambling issues. It was of the view that the additional 20 EGMs would likely increase harm caused to Hume residents who are already experiencing and dealing with gambling-related harm. Similarly, Kelly Lee Hickey manages a public health project employing bilingual workers to reduce gambling harm amongst ethnic seniors' clubs, was particularly concerned about the community bus, aimed, in her view, at increasing exposure to gambling. Ms Hickey was also concerned in relation to the prayer room at the Premises, arguing it normalised gambling in the Muslim community.
95. In response to these community group and the neighbouring Council submissions, the Applicant, while having a great deal of sympathy for those experiencing and impacted by problem gambling as well as those suffering domestic violence, noted that the submissions provided no direct link between problem gambling and the Premises.⁷⁷ The Applicant also noted that the authors of the submissions were not available at the Hearing to stand by their work, and were not able to respond to witnesses who have queried their analysis. Mr Anderson also disputed the accuracy of Whittlesea's comment that there were 27 venues operating 1,548 EGMs within a 5km radius of the Hume and Whittlesea border, especially as the distance between the Premises and the first

⁷⁶ Letter from Lentara to the Commission dated 6 March 2017.

⁷⁷ Transcript of the Hearing, 30 March 2017, p-246.



venue in Whittlesea is about 12 or 13 km away.⁷⁸

96. The Commission accepts the Applicant's position that the non-attendance of authors of the submissions at the Hearing necessarily affects the weight the Commission can place on those submissions. The Commission also refers to its comments in relation to issues raised by some of those the submissions at paragraph 128 below.
97. Having regard to all of the circumstances, should this Application be granted, the Commission considers that there is a risk of increased problem gambling expenditure associated with this Application. That increased expenditure would come from the additional expenditure the additional 20 EMGs would generate, discussed in paragraphs 63 to 71 above.
98. The Commission considers that the location of the Premises in the catchment area (largely comprising the Craigieburn – Mickelham SLA which has a relatively average level of advantage and disadvantage), together with the Premises' RSG history, to some degree mitigates the potential risk of an increase in gaming expenditure associated with problem gambling. However, the Commission is also mindful of the vulnerability of the Hume community generally, notwithstanding the relative strength of the population in the catchment area surrounding the Premises. It also has regard to the level of indebtedness of the population in the catchment area, which increases the susceptibility of that population to gambling-related harms.
99. Accordingly, the Commission considers with respect to this Application that the potential expenditure associated with problem gambling is a negative economic impact upon which it should place a moderate weight. Issues relating to the negative social impacts associated with problem gambling are considered further in paragraphs 111 to 113 below.

Conclusion on economic impacts

100. After considering the economic benefits of the Application and balanced against the detriments, the Commission considers that, on balance, the Application is likely to have a net small positive economic impact.

Social Impacts

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

⁷⁸ Transcript of the Hearing, 29 March 2017, p-93-4.



Increased gaming opportunities for those who enjoy gaming

102. This is a positive impact if the Application will better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs. Several witnesses gave evidence that the proposed addition of 20 EGMs would improve enjoyment and choice in machines of current patrons, including:
- (a) Mr Anderson, who noted that the growing popularity of the themed buffet and overall increase in food and beverage sales since opening has also included a rise in patronage of the gaming lounge;⁷⁹
 - (b) Mr Tabet, who said that were the Application to be approved, this would allow for the Applicant to continue to provide a premium hospitality and entertainment venue to the local area;⁸⁰ and
 - (c) Ms Asmar, who, more specifically, said that large groups, including primarily bus groups, often visit the Premises to eat at the buffet, and enjoy using the machines before and after their meals. Due to the size of the groups, Ms Asmar believed there was an inadequate number and choice of gaming machines, with patrons often forced to wait in line to use the machines.
103. Ms Asmar's evidence appeared to conflict with the utilisation survey prepared by Mr Stillwell, which showed EGM utilisation above 70% in only 5 out of 294 hours. However, Ms Asmar believed that it was possible that no buses arrived during the survey period, 15 February to 28 February 2016.
104. In the Council Report, the Council characterised the catchment area as already having access to 210 EGMs, demonstrating an ease of access and already high levels of consumer choice. As noted in paragraph 80 above, Mr Anderson took issue with the Council seemingly including the 80 EGMs in the Roxburgh Park Hotel in this calculation, and instead was of the view that the catchment area currently contained 123 EGMs.
105. The Commission finds that granting approval of the Application will better serve the needs of gaming patrons through providing additional EGMs. In particular, the Commission accepts Ms Asmar's evidence in relation to the moderate utilisation figures demonstrated by the utilisation survey, and accepts that there are times when patrons have to queue for the use of EGMs. However, given the current number of EGMs in Hume, and the fact that at present the issues

⁷⁹ NBA Report, p.3.

⁸⁰ Witness statement of Mr Tabet, 24 October 2016, paragraph 20.



associated with utilisation tended to occur when the Premises was crowded with patrons from buses coming from outside Hume, the Commission considers this to be a negligible social benefit to the community in Hume itself, and hence one on which it places marginal weight.

Improved facilities enabling greater range of services

106. Separate from the economic benefit that may be associated with expenditure involved in capital works at a venue, there are also potential social benefits to the community that may arise having regard to the nature of the renovations that are intended to take place.
107. However, as noted at paragraph 42 above, the proposed renovation works are only to extend the gaming room, remove part of the terrace and update the façade facing Aitken Boulevard. As such, the updated facilities are almost solely associated with gaming. The Commission does not consider this to be a social benefit for the purposes of the 'no net detriment' test and hence places no weight on this factor.

Social benefit derived from increased community contributions

108. 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.
109. The Commission notes that in the conditions that the Applicant has proposed should the Application to be granted, the Applicant anticipates and acknowledges that \$250,000 over five years will be used for the provision of services and facilities to residents of Hume or donated to not-for-profit community groups and sporting organisations providing services and facilities to residents in Hume. However, it is not yet clear who will receive these amounts, and hence what the social benefit of these contributions might be.
110. Given the limited evidence available as to which groups will benefit from the proposed contributions, the Commission considers the potential positive social impact on local community organisations to be a benefit but one which is given only marginal weight in this Application.

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

111. 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.

112. The factors that impact on the possibility of increased incidence and the potential economic impact of problem gambling associated with this Application are discussed above at paragraphs 72 to 99.
113. As is concluded there, the Commission is satisfied that there is potential for increased risk in problem gambling as a result of this Application. This gives rise to a negative social impact. However, the Commission accepts that the risk, and hence impact, in this Application is less than would otherwise be the case for the municipality given the location of the Premises within Hume. As such, the Commission considers this impact it is one upon which it places moderate weight in this Application.

Community attitude

114. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,⁸¹ 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 particular social impact within, and as part of, the 'no net detriment' test.
115. The evidence before the Commission with respect to the community attitude is as follows; first, the results of a 2013 survey, secondly, the outcomes of a general survey related to this Application and thirdly, responses gathered from loyalty members of the Premises.⁸²
116. First, in the Council Report, reference is made to a community attitudinal survey conducted in 2013, indicating that 70.9% of Hume residents either agreed or strongly agreed that pokies were too widely accessible, 50.3% either agreed/strongly agreed that pokies contribute to serious social issues within their local area,⁸³ 48.9% either agreed or strongly agreed that problem gambling is a serious issue, and 49.6% either agreed or strongly agreed that the increased availability of gambling opportunities has increased the incidence of problem gambling.⁸⁴

⁸¹ 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.

⁸² The Commission also received a letter from the Highlands Community Group dated 24 March 2017, where the Vice President stated there was considerable concern regarding the Application. However, while the letter expressed dissatisfaction with the Premises' current community contributions, the letter did not expressly state the group's opposition to the Application, or the number of group members. As such, the Commission does to consider it should place weight upon the letter in relation to the community's attitude.

⁸³ The Council Report, p.38.

⁸⁴ The Council Report, p.44.



117. While Mr Anderson was not aware of the 2013 survey, he said the results did not surprise him. He noted, however, that he did not know how widely the survey was distributed, how many people completed the survey or the manner in which the survey was conducted.
118. In any event, the Commission notes that the 2013 survey did not relate to the Application before it. As such, and having regard to the decision in *Romsey Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,⁸⁵ the Commission considers that it is of limited relevance in this Application.
119. Secondly, a community attitudinal survey was conducted by the Applicant in accordance with a requirement of the Council's Responsible Gaming Policy (2013). The Applicant arranged for this survey to be sent to 4,000 residents within a 2.5 km radius of the Premises. This was notwithstanding that the Applicant considered the catchment area to be a 5 km radius around the Premises.⁸⁶ The survey was only mailed out to residents on 21 March, with responses due on 27 March 2017. Some residents received the survey after its notified due date. At the Hearing, the Commission determined that the Applicant should process responses received by 6 April 2017. The Applicant received 168 responses, and noted that it and the Council had agreed on a response of 10% would be appropriate to make submissions. The survey response rate was in fact 4.2%.⁸⁷
120. With that in mind, in its submissions in relation to the community attitudinal response dated 6 April 2017, the Applicant noted that a significant proportion of respondents generally opposed the Application, with 81% either somewhat or strongly opposed to increasing the number of pokies at the Highlands Hotel, and 73% believed that the additional expenditure (as presented by Mr Stillwell) would have a negative or very negative impact on their local neighbourhood. The Applicant noted that a significant number of respondents opposed gaming generally, with 84% either agreeing or strongly agreeing that pokies are too widely accessible, and 71% agreeing or strongly agreeing that pokies contribute to serious social issues with the local area. Further, the Applicant submitted it was relevant that 75% of respondents had not played pokies within 5km from their home in the last 12 months. The Applicant also characterised as noteworthy the proportion of respondents indicating support for the Application, with 52% agreeing or strongly agreeing that gaming venues provide local employment opportunities, 30% supporting a once-off payment of \$100,000 towards local recreational activities, and 23% of responses supporting the

⁸⁵ (2008) 19 VR 422, [44] per Warren CJ, Maxwell P and Osborn AJA.

⁸⁶ The Commission notes that this appears to have been at the behest of the Applicant: Enclosure 10 of the timeline referred to in paragraph 24(g) above.

⁸⁷ Given the issues that arose with respect to the conduct of the community attitudinal survey was required by the Council's regulations prior to making the Application, the Commission reminds all those wishing to make applications for EGM increases to consider from the outset the timeframes that may be required to observe relevant Council guidelines.



creation of two new full-time equivalent jobs. In relation to the once-off payment, while 43% of respondents were opposed to it, the Applicant noted its proposed community contributions had increased at the Hearing compared to that proposed in the survey.

121. The Council's submissions in relation to the community attitudinal survey sent out on 21 March 2017 can be summarised as follows:

- (a) in relation to the extension of the response time from 27 March to 6 April 2017, the Council's experience was that a 2-week period was most preferable, and that a longer period of time may have provided a more favourable representation of the community;
- (b) there were various errors in the data that the Applicant presented, as although 168 surveys were received, apparently not all questions were responded to. Re-working the data, the Council noted, for example, that 79% (as opposed to 81%) of respondents were either somewhat or strongly opposed to increasing pokies at the Premises, 67% (as opposed to 73%) believed that the additional expenditure would have a negative or very negative impact on the resident's local neighbourhood, and 26% (as opposed to 23%) supported the two new full time equivalent jobs at the Premises as having a positive or very positive impact;
- (c) the Applicant had not presented the qualitative data; that is, the written survey responses, that some respondents provided. The Council provided extracts of several respondent comments, which the Commission has read and considered; and
- (d) in response to the Applicant's contention that residents who opposed the Application were against gaming generally, the Council noted that some respondents who gambled indicated their opposition to more pokies at the Premises due to the harm they create.

122. Thirdly, the Applicant conducted a survey with 122 of its own patrons or loyalty members, indicating an overall support towards the Application. The Council's view in relation to this particular survey was that the first three responses that the Council officer inspected (which amounted to 4% of the number of surveys in support) looked as if they had been filled out by the same person. The Council also noted that the handwriting on other surveys appeared similar to the first three. The Council suggested that if the surveys were not self-administered, there would be high probability of interpretation from the administrator, thus creating a bias. The Council also noted that the quality of responses to the patron survey was not as thorough as the community attitudinal survey, with the majority providing no qualitative data and some being incomplete. Finally, the Council, when inspecting the grouped hard copy surveys, noted survey responses were grouped into three categories, support (73 surveys), don't know or neither (22 surveys) and



opposing (27 surveys). The Council noted that it was difficult to find a consistent approach as to which questions were used to formulate this categorisation of the patron surveys. In conclusion, the Council suggested that the Commission give less consideration to the patron survey responses. Accepting the Council's concerns, and noting that the Applicant itself placed little weight on this evidence, the Commission places no weight on the patron survey.

123. Overall, the Commission is satisfied that the community survey responses suggest there is a consistent and sustained negative attitude in the community within a 2.5 km radius of the Premises to this Application and that this likely reflects the attitude in Hume generally. However, it notes that even having regard to all of the issues associated with the relatively low response rate to the community survey and its limited reach, the level of community dissatisfaction does not appear to be the same extent as demonstrated in the *Romsey* case. In all of these circumstances, the Commission considers it appropriate to attribute low weight to this negative social impact of this Application.

Increase to gambling-related crime and social disturbance

124. The Commission accepts that to the extent that approval of this Application would result in an increase to gambling-related crime and other social disturbances (including family violence) it would constitute a social disbenefit of this Application.
125. In relation to gambling-related crime, the Council Report referred to research that found a positive link between income-generating crime and gambling expenditure.⁸⁸ Also, while the Council noted that it was not possible to determine the rate of gambling-related crime in Hume, the municipality had seen an increase in crime over the last 12 months.
126. In relation to family related violence, the Council Report noted that Hume has the second highest rate of reported family violence incidents in Melbourne's northern region, with 1,500 per 100,000 population in 2015/16.⁸⁹ The Council Report similarly referred to WHIN, who also made a submission to the Commission, identifying an increasing number of cases where gambling is one of the factors that exacerbates family problems, including family violence. Also referring to other reports and studies, the Council was of the view that the emerging link between family violence and problem gambling '*amount to more than just the financial problems of a problem gambler but cascades over to other family members and the communities they live in*'.⁹⁰ Similarly, Lentara

⁸⁸ The Council Report, referring to Wheeler, S., Round, D.K. & Wilson, J.K. (2010), *The Relationship between Crime and Gaming Expenditure in Victoria*, Department of Justice, Melbourne.

⁸⁹ The Council Report, p.46, referring to the Crime Statistics Agency, Family Incidents Victoria, available at <https://www.crimestatistics.vic.gov.au/crime-statistics/latest-crime-data/family-incidents-1>.

⁹⁰ The Council Report, p.47.



reported that in a number of cases, gambling had been strongly related to family violence in the household,⁹¹ noting in its submission a study directed to the association between police-recorded domestic violence and EGM accessibility at the postcode level. Whittlesea too submitted that there was evidence of strong link between gambling and family violence, referring to a correlation coefficient indicating a very strong, positive relationship between EGM gambling losses per adult and rates of police callouts to family incidents.⁹²

127. At the Hearing, when these Council submissions were put to him, Mr Anderson suspected that while there was an increase in reporting or perceived crime across Victoria, there was not necessarily an increase in crime,⁹³ and that it was not possible to determine a link with Hume. Mr Anderson could not comment on the link between family related violence and EGM gambling, as he had not come across any strong link in the past. Mr Anderson did note that this appeared to be WHIN's expertise.⁹⁴
128. The Commission acknowledges the general body of research regarding the links between problem gambling and family violence, and accepts that recent research establishes a correlation at the postcode level between EGM density and incidents of police-recorded domestic violence. While it acknowledges this emerging research and supports further work in this area, the Commission is not satisfied that the available evidence establishes a causal link between EGMs and family violence such as would support a finding that an increase in existing levels of family violence is an impact that would result from granting this Application.
129. Nevertheless, having regard to this general body of research, the Commission does consider that, if this Application is approved, there may exist a risk of such an increase in gambling-related crime and social disturbance (including family violence). The Commission considers this impact a social disbenefit of the Application, to which it assigns marginal weight.

Increased exposure of children to gambling activity

130. A further, yet distinct, impact that the Application may have on the community of Hume is in relation to the increased exposure of children to gambling activity.
131. The Council Report noted a children's activity area within the Premises, that marketing techniques appeared to encourage families and children into gaming venues, and that the presence of

⁹¹ Letter from Lentara to the Commission dated 6 March 2017.

⁹² Letter from the City of Whittlesea to the Commission dated 16 March 2017.

⁹³ Transcript of the Hearing, 29 March 2017, p-104.

⁹⁴ Ibid, p-55



children in gaming venues exposes them to EGMs at an early age, potentially normalising the behaviour.

132. Mr Anderson noted that the gaming area should be as discrete as possible in relation to children but that in this instance it was not prominent from the children's play area or the bistro, although children would also be passing through the foyer where the gaming room was more visible.
133. Ms Asmar noted that the Premises' incident book detailed there were a few times where children had entered the gaming area, and that when that occurred, the staff at the Premises identified them and required them to leave.
134. In general, the Commission considers that the Ministerial Guidelines recognise the ability of venues with children's play areas to be suitable for gaming, subject to meeting the strict requirements outlined in those guidelines. However, there is also clearly an identification of the risks associated with the exposure of children to gaming.
135. The Commission notes that the Ministerial Guidelines relate primarily to applications for new premises to be permitted to operate EGMs, which is not the case here. Further, in relation to this Application, there are no changes intended that will result in increased exposure by children to sights and/or sounds of EGMs in the gaming room. These entrances and the location of the gaming room are not proposed to change in the proposed renovations, and so the Application does not have a greater impact on children. As such, this is not a factor upon which any weight should be given for the purposes of the '*no net detriment*' test. Nevertheless, the Commission considers the policy underpinning this Ministerial Guideline is a factor which it may have regard to in considering what, if any, conditions should be applied with respect to any determination to grant this Application. In this instance, the Commission considers that for it to conclude that it would be appropriate to grant the Application, it would be necessary that any such approval would be conditional on an appropriate barrier or screen being placed in the Premises that better reduces the visibility of the gaming room from the foyer through which children are likely to pass.

Conclusion on social impacts

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

Net economic and social impact

137. 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.⁹⁵

138. After consideration of the material before it, including the evidence provided at the Hearing (and weighted as outlined above and summarised in tabular form at Appendix 1 of these Reasons for Decision), the Commission is satisfied that the social and economic impact to the well-being of the community of the municipal district in which the Premises are located if the Application is approved will be neutral.

Determination of Application

139. On the material that has been put before it, the Commission has determined that the '*no net detriment*' test has been satisfied and that the total number of EGMs will be under the relevant municipal limit. The Commission notes that there remains a discretion to determine whether or not to grant the Application.
140. The Commission is satisfied that the Applicant recognises the need to act in accordance with its obligations to take measures to prevent problem gambling. However, it considers that the Premises would benefit from regular external assessment of its RSG practices to ensure a process of continuous improvement to meet industry best practice in an ongoing manner. Further, the Commission considers that additional steps should be taken by the Applicant to limit the visibility of the gaming room from the foyer of the Premises. Accordingly, the Commission is satisfied that it should exercise its discretion to approve the Application and make the proposed amendment to the Venue Operator's licence to vary the number of EGMs permitted in the Premises from sixty (60) to eighty (80) subject to conditions which for the purposes of clarity are contained in paragraph 141 below.
141. The conditions are as follows:

A. Upgrade works for the gaming room at the Premises

- (a) upgrade works for the gaming room at the Premises (**Upgrade Works at the Premises**) must be completed by the Venue Operator prior to the commencement of the operation of any of the additional 20 electronic gaming machines (**Additional EGMs**) at the Premises.

⁹⁵ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



- (b) for the purposes of this clause, "Upgrade Works at the Premises" generally comprise the plans prepared by Round 6 Architects with reference project R0160001 provided to the Commission, including any necessary modifications required by the planning permit process, and is to also include a new screen or such similar object(s) to limit the visibility of the gaming machine area from other areas of the Premises, particularly the foyer.

B. Community contributions

- (a) the Venue Operator will provide to the City of Hume an annual cash contribution of \$50,000.00 per annum for a period of five (5) years with the first payment of \$50,000.00 to be made six months from the installation of any of the twenty (20) additional electronic gaming machines (EGMs) at the Venue and annually thereafter (**the Contributions**).
- (b) it is anticipated and acknowledged that the Contributions will be used for the provision of services and facilities to residents of Hume or donated to not-for-profit community groups and sporting organisations providing services and facilities to residents in Hume.
- (c) the Venue Operator must provide evidence of payment of the Contributions to the VCGLR as soon as practicable after such payment is made to the City of Hume.
- (d) the City of Hume shall advise the Venue Operator in writing annually as to how the Contribution in the said year was expended and/or utilised.
- (e) if the City of Hume advises the Venue Operator and/or the Commission that it is not willing to participate in the process of the distribution of the Contributions, the Venue Operator must establish a separate process to the satisfaction of the Commission whereby suitably qualified independent persons determine the allocation of the Contributions for the purposes set out in paragraph B(b) above.
- (f) if the Contributions are not made as required herein the operation of the Additional EGMs must cease immediately for as long as the Contributions (or part thereof) remains outstanding.

C. Responsible Service of Gaming

- (a) within six (6) months of the installation of any of the twenty (20) Additional EGMs at the Venue and annually thereafter for two (2) years, the Venue Operator will arrange for a review of its responsible service of gaming (**RSG**) practices at the Venue, to be conducted by an external expert approved by the Commission
- (b) after the review, the Venue Operator will provide the Commission with a report setting out the expert's recommended action(s), and the steps the Venue Operator has taken to implement the recommended action(s) or, to the extent this has not occurred, why it is



not appropriate for the Venue Operator to carry out the recommended action(s). If the Commission considers that the particular recommended action(s) should have been taken, the Venue Operator will carry out the recommended action(s) within 3 months of being notified of the Commission's position.

- (c) failure to adhere to paragraphs (C)(a) and (C)(b) above results in the operation of the Additional EGMs ceasing for so long as the failure remains outstanding. For the sake of clarity, the Venue Operator is required to conduct three annual reviews in total.

The preceding 141 paragraphs and the following Appendix are a true copy of the Reasons for Decision of Dr Bruce Cohen, Chair, and Dr Dina McMillan, Commissioner.



Appendix One

Summary of economic and social impacts

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

Economic impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Expenditure on capital works	41 to 44	The Applicant proposes to undertake renovation at an estimated cost of \$975,000, comprising of \$900,000 of building works and approximately \$75,000 in 'soft' costs, such as carpet and furniture costs. The Commission is satisfied that if the Application were granted, a proportion of the renovation expenditure would occur within Hume. While the amount of the renovation expenditure is not insignificant, it is not clear what proportion would be spent on goods and services in Hume. The Commission is also mindful not to double count the benefits associated with the renovation expenditure in relation to both the estimated employment impacts and the social impact that may result from improved facilities. Positive economic impact, low weight.



	Impact	Paragraph numbers	Comment relevant to weight
	Community contributions	45 to 52	<p>The Applicant proposed two forms of expenditure as community contributions:</p> <ul style="list-style-type: none">(i) a proposed cash contribution of \$50,000 per annum for five years to be paid by the Applicant to the Council for services and facilities for Hume residents or donated to not-for-profit community groups and sporting organisations providing services and facilities to Hume residents; and(ii) discounted meals, award dinners, provision of a community bus and ad hoc payments to other community groups as the Applicant considers appropriate. <p>In relation to the first category, these contributions (distributed in accordance with the conditions of the approval of this Application) will result funds being distributed to not-for-profit community groups and sporting organisations providing services and facilities to residents of Hume. Positive economic impact, moderate weight.</p> <p>In relation to the second category, while the Applicant argued that such contributions were dependent upon it enjoying a level of additional expenditure that would be generated if the Application was granted. The Commission is not satisfied that this form of contribution is dependent upon the granting of the Application. As such, the Commission does not consider these amounts should be considered as part of the 'no detriment' test. No weight.</p>
	Additional employment	53 to 56	<p>In relation to the short term employment benefits associated with renovation activities, as the expenditure associated with the renovation is separately considered (see 'Expenditure on capital works' above), given the limited evidence before it, the Commission gives this impact no weight.</p> <p>In relation to the longer term benefits following the introduction of the proposed 20 EGMs, the employment of the equivalent of 2 FTE positions is a positive economic impact. However, given the scale, the Commission gives this impact marginal weight.</p>



	Impact	Paragraph numbers	Comment relevant to weight
	Complementary expenditure	57 to 59	Potential benefit where resulting in increased economic activity in Premises' municipality. Evidence of groups coming from outside Hume to the Premises by bus for the buffet and gaming. The Commission is satisfied that a proportion of new expenditure that would result if an additional 20 EGMs were permitted would be new complementary expenditure. However, the Applicant was unable to accurately determine the level of such complementary expenditure. Due to limited evidence, this is a positive impact given marginal weight.
	Diversion of trade from other gaming venues	60 to 62	In relation to the expenditure resulting from the 20 additional EGMs, Mr Stillwell estimated 25% of additional gaming expenditure would be transferred from the Craigieburn Sporting Club and 5% from other venues with Hume. While this indicates some impact on other venue operators, the diversion of trade is likely to be minor and offset by additional spending at the Premises (the effect of which has not separately been taken into account). No weight.
	Gaming expenditure not associated with problem gambling	63 to 71	<p>The portion of new expenditure not attributable to problem gambling is an economic benefit. The Commission adopts Mr Stillwell's empirical evidence methodology although applies the quotient factor from the premises the Commission views as most similar to the Premises, the Cove Hotel and the Settlement at Cranbourne.</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 the majority of new expenditure will not be associated with problem gambling. Given the estimated level of new expenditure, and the evidence that a considerable proportion is from clientele from outside Hume, this factor is allocated a low weight.</p>



	Impact	Paragraph numbers	Comment relevant to weight
Disbenefit	Gambling expenditure associated with problem gambling	72 to 99	<p>While residents in Hume have a level of disadvantage and financial vulnerability that would make them susceptible to gambling-related harms, the Commission is persuaded that the SLA in which the Premises are situated exhibits a relatively average level of advantage and disadvantage, and the population growth together with the zoning of the area is likely to improve the SEIFA index outcome over time. Further, the Commission has also taken into account the Premises' RSG practices, the size of the venue and its surveillance practices, its location as surrounded by residential neighbourhoods and its closeness to a shopping centre, the visibility of the gaming area and the submissions received from community organisations.</p> <p>Having regard to all these factors, the Commission considers there is a risk of increased problem gambling expenditure associated with this Application, which it regards as a negative economic impact. Moderate weight.</p>

Social impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Increased gaming opportunities for those who enjoy gaming	102 to 105	Given current number of EGMs in Hume, and that utilisation issues tended to occur when the Premises crowded with patrons from buses coming outside Hume, the Commission considers this a negligible positive social impact to Hume. Marginal weight.
	Improved facilities enabling greater range of services	106 to 107	Due to scope of proposed renovations, being almost solely associated with gaming, the Commission does not consider this impact to be a social benefit. No weight.
	Social benefit derived from increased community contributions	108 to 110	Given the limited evidence available as to which groups will benefit from the proposed contributions, the Commission considers the potential impact on local community organisations to be a social benefit but one which is given only marginal weight.



	Impact	Paragraph numbers	Comment relevant to weight
Disbenefits	Possibility of an increased incidence and potential impact of problem gambling on the community	111 to 113	For the reasons set out with respect to "Gambling expenditure associated with problem gambling", the Commission is satisfied there is a disbenefit in the potential for increased risk of problem gambling, however the risk is less than would otherwise be the case for Hume given the Premises' location within the municipality. Negative impact, moderate weight.
	Community attitude	114 to 123	The Commission is satisfied that the community survey responses suggest there is a consistent and sustained negative attitude in the community within a 2.5 km radius of the Premises to this Application and that this likely reflects the attitude in Hume generally. However, the Commission notes that even having regard to all of the issues associated with the relatively low response rate to the community survey and its limited reach, the level of community dissatisfaction does not appear to be the same extent as demonstrated in the <i>Romsey</i> case. Negative social impact, low weight.
	Increase to gambling-related crime and social disturbance	124 to 129	The Commission is not satisfied that the available evidence establishes a causal link between EGMs and family violence such as would support a finding that an increase in existing levels of family violence is an impact that would result from granting this Application. Nevertheless, having regard to this general body of research, the Commission does consider that, if this Application is approved, there may exist a risk of such an increase in gambling-related crime and social disturbance (including family violence). The Commission considers this impact a social disbenefit of the Application, to which it assigns marginal weight.
	Increased exposure of children to gambling activity	130 to 135	Entrances and the location of the gaming room are not proposed to change in the proposed renovations, and so the Application does not have an impact on children for the purposes of the ' <i>no net detriment</i> ' test. As such, no weight is given to this impact (although the Commission has regard to this issue in imposing the conditions on which the Application is granted).