



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 the Kilsyth & Mountain District Basketball Association for amendment of its venue operator's licence to vary the number of gaming machines at the approved premises, Club Ringwood, 523-531 Maroondah Highway, Ringwood from 75 to 82 gaming machines.

Pursuant to section 28 of the *Victorian Commission for Gambling and Liquor Regulation Act 2011*, the application was determined without a public inquiry.

Decision: That the application be granted.

Date: 24 April 2015

Signed:

Miss Gail Owen

Deputy Chairman



REASONS FOR DECISION

INTRODUCTION

1. This is an application by the Kilsyth & Mountain District Basketball Association (**KMDBA**) for amendment of its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at Club Ringwood, 523-531 Maroondah Highway, Ringwood (the **Club**), from 75 to 82. KMDBA is also the venue operator of Club Kilsyth, a gaming venue in Maroondah approved to operate 100 EGMs.¹
2. This application is one of two applications necessary to facilitate a joint proposal by the Maroondah Sports Club (**MSC**) and KMDBA to relocate 12 EGMs from MSC's venue and install 7 EGMs at Club Ringwood and 5 at Club Kilsyth.² In consideration of the transfer of the EGMs, KMDBA will provide MSC with a \$50,000 annual sponsorship, paid in monthly instalments, for a period of 5 years. KMDBA will also purchase 12 EGM entitlements from MSC for \$175,000 and take on all remaining instalment payments. Should the two applications be successful, MSC has committed to making an application to vary its venue operator's licence to reduce the number of EGMs permitted to operate at its venue to 44 EGMs.
3. The relevant municipal authority is the Maroondah City Council (**the Council**). The Council informed the Commission that it did not wish to make a submission in support of, or opposition to, the application. The Council has also elected to not make a submission in respect of the application concerning Club Kilsyth.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gambling on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**the Act**). The Act recognises that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities and some members of some communities.³ For this reason the Act includes safeguards to ensure an appropriate balance is struck between a lawful and legitimate recreational activity for some and harm for others. In particular, the balance is

¹ At the time of considering this application, KMDBA had applied to the Commission to amend its venue operators licence to increase the number of EGMs operating at Club Kilsyth from 100 to 105.

² Club Ringwood, Club Kilsyth and the Maroondah Sports Club are all within the City of Maroondah. As such, should the proposal be given full effect with both applications successful, there will be no net increase in EGMs within the municipality.



maintained by requiring an applicant who wishes to increase the number of EGMs at a venue to satisfy the Commission of the “no net detriment test” and the other matters set out in section 3.4.20(1) of the Act.⁴

5. The no net detriment test requires the Commission to weigh the likely positive social and economic impacts of an application against the likely negative social and economic impacts. 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.⁵
6. Section 28 of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* provides that where an application proposes to increase the number of gaming machines permitted at an approved premises by less than 10% of the number of gaming machines currently operating at the premises, that application may be determined without the need for a public inquiry of the Commission. Accordingly, this application was determined by the Commission without a public inquiry.

THE CITY OF MAROONDAH

7. The City of Maroondah (**Maroondah**) is a metropolitan Local Government Area (LGA) located approximately 22 kilometres east of Melbourne. Maroondah has an adult population of 86,491 and an annual rate of population growth is estimated at 0.9% in the period 2011-16. Maroondah is comprised of two Statistical Local Areas⁶ (SLAs), Ringwood and Croydon. The Club is located within the Maroondah – Ringwood SLA.
8. Maroondah is subject to a municipal limit of 806 EGMs.⁷ Currently there are 10 gaming venues within the municipality with approvals to operate a total of 780 EGMs. As the joint proposal will only transfer EGMs to other venues within the LGA, there will be no net increase in EGMs within the municipality. It is important to note that MSC intends to amend its venue operator’s licence to reduce the number of EGMs it is permitted to operate at its venue by 12. This means that, should MSC wish to operate more than 44 EGMs in the future, it will need to apply to the Commission for approval.

³ See: s 1.1(2) of the Act.

⁴ See: *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275, [247] (Bell J).

⁵ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435 (“Romsey”).

⁶ The Statistical Local Area (SLA) is an Australian Standard Geographical Classification (ASGC) defined area which consists of one or more Collection Districts (CDs). SLAs are Local Government Areas (LGAs), or parts thereof. Where there is no incorporated body of local government, SLAs are defined to cover the unincorporated areas. SLAs cover, in aggregate, the whole of Australia without gaps or overlaps.

⁷ Pursuant to section 3.4A.5(3A)(b) of the Gambling Regulation Act 2003 the Victorian Commission for Gambling and Liquor Regulation determined, in accordance with the criteria specified in the Minister for Gaming’s Order on



9. In terms of gaming density, Maroondah has an EGM density of 8.52 EGMs per 1,000 adults, which is 54.6% higher than the metropolitan average (5.51) and 46.3% higher than the State average (5.82). This gives Maroondah the highest EGM density of the 31 metropolitan municipalities. However, EGM density will not be increased through approval of this application.
10. Average expenditure per adult in Maroondah is 25.9% higher than the metropolitan average and 31.2% higher than the State average. However, gaming expenditure within Maroondah has decreased by 19.12% in real terms (indexed to CPI) over the past five years, which is greater than the metropolitan average of 12.77%.
11. Maroondah is characterised by a mixed socio-economic profile with indicia both above and below metropolitan averages and is ranked 65th out of the 79 LGAs in Victoria on the SEIFA scale of disadvantage,⁸ indicating a relatively low level of disadvantage across the LGA.
12. In the area immediately surrounding the Club (within a 2.5km radius), 2.8% of SA1s are in the first quintile of SEIFA scores, with 63.8% of SA1s being in the fourth and fifth quintiles. This indicates a generally low level of relative disadvantage in the area immediately surrounding the Club, with some small pockets of significant disadvantage.
13. The unemployment rate in Maroondah is 6.55%,⁹ which is slightly below the metropolitan unemployment rate of 6.59%.

THE MATERIAL BEFORE THE COMMISSION

14. KMDBA provided the Commission with the following material in support of its application:
 - a) Social and Economic Impact Assessment, prepared by Urbis Pty Ltd, dated December 2014 (**Urbis Report**);
 - b) an Expert Report Assessing Gaming Expenditure, prepared by Moore Stephens Accountants & Advisors, dated 19 December 2014 (**Expenditure Report**);
 - c) a Witness Statement of Matthew Leonard Tyzack, Director of Licensed Club Management Pty Ltd dated 17 December 2014;
 - d) a Witness Statement of Mark Gulliver Griffiths, General Manager of KMDBA, dated 17 December 2014;

15 August 2012, the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each region.

⁸ Socio-Economic Indexes for Areas (SEIFA) is a product developed by the ABS to assist in the assessment of the welfare of Australian communities. The SEIFA Index allows the ranking of regions/areas, providing a method of determining the level of social and economic well-being in each region.

⁹ The Commission notes that the unemployment rate in Maroondah has risen from 4.94% to 6.55% in the past 12 months.



- e) a Witness Statement of Malcolm Allison, President of KMDBA, dated 17 December 2014;
 - f) a Witness Statement of Brad Valentine, Venue Manager of Club Ringwood, dated 17 December 2014;
 - g) a Witness Statement of Colin Ross, Venue Manager of Club Kilsyth, dated 17 December 2014;
 - h) a Witness Statement of Leigh James Barrett, Responsible Service of Gambling Consultant, dated 17 December 2014
15. Additionally, the Commission considered an Economic and Social Impact Report dated March 2015 prepared by VCGLR staff.

The Kilsyth & Mountain District Basketball Association

16. KMDBA was established in 1963 with the purpose of promoting the sport of basketball and conducting competitions throughout Kilsyth and its surrounding districts. KMDBA is the largest basketball association in Victoria, with 1,185 teams competing each week and in excess of 28,000 registered members.
17. The association provides competitions at all skill levels, including a junior domestic competition with over 609 teams, after school competition with over 161 teams and a senior male and female domestic competition with over 386 teams. KMDBA also runs regular clinics and skills camps aimed at promoting the sport of basketball at junior levels.
18. KMDBA's operations are supported by revenue generated by its two social clubs, Club Ringwood and Club Kilsyth. The social clubs are operated by Licensed Club Management Pty Ltd (**LCM**), a commercial enterprise specifically set up to assist clubs and associations with the operation and management of gaming venues.
19. KMDBA, under advisement from LCM, has engaged Leigh Barrett & Associates to assist with ensuring regulatory compliance and responsible service of gaming at their venues. Leigh Barrett & Associates has developed a Responsible Gambling Policies and Procedures Manual for both venues and conducts quarterly audits of each venue against its compliance with the manual and other regulatory obligations. Leigh Barrett & Associates also conducts regular staff training sessions which focus of responsible service of gaming and customer care.
20. In addition to the services provided by Leigh Barrett and Associates, the management of both venues meet with the local Gambler's Help Venue Support Worker on a quarterly basis. The material before the Commission showed that Gambler's Help had conducted staff training sessions three times in the 12 months preceding the application and that Gambler's Help



considered both Club Ringwood and Club Kilsyth to be 'industry leaders' in their commitment and practices pertaining to responsible and problem gambling issues.

Club Ringwood

21. The Club is located at the corner of Maroondah Highway and Oban Road in Ringwood, approximately 2 km north-east of the Ringwood Metropolitan Activity Centre. It is surrounded by commercial retailers including car yards, two service stations and a supermarket, with Maroondah Secondary College being located approximately 1 km to the north-east.
22. The Club's facilities currently consist of a 200 seat bistro (serving between 250 – 300 meals per day), social bar and outdoor lounge, two function rooms, a sports bar with TAB, keno and Sportspick facilities and a gaming room with 75 EGMs. The Club operates 7 days a week, with the gaming room open from 9 am to 3 am between Thursday and Saturday and 9 am to 1 am between Sunday and Wednesday.
23. An additional 7 EGMs at the venue will allow the Club to address the demand for machines during peak periods.¹⁰ The Commission notes that the gaming room at the Club is able to accommodate an additional 7 EGMs without needing to extend the gaming room or the 'green line plan'.
24. The Club strives to provide a broad entertainment offering at the venue and regularly hosts themed nights and events, including tribute shows, spring racing carnival events and food and wine exhibitions. According to Mr Brad Valentine, the Club's Venue Manager, the venue's function facilities are also popular with local businesses and community groups including the Rotary, Avon and Lions clubs.

Evidence of likely EGM expenditure

25. KMDBA engaged Moore Stephens to prepare a report estimating the expenditure that would be generated by an additional 7 EGMs at the Club. Moore Stephens based its expenditure prediction on the current performance of EGMs at the venue, their utilisation rate and historical gaming trends.
26. The Expenditure Report estimates that an additional 7 EGMs at the Club would generate additional gross gaming expenditure up to \$44,804 in the first 12 months of trade, of which 40% would be transferred from other gaming venues in Maroondah and neighbouring LGAs. It

10 The Commission notes that the utilisation survey conducted by Urbis suggested that the gaming room only reached capacity on three occasions during the survey period. Notwithstanding the inconsistency of this evidence, the Commission is prepared to accept that the gaming room is popular and, on occasions, reaches capacity where additional machines would be beneficial.



is estimated that the 7 additional EGMs are likely to generate up to \$26,882 in new expenditure within the municipality.

27. The Commission considers the expenditure estimate provided by Moore Stephens to be reasonable. Based on the upper limit of the expenditure estimate, gaming expenditure per adult within Maroondah will increase from \$718 to \$719. Given that this application effectively seeks to relocate existing EGMs to another venue within the municipality, it is not surprising that the estimated increase in expenditure is marginal.

Social and Economic Impact

28. KMDBA engaged Urbis Pty Ltd to provide an assessment as to the likely economic and social impact of the application on the Maroondah municipality. The Urbis Report concluded that the residents of Maroondah, and the areas in close proximity to the Club, do not display high levels of social and economic disadvantage.

29. The Urbis Report stated the principal economic and social benefits of the application to be:

- a small increase in gaming expenditure, which is an economic stimulus and will provide KMDBA with increased revenue and strengthen the financial position of the association;
- the sponsorship arrangement between KMDBA and MSC will strengthen the financial position of MSC allowing it to further its investment in local sports including football, cricket, tennis and bowls; and
- increased gaming capacity at the Club during peak periods and an increase in the diversity of gaming machines offered at the venue.

30. The Urbis Report noted that the revenue generated by the additional EGMs will assist the KMDBA's realising its long term aspirational goal of expanding its basketball infrastructure through the construction of a multi-purpose stadium. However, given the modest revenue that the additional EGMs is likely to generate and the uncertain nature of the timing and viability of the project, limited weight was placed on this benefit.

31. As with all gaming applications, the primary disbenefit this application is the risk of an increase in problem gambling. In Urbis's opinion, the likely impact of the approval of this application on problem gambling in Maroondah will be mitigated through the following factors:

- the anticipated total revenue to be generated by the additional EGMs is marginal, and problem gambling expenditure would be a fraction of this already minor amount;



- the venue is proven to be suitable to manage and operate EGMs and takes its regulatory compliance obligations seriously;
- the Club is a 'destination venue', located in an area which is not conducive to convenience gambling;
- the small increase in number of EGMs will not greatly increase accessibility at the venue, and only during peak periods;
- the increase of gaming machines at the Club is offset by the reduction of machines at the gaming venue operated by MSC; and
- the socio-economic indicia of Maroondah suggests that this is a municipality that is well placed to absorb the impacts of problem gambling when compared with a municipality that exhibits higher levels of disadvantage.

32. Urbis concluded that approval of the application would not lead to a net social and economic detriment to the community of Maroondah.

LIKELY ECONOMIC IMPACT OF APPROVAL

33. The Commission accepts that there will be increased gaming expenditure of up to \$26,882 in net terms within the LGA. Expenditure that is derived from people pursuing gaming as a recreational activity is legitimate consumption expenditure and has an economic stimulus. However, expenditure that is derived from problem gaming is an economic burden as it leads to social costs such as a loss in productivity and an increase in health and social service requirements.

34. The Commission considers this level of additional expenditure to be nominal and unlikely to provide any significant economic impact on the community of Maroondah. Further, the increase in expenditure is likely to be partially offset by a reduction of expenditure at MSC's gaming venue. While the Commission accepts the possibility of an increase in problem gambling expenditure, it is satisfied that the policies and processes put in place by KMDBA at their venues to identify and assist problem gamblers will limit this risk.

35. Overall, the Commission considers that approval of this application will have a neutral economic impact on the community of Maroondah.



LIKELY SOCIAL IMPACT OF APPROVAL

36. The Commission considers KDMBA to be an organisation that provides the community with a significant social benefit. The association runs basketball competitions across a broad range of age and ability types, with in excess of 28,000 registered members. These competitions would not be possible without the revenue streams provided by the operation of the KDMBA's two venues, Club Ringwood and Club Kilsyth. The Commission accepts that gaming revenue forms a significant portion of these venue's overall revenue.
37. While the Commission considers approval of this application will only result in a small increase in revenue for the KDMBA, the Commission is satisfied that this small increase in revenue will be directed towards furthering the goals of the association. The Commission considers this to be a small social benefit.
38. The Commission also considers the on-going sponsorship of MSC to be a benefit of the application. The sponsorship arrangement will strengthen the financial position of MSC, another sporting club which provides the community with a social benefit.
39. Overall, the Commission considers that approval of this application will result in a small social benefit for the community of Maroondah.

CONCLUSION

40. The Commission has considered the likely social and economic impacts of the proposal and considered that those impacts are likely to be positive.
41. On the material that has been put before it, the Commission is satisfied of the other matters in section 3.4.20(1). Accordingly, the Commission is satisfied that it should exercise its discretion to approve the application.

**The preceding [41] paragraphs are a true copy of the Reasons for Decision herein of –
Miss Gail Owen, Deputy Chairman**

