



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 Monbulk Bowling Club Inc to amend its venue operator's licence to vary the number of electronic gaming machines at the approved premises located at Monbulk Bowling Club, 11 Moores Road, Monbulk, from thirty (30) to forty (40).

Commission: Ms Helen Versey, Deputy Chair

Appearances: Mr Dale Curtis of Tresola Legal, for the Applicant

Ms Lilli Owens-Walton, Counsel Assisting the Commission

Date of Hearing: 23 July 2019

Date of Decision: 19 August 2019

Date of Reasons: 21 August 2019

Decision: The Application is approved, subject to the conditions set out in Appendix A.

Signed:

A handwritten signature in black ink that reads "Helen K. Versey".

Helen Versey
Deputy Chair

REASONS FOR DECISION

INTRODUCTION

1. This is an application by Monbulk Bowling Club Inc (**Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (**Commission**) to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the approved premises located at Monbulk Bowling Club, 11 Moores Road, Monbulk (**Monbulk Bowling Club**) from 30 to 40 (the **Application**).
2. The relevant municipal authority is Yarra Ranges Shire Council (**Council**). By letter to the Commission dated 29 May 2019, Council stated that it intended to make a written economic and social impact submission regarding the Application. It did so on 21 June 2019, together with supporting documents, in opposition to the Application.
3. The Commission considered the Application at a public inquiry conducted on 23 July 2019 (the **Hearing**). The Applicant was represented by Mr Dale Curtis of Tresola Legal. Council did not appear at the Hearing.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gaming on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**GR Act**). The GR Act recognises that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities, and some members of some communities. For this reason, the GR Act includes safeguards to ensure an appropriate balance is struck between a lawful and legitimate recreational activity for some, and a potentially harmful activity for others.
5. The objectives of the GR Act are set out at section 1.1, which provides:

...

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

 - (a) *to foster responsible gambling in order to-*
 - (i) *minimise harm caused by problem gambling; and*
 - (ii) *accommodate those who gamble without harming themselves or others;*
 - (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*



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- (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;*



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(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. Section 9(3) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR Act)* provides, inter alia:

The Commission must, when performing functions or duties or exercising its powers under the Gambling Regulation Act 2003 ... or any other Act, have regard to the objects of the Act conferring functions on the Commission.

8. The relevant provision concerning the Application is section 3.4.17(1)(b) of the GR Act, which states that variation of the number of EGMs permitted in an approved venue may be amended in accordance with Division 2, Part 4 of Chapter 3 of the GR Act.

9. Sections 3.4.18 to 3.4.19 of the GR Act provide for the manner in which requests for amendments under section 3.4.17(1)(b) are to be made. Relevantly for the Application, section 3.4.18 provides, inter alia, that:

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

...

(c) *in the case of ... an amendment to increase the number of gaming machines permitted in an approved venue, must be accompanied by a submission—*

(i) *on the net economic and social benefit that will accrue to the community of the municipal district in which the approved venue is located as a result of the proposed amendment; and*

(ii) *taking into account the impact of the proposed amendment on surrounding municipal districts—*

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



10. Further, section 3.4.19(1) of the GR Act provides:

- (1) *Subject to this section, after receiving a copy of a request for an amendment referred to in section 3.4.18(2), a municipal council may make a submission to the Commission—*
 - (a) *addressing the economic and social impact of the proposed amendment on the well-being of the community of the municipal district in which the approved venue is located; and*
 - (b) *taking into account the impact of the proposed amendment on surrounding municipal districts.*

11. Section 3.4.20 sets out matters that are required to be considered by the Commission with respect to such a proposed amendment, as follows:

- (1) *Without limiting the matters which the Commission may consider in deciding whether to make a proposed amendment the Commission must not amend a venue operator's licence unless—*
 - (a) *the Commission is satisfied that the amendment of the licence does not conflict with a direction, if any, given under section 3.2.3; and*
 - (b) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the regional limit or municipal limit for gaming machines for the region or municipal district in which the approved venue is located will not be exceeded by the making of the amendment; and*
 - (c) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the net economic and social impact of the amendment will not be detrimental to the well-being of the community of the municipal district in which the approved venue is located; and*
 - d) *if premises are proposed to be added to the licence as an approved venue and the premises are situated within 100 metres of an approved venue of which the applicant for the amendment, or an associate of the applicant, is the venue operator, the Commission is satisfied that the management and operation of the approved venue and the proposed approved venue are genuinely independent of each other.*



12. 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. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application.
13. 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 community¹.
14. The GR Act does not specify the matters which the Commission must consider in deciding whether the ‘*no net detriment*’ test is satisfied. However, the statutory signposts are provided by the test itself. The Commission must consider:
 - (a) the likely economic impacts of approval;
 - (b) the likely social impacts of approval; and
 - (c) the net effect of those impacts on the well-being of the relevant community².
15. 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 community³. 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.
16. 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 versa⁴. 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

¹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [52] per Dwyer DP.

² *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA.

³ *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #2)* [2009] VCAT 2275, [332], [348] per Bell J cited in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [58] per Dwyer DP.

⁴ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [57] per Dwyer DP.

economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test⁵.

17. The Commission also notes the position taken 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.*⁶

The Commission has utilised this approach for the purpose of considering the 'no net detriment' test in this matter.

18. If the Commission is not satisfied that the 'no net detriment' test is met, that is clearly fatal to the application before it, as given the opening words of section 3.4.20(1) of the GR Act, satisfaction of the test is a mandatory pre-condition to approval. However, although section 3.4.20(1) sets out certain mandatory considerations for the Commission, the provision is not exhaustive. If the Commission is satisfied that the 'no net detriment' test is met, it still has an ultimate discretion as to whether or not to grant the approval⁷. 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' test⁸.

19. 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 machines⁹; and
- (b) it may also be influenced by other factors such as broad policy considerations drawn from

⁵ See *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #2)* [2009] VCAT 2275, [352] per Bell J; *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [58] per Dwyer DP.

⁶ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [60] per Dwyer DP.

⁷ 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).

⁸ GR Act, section 3.4.20(2).

⁹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [98] per Dwyer DP.

the content and objectives of the GR Act as a whole¹⁰.

20. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹¹ 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.
21. Finally, pursuant to section 9(4) of the VCGLR Act, the Commission must have regard to Ministerial guidelines issued under section 5 of the VCGLR Act when performing functions under gambling legislation. The Commission did not identify any Ministerial guidelines directly relevant to its consideration of this Application.

MATERIAL BEFORE THE COMMISSION

22. The Applicant provided the Commission with the following material in support of the Application:
- (a) Application form – Amendment to venue operator’s licence – vary gaming machines, dated 9 April 2019;
 - (b) Social and Economic Impact Statement, prepared by Mr Nick Anderson, Managing Director of NBA Group, dated February 2019 (**NBA Report**) with appendices;
 - (c) Expenditure Report, prepared by Mr Michael Clyne for Progressive Venue Services (**PVS**), dated October 2018 (**PVS Report**); and
 - (d) Witness Statement of Ms Denise Kaye Rutzou, Venue Manager for the Applicant, dated 9 April 2019 with attachments.
23. The Council provided the following material in opposition to the Application:
- (a) written economic and social impact submission, dated 20 June 2019, referred to in paragraph 2 above; and

¹⁰ *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.

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



- (b) a report titled *Submission to the VCGLR: Monbulk Bowling Club Application for 10 Additional EGMS*, dated 2019, prepared by Council staff (**Council Report**) with an appendix containing community views.
24. The following material, prepared by Commission officers, was provided to the Applicant and Council and was considered by the Commission:
- (a) a report titled *Economic and Social Impact Report*, dated July 2019 (**VCGLR Report**); and
 - (b) a report titled *Pre-Hearing Inspection and Compliance Report*, dated 6 July 2019 (**Inspection Report**).
25. In addition to the above material, the Commission also received:
- (a) correspondence in support of the Application from 24 local individuals, 18 of whom indicated they were directly connected to the Monbulk Bowling Club as members, bowlers, employees, former board members or sponsorship recipients; and
 - (b) correspondence in opposition to the Application from 15 predominantly local individuals (including two who submitted a pro-forma objection via the 'Do Gooder' website¹² and one who indicated they were a member of the Monbulk Bowling Club), as well as submissions from the following community organisations operating in the Shire of Yarra Ranges:
 - (i) Outer East Primary Care Partnership, dated 3 July 2019;
 - (ii) Women's Health East, dated 2 July 2019; and
 - (iii) Yarra Ranges Township Group Network, dated 16 June 2019.
26. Prior to the Hearing, Deputy Chair Versey visited the Monbulk Bowling Club.
27. During the Hearing, the Applicant provided a document titled *Policy and Procedures for Community Support from Monbulk Bowling Club* and the associated application form for entities applying for community support.
28. The following witnesses gave oral evidence at the Hearing on behalf of the Applicant:
- (a) Mr Anderson;
 - (b) Mr Clyne; and
 - (c) Ms Rutzou.

¹² Do Gooder is a web platform that allows individuals to send emails to organisations regarding issues they consider important.



29. After the Hearing, the Applicant provided written submissions to the Commission, prepared by Mr Curtis, dated 23 July 2019.
30. On 30 July 2019, the Applicant submitted proposed conditions of approval, in the event that the Commission determines to grant the Application (**Proposed Conditions**).

DECISION AND REASONS FOR DECISION

Location

31. Monbulk Bowling Club is located in the Shire of Yarra Ranges (**Yarra Ranges**) at 11 Moores Road, Monbulk. The Monbulk Bowling Club is in the western side of the Monbulk township, which is situated in the foothills of the Dandenong Ranges surrounded by farmland and forest. The Monbulk Bowling Club is surrounded by land zoned for public park and recreation reserves, low density residential and commercial zoning in the Monbulk town centre.
32. Yarra Ranges is a metropolitan municipality located approximately 60 kilometres east of Melbourne and covers an area of 2,466 square kilometres. Major centres in Yarra Ranges include Lilydale, Healesville and Belgrave. According to the VCGLR Report, Yarra Ranges has an adult population of 121,840 which ranks it at 16 of the 31 metropolitan municipalities (1 being the most populous in Victoria). The annual rate of population growth of 1% in 2018 is projected by the Department of Land, Water and Planning (**DELWP**) to be lower than the Victorian average of 2.3%. Yarra Ranges' percentage of population over 50 of 34.2% in 2018 is projected by DELWP to be higher than the Victorian average of 31.3%.

Current gaming in Yarra Ranges

33. Yarra Ranges is subject to a limit on the maximum permissible number of gaming entitlements, in accordance with a Ministerial Order pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act. The maximum permissible number of gaming machine entitlements is 1,161¹³. Currently, there are nine gaming venues operating within Yarra Ranges with attached entitlements of 457 EGMs¹⁴.
34. Yarra Ranges has an EGM density of 3.6 EGMs per 1,000 adults, which is 27.2% lower than the metropolitan average (4.9) and 31.6% lower than the Victorian average (5.3). This gives Yarra Ranges the 7th lowest EGM density per 1,000 adults of the 31 metropolitan municipalities. The impact of the Application on Yarra Ranges would be a 2% increase in EGM density to 3.7 EGMs

¹³ See the Ministerial Order under sections 3.2.4 and 3.4A.5(3A) of the GR Act dated 20 September 2017 and taking effect on 3 November 2017 (*Victorian Government Gazette No. S 318 Wednesday 20 September 2017*).

¹⁴ There are 457 EGMs licensed to operate in the Shire of Yarra Ranges.

per 1,000 adults.

35. The VCGLR Report indicates that in the 2017-18 financial year, Yarra Ranges had an average gaming expenditure of \$240 per adult (based on DELWP data from 2018), which is 56.3% lower than the metropolitan municipality average (\$551) and 54.9% lower than the Victorian average (\$533). Applying the estimate of increased gaming expenditure arising from the operation of 10 additional EGMs at the Monbulk Bowling Club, the Application (if granted) would result in an increase in average gaming expenditure per adult of 1.1%, without allowance for population changes.

Socio-economic profile of Yarra Ranges and immediate surrounding area

36. According to the VCGLR Report, socio economic data indicates that the resident population in the immediate surrounding area of the Monbulk Bowling Club¹⁵ and within Yarra Ranges generally, have mixed conditions in comparison to residents in metropolitan municipalities¹⁶.
37. Yarra Ranges is characterised by a mixed yet above average socio-economic profile when compared to metropolitan municipalities. Yarra Ranges is ranked 18 of 31 metropolitan municipalities and 63 of 79 municipalities in Victoria on the Socio-Economic Indexes for Areas (SEIFA) scale of disadvantage (IRSD)¹⁷, indicating an average to lesser level of disadvantage (1st being the municipality with the greatest disadvantage). The NBA Report presents and considers data from the IRSD, as well as that from the SEIFA scale of advantage and disadvantage (IRSAD)¹⁸. In 2016, Yarra Ranges was ranked 57 of 79 in Victoria on the SEIFA IRSAD, which indicates slightly more relative disadvantage than its position on the SEIFA IRSD rankings.
38. In relation to the immediate surrounding area of the Monbulk Bowling Club, the SEIFA IRSAD index is 2.9% higher than the SEIFA IRSD index for Yarra Ranges and 5.9% higher than the SEIFA IRSD index for Victoria. On the SEIFA IRSAD, a higher score indicates less disadvantage, therefore the immediate surrounding area is less disadvantaged than both Yarra Ranges and Victoria. None

¹⁵ The VCGLR Report adopts a 2.5km radius as the immediate surrounding area for applications to amend EGM venue operator's licences for venues within metropolitan municipalities. The Shire of Yarra Ranges is included as a metropolitan municipality due to its population.

¹⁶ VCGLR Report, page 6.

¹⁷ SEIFA is a product developed by the Australian Bureau of Statistics 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.

¹⁸ According to the NBA Report at paragraph 138, the use of IRSAD is preferred over the IRSD and this is explained by the ABS as follows: the index is preferred in situations where the user: wants a general measure of advantage and disadvantage in their particular analysis, is not looking at only disadvantage and lack of disadvantage and wants advantage to offset any disadvantage in the area.

of the SA1s¹⁹ in the immediate surrounding area are in the 1st and 2nd quintiles²⁰ of SEIFA scores (below the metropolitan averages of 16.2% and 17.6% respectively), with 33.3% and 60% of SA1s failing in the 3rd and 4th quintiles (generally above the metropolitan average). This also suggests that the area immediately surrounding the Monbulk Bowling Club experiences lower levels of disadvantage than the metropolitan municipal average.

39. The VCGLR Report also indicates that:

- (a) the equivalised household income in the immediate surrounding area is \$1,015.98, which is higher than the equivalised household income in Yarra Ranges of \$999.48, yet lower than the metropolitan municipal average of \$1082.94 and the Victorian average of \$1,028.24;
- (b) the rate of housing stress experienced within the immediate surrounding area (calculated as the percentage of households in the lowest two equivalised household income quintiles paying more than 30% of income on rent or mortgage) is 56.4%, which is slightly higher than the rate for Yarra Ranges (56%) but lower than the rate for metropolitan municipalities (64.5%) and for Victoria (60.2%); and
- (c) the unemployment rate in Yarra Ranges remained at 4.2% over the past year. The metropolitan municipal unemployment rate and the rate for Victoria is slightly higher at 4.8%. The unemployment rate for the immediate surrounding area is 3%.

Nature of the Monbulk Bowling Club

40. The Monbulk Bowling Club was first established, in its current location, in 1965 with the official opening of the bowling green and clubhouse taking place on 8 April 1967²¹. EGMs were installed in 1996. It currently has approximately 470 members comprising 120 full bowls members and 350 associate members. According to the Application, the Monbulk Bowling Club is attended by approximately 4000 patrons per week.

41. The Monbulk Bowling Club currently comprises:

- (a) two synthetic bowling greens with seven rinks;
- (b) a bar;
- (c) a large bistro, open five days a week for dinner from 5.30 pm to approximately 8.30 pm;

¹⁹ 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

²⁰ SEIFA index of relative disadvantage is divided into five quintiles each comprising 20% of areas (Statistical Areas Level 1 (SA1s)) ranked by socioeconomic status from the most disadvantaged (lowest / 1st quintile) to least disadvantaged (highest / 5th quintile). High disadvantage is indicated by a low SEIFA score (and low disadvantage by a high score).

²¹ Witness Statement of Ms Rutzou, Attachment 1, page 16.



- (d) an entertainment area for live performances and trivia nights;
- (e) a club members area; and
- (f) a gaming room with 30 EGMs, open all times the Monbulk Bowling Club is open:
 - Sunday to Tuesday – 10 am to 11 pm
 - Wednesday to Thursday – 10 am to 12 midnight
 - Friday to Saturday – 10 am to 1 am.

42. According to the Witness Statement of Ms Rutzou, when the gaming component of the venue was first designed, it was considered best practice from a responsible service of gambling (RSG) perspective. This is no longer case. Through the proposed redevelopment works in the gaming room, the Applicant intends to address these RSG shortcomings. It also plans to increase the Monbulk Bowling Club's appeal to a wider demographic through refurbishment of the premises dated finishes and upgrades to the venue's other hospitality and entertainment offerings. The Applicant expects to increase demand for EGMs at the venue through the introduction of a greater variety of EGMs that will enable it to compete with nearby venues.

Catchment of the Monbulk Bowling Club

43. The 'no net detriment' test refers to 'the community of the municipal district in which the approved venue is located.' In determining the impact of an application of this nature on a municipal district, previous Commission and VCAT decisions have had particular regard to the area serviced by the relevant premises, which is generally referred to as the 'catchment area'²². The determination of the likely catchment area in this instance is important in the Commission's consideration of the identity of those residents who will be most affected by the Application in terms of gambling-related benefits and harms.
44. In the NBA Report and oral evidence, Mr Anderson noted that research has found people generally travel up to 2.5 kilometres to play EGMs in suburban areas and 5 kilometres in outlying areas²³. He considered that the catchment area of the Monbulk Bowling Club encompassed a 5 kilometre radius as it is in an outlying area. He noted that postcode data derived from a patron survey in the gaming room conducted between 10 – 21 November 2018 (**Gaming Room Postcode Survey**) showed that the club was used predominantly by, what he terms, 'locals'. Membership postcode data shows that 33% of members are from the Monbulk postcode 3793 which is within 2.5 kilometres of the Monbulk Bowling Club, 17% of members are from the

²² 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).

²³ See NBA Report, paragraph 99.

Emerald/Macclesfield postcode 3782 which is between 5 – 10 kilometres from the Monbulk Bowling Club and a further 11% of members are from suburbs located within 8 kilometres of the Monbulk Bowling Club (Kallista postcode 3791, Silvan postcode 3795 and Menzies Creek/Selby postcode 3159)²⁴.

45. In the Council Report, Council proposed that the catchment area for the Monbulk Bowling Club comprised a primary catchment containing the suburbs of Monbulk and Silvan, and a secondary catchment containing the suburbs of The Patch, Olinda, Sherbrooke, Sassafras, Emerald, Macclesfield and Menzies Creek. The Council Report did not provide any reasoning or supporting evidence as to why this catchment area was proposed.
46. The PVS Report states that, for the purpose of the Geotech model, the area surrounding the venue from where patrons are drawn, and in which competing venues are located, is comprised of a number of statistical areas including trade area, local network and local government area²⁵. The trade area is defined as the statistical area in which the majority of the venue's customers are domiciled and it is divided into primary (>20% probability of patronage of the venue from residents of these areas), secondary (12 to 20% probability of patronage from these areas) and tertiary areas (4 – 12% probability of patronage from these areas)²⁶. For the Monbulk Bowling Club, the PVS Report indicates that the primary trade area (which is not a circle) extends approximately 5 kilometres to the west, 7 – 10 kilometres to the north, 5 – 10 kilometres to the east and approximately 9 kilometres south. The secondary and tertiary trade areas extend approximately 1 kilometre beyond the primary trade area to the west and north²⁷.
47. Having regard to the above material, the Commission accepts that the primary concentration of the patronage comes from the suburb of Monbulk which is within 2.5 kilometres of the Monbulk Bowling Club. While noting that the Gaming Room Postcode Survey reflects a two week period of patronage only, the postcode membership data in Table 8 reinforces the conclusion that about a third of Monbulk Bowling Club patrons reside within 2.5 kilometres of the Premises²⁸. The Commission therefore considers this to be the appropriate primary catchment area of the Monbulk Bowling Club. However, the Commission also notes that the membership data submitted by the Applicant and the Gaming Room Postcode Survey indicates that patronage is spread further than the 2.5 kilometre radius around the Monbulk Bowling Club, with the next greatest concentration of patronage in the Emerald/Macclesfield suburbs extending up to 10 kilometres from the Monbulk

²⁴ NBA Report, paragraph 102, Table 8.

²⁵ PVS Report, page 6.

²⁶ Ibid., page 6.

²⁷ PVS Report, Appendix 4 – distances are approximate only.

²⁸ 27% of patrons during the Gaming Room Postcode Survey period and 33% of members: NBA Report Table 8 and 9.



Bowling Club. This indicates that up to 83% of members during the Gaming Room Postcode Survey period reside within 10 kilometres and, consequently, the Commission considers this area is an appropriate secondary catchment area. The Commission will consider both the primary and secondary catchment areas as **'the Catchment Area'** for the purpose of its assessment of the impacts associated with the Application.

48. In making the above finding, the Commission notes that, while Mr Anderson settled on a 5 kilometre radius for his catchment area, his data indicates that more patrons than less travel distances greater than 5 kilometres to the Monbulk Bowling Club, which was a point raised by one objector. Further, that the NBA Report contains conflicting information as to the proximity of the Premises to the suburbs of Silvan, Emerald/Macclesfield and Menzies Creek being deemed to be within 5 kilometres – paragraph 100 says they are but Table 8 and 9 position them outside the 5 kilometre radius. The Commission notes that its finding with respect to the Catchment Area is broadly consistent with the proposal in the Council Report which comprised primary and secondary catchments extending out to approximately 10 kilometres.

Issues for determination

49. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following matters²⁹:
- (a) that the amendment of the venue operator's licence does not conflict with a direction given under section 3.2.3 of the GR Act;
 - (b) that the relevant regional or municipal limit for EGMs applicable to Yarra Ranges will not be exceeded by the making of the amendment the subject of the Application; and
 - (c) that the net social and economic impact of the increase in EGMs permitted in the Monbulk Bowling Club will not be detrimental to the well-being of the community of Yarra Ranges (the *'no net detriment'* test).

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

A. Directions given under section 3.2.3

50. As outlined in paragraph 12 above, the Commission is satisfied that there are no relevant

²⁹ The Commission also considered and was satisfied as to the matter set out in section 3.4.20(1)(d) of the GR Act.

directions given under section 3.2.3 that are applicable to this Application.

51. On this basis, the Commission is satisfied that granting the Application would not conflict with a direction given under section 3.2.3 of the GR Act, and therefore considers that mandatory pre-condition set out in section 3.4.20(1)(a) of the GR Act is satisfied.

B. *Municipal limits and regional caps*

52. Yarra Ranges is subject to a limit on the number of EGMs under a Ministerial Order pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act. According to the Ministerial Order, the capped region is the whole area covered by the local government area of Yarra Ranges and the limit is 1,161³⁰. At the time of the Application, the number of EGM licensed to operate in Yarra Ranges is 457, with 438 EGMs presently in operation³¹. The Commission is satisfied that granting the Application would not cause the relevant regional cap for gaming machines in Yarra Ranges to be exceeded, and hence considers this aspect of the statutory test set out in section 3.4.20(1)(b) of the GR Act to be satisfied.

C. *'No net detriment' test*

53. The Commission must be satisfied that if the 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 Monbulk Bowling Club is located. Set out below (and summarised in tabular form at Appendix B) is the Commission's assessment of the economic and social benefits and disbenefits associated with the Application, including the weighting given to each of these impacts.
54. In previous applications, the Commission has considered the associated yet distinct economic and social benefits of community contributions separately. As noted in paragraph 16 above, it does not matter whether impacts are considered on the economic side, or the social side, or both, so long as such impacts are included and not double-counted in the ultimate composite test. In this Application, the Commission has adopted the approach it took in *Lynbrook Tavern Pty Ltd at Lynbrook Hotel premises (Gaming – EGM Increase) [2018] VCGLR 31 (Lynbrook Hotel)* and determined to consider the impacts associated with the proposed community contributions as a single impact under the 'Social impacts' section of its consideration. As noted in its discussion of this impact below, the Commission has taken into account both the economic and social benefits generally associated with community contributions forming part of EGM increase applications,

³⁰ See Ministerial Order taking effect on 3 November 2017 (*Victorian Government Gazette No. S 318 Wednesday 20 September 2017*) signed on 20 September 2017 by the Hon. Ms Marlene Kairouz.

³¹ 438 EGMs with attached entitlements in Yarra Ranges.

and given appropriate weight to that impact in its cumulative form.

Economic impacts

55. The materials before the Commission, including the evidence adduced at the Hearing, either referred specifically to, or provided the evidentiary basis for, a range of economic benefits and disbenefits associated with this Application.

Expenditure on capital works

56. A potential key economic benefit associated with this Application is that arising from the expenditure on the proposed redevelopment of the Monbulk Bowling Club.

57. In oral and written evidence, the Applicant submits that the Monbulk Bowling Club needs to undertake an upgrade to provide better quality facilities for its patrons and to bring characteristics of the gaming room into line with current best practice RSG. According to Ms Rutzou, the venue was last renovated in 2007 but the gaming room remains as it has been since its inception in the early 1990s. Accordingly, a proposed internal redevelopment costed at \$1.727 million is planned that is contingent on the outcome of the Application. These works would comprise:

- (a) refurbishment of the bistro and kitchen facilities;
- (b) flipping of the upstairs layout in respect of the club and bistro demarcation and installation of an alfresco component;
- (c) installation of a fireplace and more comfortable seating at the centre of these two areas;
- (d) improvement to the currently congested lower level layout;
- (e) installation of a break out area for gaming patrons;
- (f) relocation of the sign-in desk;
- (g) reconfiguration of the toilet and amenity facilities;
- (h) reconfiguration of the gaming room;
- (i) installation of a second stairway for access between the lower and upper levels;
- (j) improvement to the back of house operating areas; and
- (k) general upgrade of furniture, fixture and fittings,
(together, the **Proposed Works**)³².

58. Ms Rutzou gave evidence that the Proposed Works would not necessarily be conducted by local

³² Ms Rutzou's Witness Statement, paragraph 30.



contractors because they intended to go out to tender. However, she stated that she is focussed on using local people and had done so with a recent renovation to a wall in the kitchen. Ms Rutzou could not commit to any period of time during which the Proposed Works would be completed, however she said that the Proposed Works would need to occur at the same time as the installation of the new EGMs due to the practicalities of installing the new carpet and new boxes for the EGMs. However, after the Hearing, the Applicant submitted its Proposed Conditions, should the Application be approved, in which it proposed to complete the Proposed Works within three years from the installation of the new EGMs.

59. At the Hearing, Mr Anderson submitted that, while there was no commitment by the Applicant to award the tender for the Proposed Works to a local contractor, because the Proposed Works were largely internal, he anticipated that there would be suitably qualified tradespersons within the municipality that would be capable of doing the work. He considered the economic benefit associated with this impact to be significant.
60. The Commission accepts the evidence of the Applicant that the Proposed Works to a value of \$1.727 million is a benefit associated with the Application. The Commission also accepts that the Proposed Works are dependent upon the Application being granted and that the Applicant will not proceed with the proposed redevelopment of the Monbulk Bowling Club if it is not. The Commission notes that the Applicant has proposed that any approval of the Application should be subject to a condition related to the completion of the Proposed Works. However, while the Applicant expressed a preference for using local contractors, there is no commitment to do so and therefore the Commission cannot be certain of the extent to which this expenditure will actually benefit the municipality in which the Premises are located.
61. Overall, the Commission considers that the Proposed Works are likely to generate some economic benefit but in the absence of evidence regarding the extent to which the expenditure will be retained in Yarra Ranges, a marginal to low weight is given to this benefit.

Supply contracts and complementary expenditure

62. The Application did not contain any figures or evidence in relation to the economic benefit associated with supply contracts (such as cleaning, EGM servicing and maintenance) and complementary expenditure and did not directly rely on these impacts as a benefit of this Application. While these potential impacts are occasionally dealt with separately by the Commission, they will be considered together for this Application.
63. In the NBA Report, Mr Anderson submits that when a venue is redeveloped, it is typical for an increase in supply contracts to occur in the demand for food and beverages. He submits that the



introduction of an entertainment area in the clubroom would increase the need for entertainment at the venue. At the Hearing, Mr Anderson said that, due to a lack of exact figures regarding potential expenditure on increased supply contracts and complementary expenditure, he affords a low weight to this impact. Ms Rutzou gave evidence that the bistro will be open for lunch, there will be an all-day café serving food and beverages as the new entertainment area will result in more entertainment evenings.

64. On the information available, the Commission considers there is evidence that there is likely to be a long-term increase in contracts for food and beverages associated with the bistro opening for lunch and the all-day cafe, considering that there is currently no food available during the day. The Commission notes that there could be an increase in supply contracts if local contractors are used for the Proposed Works, however it acknowledges that the Applicant did not make any commitment in this respect.
65. Complementary expenditure is a potential benefit where it results in increased economic activity in the municipal district in which the premises that are the subject of an application are located. However, the extent of this benefit will depend upon a range of factors, including:
- (a) the extent to which the expenditure is a consequence of new spending (i.e. as a result of additional people coming to the municipal district as tourists or spending from those who may not otherwise have spent their money at the relevant premises, as compared to transferred expenditure from other venues within the municipality); and
 - (b) the extent to which that complementary expenditure results in additional spending on local goods and services.
66. The Commission finds that there is likely to be an increase in patronage arising from the Proposed Works and such increased patronage could result in complementary expenditure. Based on evidence that the patronage of the Monbulk Bowling Club is primarily local, the Commission accepts that increased patronage is also likely to be drawn from the Catchment Area. However, there is some uncertainty as to the extent to which the new patronage would generate increased economic activity within the local area, as opposed to transferred activity within Yarra Ranges.
67. For these reasons, the Commission finds that any benefit associated with supply contracts and complementary expenditure for Yarra Ranges is moderate and places marginal to low weight on this impact.

Additional employment

68. As regularly established by the Commission in applications of this nature, the Application may

result in employment benefits associated with the increased number of operational EGMs and increased patronage of existing facilities at the Monbulk Bowling Club. Short term employment benefits may also arise during the redevelopment of the Monbulk Bowling Club during the Proposed Works (related to, but separate from, the economic benefit associated with expenditure on capital works).

69. The Monbulk Bowling Club currently employs 20 staff: four full-time employees, two part-time employees and 14 casual employees. Ms Rutzou said that 'pretty much' all of the Monbulk Bowling Club's employees live locally. The Application states that its approval will result in the creation of 2 full time equivalent (**FTE**) casual positions at the Monbulk Bowling Club equating to \$100,000 in salaries per year. Mr Anderson considers that this additional employment is a positive economic factor in support of the Application to which he affords a low weight³³.
70. Public objections to the Application and Council query whether the additional benefit of two FTE positions will follow the Application because Ms Rutzou did not confirm it at a community meeting in relation to the Application. At the Hearing, Ms Rutzou provided detail about the additional hours she had allowed for when calculating new staff requirements arising from the Application. In total, Ms Rutzou identified a total of 81 hours that would need to be filled by the new casual positions, an equivalent of two FTE positions.
71. In relation to short-term employment through construction jobs during the Proposed Works, the Commission considers that there is significant uncertainty as to any such benefits accruing to the municipality because the Applicant cannot guarantee that the Proposed Works will be carried out by a local supplier.
72. The Commission accepts the Applicant's estimate that two new FTE positions will be created at the Monbulk Bowling Club if the Application is approved. The Commission notes that while there is no certainty provided that the new FTE positions will be filled by individuals from within Yarra Ranges, given the Applicant's practice of employing local staff, it is more likely that they will. The Commission notes that, according to the VCGLR Report, the unemployment rate within a 2.5 kilometre radius of the Premises is 3% (lower than the rate for Yarra Ranges of 4.2% and the Victorian rate of 4.8%) and that two FTE casual positions is only a small increase. In consideration of the above, the Commission gives this benefit marginal weight.

³³ NBA Report, Table 9.1, page 69.

Increased gaming competition in Yarra Ranges

73. Increasing competition in gaming in Yarra Ranges is a factor in light of the statutory purposes of the GR Act and the consumer benefits that derive from competition.
74. In this regard, the Commission refers to and relies on the evidence set out in paragraphs 82 to 88 in relation to the anticipated transfer of gaming expenditure within Yarra Ranges.
75. Based on an estimated adult population in Yarra Ranges of 121,840 in 2018, the Commission considers that this Application would (if approved)³⁴:
- (a) increase the overall number of EGMs with attached entitlements within the municipality by 10 (2.28% increase) from 438 to 448;
 - (b) increase the EGM density of Yarra Ranges from 3.6 EGMs per 1,000 adults to 3.7 EGMs per 1,000 adults, compared with the metropolitan average of 4.9 EGMs per 1,000 adults and Victorian average of 5.3 EGMs per 1,000 adults; and
 - (c) increase the gaming expenditure per adult in Yarra Ranges from \$240 to \$243, compared with a metropolitan average of \$651 per adult and a Victorian average of \$533, an increase of 1.1% of total gaming expenditure in Yarra Ranges.
76. As set out in paragraphs 82 to 88, the Application, if approved, is predicted to give rise to a transfer rate of 64% from surrounding gaming venues. According to the PVS Report, there are no venues within the 'Trade Area' from which to transfer expenditure, however there are six venues in the, less proximate, 'Local Network' from which to transfer expenditure including: the Royal Hotel (Ferntree Gully), Ferntree Gully Hotel, Ferntree Gully Bowling Club, Club Hotel (Ferntree Gully), York on Lilydale Taverner Resort and Zagame's Boronia. At the Hearing, Mr Clyne submitted that 64% is an appropriate transfer rate as it is based on the normal calculations of the Geotech model and in consideration of the fact that, while the nearest gaming venue is 15 kilometres away (which may be considered a long distance in metropolitan Melbourne) it would not be 'that much of a commute' in an outer area such as Yarra Ranges. Further, going from 30 to 40 EGMs means there will be a big increase in venue attractiveness based on the number and therefore variety of machines (see detail regarding venue attractiveness in paragraph 83) which will encourage patrons to travel further distances.
77. The Applicant referred to the results of a gaming room patron survey that was conducted between 12 – 25 February 2018 (**Gaming Room Utilisation Survey**). According to the NBA Report, peak utilisation occurs when 70% or more of the EGMs are in use – in a room with 30 EGMs, this would

³⁴ For all data in paragraph 75, see VCGLR Report pages 11-13 and 17-18.

equate to 21 EGMs in use at a given time³⁵. Mr Anderson observed that, during the survey period, there were no periods of peak utilisation, which led him to conclude that the purpose of the Application is not to meet a proven demand for more EGMs but to enhance gaming machine options at the venue and make it more competitive in the local gaming market³⁶.

78. At the Hearing, Ms Rutzou said that there are occasions of peak usage at the Monbulk Bowling Club and that patrons move to alternative venues when they are unable to find a machine to play. She gave the example of a Wednesday afternoon in the Monbulk Bowling Club where there could be 20 – 30 machines occupied. She said that customers have specifically told her that they like the Monbulk Bowling Club for its staff and hospitality but that their product is not as good as their competitors and so those patrons have left the venue to attend one that has bigger and better products. While arguing that the 10 additional EGMs are necessary to provide more variety in the gaming room, Ms Rutzou also stated that the Applicant deploys new machines to the Monbulk Bowling Club for this purpose on a quarterly basis.
79. The Commission finds that granting approval of the Application will provide 10 additional EGMs at which patrons may choose to play and will create additional variety in Monbulk Bowling Club's EGM offering. The Application represents a small proportional increase in the number of EGMs in Yarra Ranges. The Commission accepts the evidence of Mr Clyne that the increased number of EGMs will increase the Monbulk Bowling Club's ability to compete with gaming venues in the Local Network. The Commission notes that gaming expenditure per adult in Yarra Ranges is 56.3% lower than the metropolitan average, and 54.9% lower than the Victorian average. While it acknowledges that \$182,216 in the first 12 months of trade is a not an insignificant increase in new expenditure, the Commission does not consider the anticipated additional expenditure at the Monbulk Bowling Club to be a substantial increase in gaming competition within Yarra Ranges.
80. As such, for the purposes of this Application, the Commission considers that there is a benefit associated with an increase in gaming competition in Yarra Ranges from the addition of 10 EGMs at the Monbulk Bowling Club, and gives this impact marginal weight.

Gaming expenditure not associated with problem gambling

81. As the economic category includes consumption, then to the extent that gaming expenditure is not associated with gambling related harm, it has been recognised (by, for example, the Productivity Commission in its 1999 report) that such expenditure can be treated as an economic

³⁵ NBA Report, paragraphs 103 – 105. Full results of Gaming Room Survey in Appendix 4.

³⁶ Ibid., paragraph 106.

positive³⁷. As Bell J further notes, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use machines for social reasons³⁸.

82. For the Applicant, Mr Clyne, in the PVS Report and at the Hearing, gave evidence regarding anticipated expenditure in the first 12 months operating an additional 10 EGMs at the Monbulk Bowling Club. Using the Geotech model, Mr Clyne estimated that³⁹:
- (a) the level of additional gross gaming expenditure generated from the Application would be \$499,770 in the first 12 months of trade;
 - (b) 64% of this would be transferred expenditure from a number of existing gaming venues within Yarra Ranges and the neighbouring municipality the City of Knox;
 - (c) adopting the estimated level of 64% transferred expenditure, new gaming expenditure is estimated to be \$182,216 in the first 12 months of trade, which equates to approximately 0.6% of total gaming expenditure in Yarra Ranges in 2016-2017; and
 - (d) there will be a \$207,704 per annum reduction in gaming expenditure in the neighbouring municipality, City of Knox.
83. The Commission notes that the Geotech model is a retail gravity model, based on the theory that a consumer's choice of gaming venue will be based on two fundamental considerations: travel time and venue attractiveness. The determinants for venue attractiveness, in order of priority, are: EGM numbers; whether the venue is a hotel or a club; operating hours; and facility score, which itself is based on a number of factors. The only input into the Geotech model for the purpose of the Application was to increase the number of EGMs, which increased the venue attractiveness score from 52 to 111⁴⁰.
84. In the PVS Report, Mr Clyne provided an analysis of the Geotech model outputs relating to the Application.⁴¹ Of note, Mr Clyne observed that:
- (a) the estimated increase in weekly expenditure of \$9,611 is a 30% increase in weekly expenditure which aligns with the requested 33% increase in EGM numbers;

³⁷ See *Romsey #2* at [351] per Bell J.

³⁸ See *Romsey #2* at [351]. Bell J notes further at [352] that the other approach is to say, as did Morris J in *Branbeau Pty Ltd v Victorian Commission for Gambling 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.

³⁹ Data in paragraph 82 taken from PVS Report, in particular, pages 3 and 12.

⁴⁰ PVS Report, page 10.

⁴¹ *Ibid.*, page 10.



- (b) of the similar sized metropolitan club venues⁴² with which to compare its existing performance, Monbulk Bowling Club is ranked at just below the midpoint in terms of expenditure per EGM with \$61,173 per EGM per annum; and
- (c) should the Monbulk Bowling Club achieve the predicted growth in expenditure, the expenditure per EGM would fall to approximately \$53,000 which would rank it near the middle of the 17 venues within the 35 to 45 EGM bracket⁴³.

85. Mr Clyne stated that he considered the predicted fall in expenditure per EGM be a reasonable result given that the venue, whilst undergoing a significant refurbishment to its current dated facilities, is not able to easily draw existing expenditure away from other venues due to there being no venues in its trade area. While Mr Clyne conceded that, to his knowledge, there had been no recent reviews of the accuracy of the Geotech model estimates in the last few years, he said there are indications that the estimates are modest and that they are regularly exceeded.

86. At the Hearing, Mr Clyne gave evidence that he was confident that the expenditure estimates are accurate as they are based on the calculations of the Geotech model which is a true and accurate indication of the proposed expenditure in the first 12 months. The Commission enquired as to the likelihood of a 64% transfer rate in circumstances where the nearest gaming venue is over 15 kilometres away and when Gaming Room Postcode Survey data indicates that 83% of members attending the gaming room during that period reside within 10 kilometres of the venue⁴⁴. In response, Mr Clyne said that:

- (a) although the closest gaming venue is 15 kilometres away, the assumption of transferred expenditure is because patrons will want a choice of a gaming venues at times and they will not always want to keep going back to the same venue;
- (b) as discussed at paragraph 76 above, 15 kilometres is not considered to be as far to travel for those living in the outer areas when compared to crossing metropolitan Melbourne and the Geotech model looks at travel times based on road mapping data; and
- (c) while Mr Clyne believes that because it is a single venue without too many competing venues and that the increase in number of machines and the proposed renovations will possibly attract more patrons or new patrons, he still believes that in a mature market that the bulk of the expenditure will be transferred from existing venues.

⁴² PVS Report, page 10 says there are four similar sized metropolitan club venues with which to compare performance and references Appendix Five, which shows there are six similar metropolitan club venues indicating an error on page 10.

⁴³ Ibid., page 10 and Appendix 6, which does not specify whether those venues are metropolitan club venues.

⁴⁴ NBA Report, Gaming Room Postcode Survey conducted 10 – 28 November 2018.



87. In considering the likely impact of an additional 10 EGMs at the Monbulk Bowling Club, the Commission notes that there was a decrease in expenditure in the 2013-14 and 2014-15 financial years (-0.1% each), and the 2015-16 financial year (-3.7%) at the Monbulk Bowling Club. Since that time, there were increases of 5.1% in 2016-17 and 11.9% in 2017-18⁴⁵.
88. Having regard to the evidence before it, the Commission accepts the evidence of Mr Clyne as to the estimated gaming expenditure as calculated above. In assessing the extent of this benefit, the Commission has had regard to the evidence outlined in paragraphs 90 to 113 below and findings with respect to the potential increase to the incidence of problem gambling as a result of the Application, which reduces the economic benefit of the new expenditure.
89. Overall, in consideration of the estimated 0.6% increase in expenditure in Yarra Ranges, and having necessary regard to the extent of gambling expenditure associated with problem gambling as outlined in paragraphs 90 to 113 below, the Commission considers that this benefit should be given marginal weight.

Gaming expenditure associated with problem gambling and gambling related harm

90. To the extent that a portion of the new gaming expenditure is attributable to problem gambling and gambling related harm, this represents an economic impact⁴⁶ that is a disbenefit⁴⁷. 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 gaming undertaken by individuals in each of the problem gambling severity index (PGSI) risk categories, in particular those who may be defined as 'problem gamblers,' as well as those who may be otherwise regarded as 'low-risk' or 'moderate-risk' gamblers.

⁴⁵ PVS Report, page 9, Table 2.

⁴⁶ 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, in assessing this Application, the Commission separately considered both the economic and social impacts of problem gambling.

⁴⁷ See, for example, *Hogan's Hotel Pty Ltd at Hogan's Hotel premises (Gaming – EGM Increase)* [2019] VCGLR 8 (16 April 2019) at paragraph 68, where the Commission did not accept the view that all EGM expenditure, regardless of whether it is derived from problem gambling or not, was an economic benefit. The Commission adopted the position taken in *Mount Alexander Shire Council* [2013] VCAT 101 [184] and *Monash CC v L'Unico Pty Ltd (Review and Regulation)* [2013] VCAT 1545 [20], that only the portion of increased gaming expenditure that is not attributable to problem gambling should be treated as an economic benefit.



91. In assessing the extent of this benefit, the Commission has regard to the expenditure evidence set out in paragraphs 81 to 89 above. In doing so, the Commission recognises that in considering this aspect of the ‘*no net detriment*’ test, it does not include consideration of transferred expenditure because such expenditure cannot be said to exacerbate gambling related harm⁴⁸.

The potential vulnerability of Yarra Ranges to problem gambling

92. The extent to which new gaming expenditure will be associated with gambling related harm, and therefore be a disbenefit, will be influenced by the socio-economic status and vulnerability of the community of Yarra Ranges, and in particular those living in the Catchment Area: see paragraphs 43 to 47. This is because communities characterised by socio-economic disadvantage and greater vulnerability are considered to be more susceptible to gambling related harms.
93. The NBA Report references a recently summarised ‘*Review of Gambling Related Issues*’ by Hayden Brown (September 2017) which found that the statistically significant predictors of at-risk gambling status among Victorian gamblers were:
- Gender: male
 - SEIFA: suffering social and economic disadvantage
 - Income: low
 - Education: no formal post-school qualification
 - Unemployment and joblessness: unemployed
 - Occupations: undetermined
 - Indigenous people: more likely to have gambling problems
 - Personal problems: high risk for those suffering psychological issues.

The NBA Report submits that, against these risk factors, the profile of the Catchment Area suggests the community is not susceptible to gambling related harms⁴⁹.

94. The NBA Report cites various factors to suggest that there is lower risk of increased incidence and economic impact of problem gambling should this Application be approved. When relying on SEIFA IRSD and IRSAD index data (see paragraph 37 for discussion about the difference between the IRSD and IRSAD indexes), the NBA Report states:

⁴⁸ 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.

⁴⁹ NBA Report, page 45.



- (a) the 2016 SEIFA data for Yarra Ranges indicates a low level of disadvantage in the area. Yarra Ranges performs well in terms of its socio-economic profile, being ranked in the 8th decile⁵⁰ across both the SEIFA IRSD and SEIFA IRSAD indexes;
 - (b) in 2016, Yarra Ranges was ranked 64 of 80 on the SEIFA IRSD scale and 57 of 80 on the SEIFA IRSAD scale compared with all Victorian LGAs, where 1 is the most disadvantaged. This indicates low levels of disadvantage when compared to other municipalities in Victoria;
 - (c) the SA2⁵¹ in which the Monbulk Bowling Club is located (Monbulk-Silvan) showed fewer signs of disadvantage, having an IRSD and IRSAD ranking in the 7th decile (out of 10) in 2016 which shows a slight improvement from its IRSAD ranking in the 6th decile in 2011;
 - (d) the SA1⁵² in which the Monbulk Bowling Club is situated has a lowering level of disadvantage, improving in both the SEIFA IRSD and IRSAD rankings from the 3rd decile in 2011 to the 5th decile in 2016; and
 - (e) the area covered by the Monbulk postcode 3793 in which the Monbulk Bowling Club is situated has seen an improvement in its socio-economic indicia with an increase from the 7th to the 8th decile out of 10 on the SEIFA IRSD index from 2011 to 2016, and from 6th to the 7th decile out of 10 on the SEIFA IRSAD index from 2011 to 2016.
95. The NBA Report also cites risk factors that suggest a lower vulnerability to gambling related harms arising from EGM statistics relevant to the Monbulk Bowling Club, including:
- (a) the EGM density in Yarra Ranges is low – 3.63 per 1,000 compared with 4.91 for Greater Melbourne and the addition of an additional 10 EGMs will see an increase in EGM density to 3.72 machines per 1,000;
 - (b) EGM expenditure per adult in Yarra Ranges is low by comparison to other municipalities at \$240.48, the Metropolitan Melbourne expenditure per adult is \$550.64; and
 - (c) the number of EGMs in Yarra Ranges is presently 438 machines across nine venues, within a municipal cap of 1,161. If the Application were to be approved, the municipal cap would not be exceeded.

⁵⁰ According to the NBA Report, paraphrased, the SEIFA index scores are divided into a distribution of ten equal groups with the lowest scoring 10% of areas given a decile number of 1, the second-lowest 10% given a decile number of 2 and so on, up to the highest 10% of areas being given a decile number of 10, page 49.

⁵¹ According to the NBA Report, paraphrased, statistical areas level 2 (SA2) are medium sized general purpose areas built up from hole statistical areas level 1 (SA1). Their purpose is to represent a community that interacts together socially and economically. The Monbulk-Silvan SA2 has 5,531 persons, page 50.

⁵² According to the NBA Report, paraphrased, SA1s are geographical areas built from whole mesh blocks, mesh blocks being generally designed as the smallest available unit for the release of census data, the SA1 in which the Monbulk Bowling Club is situated is identified by the number 21105127908 and it contains 303 persons, page 50.

96. The NBA Report⁵³ cites census data from 2016, which Mr Anderson says establishes a demographic profile of his proposed Catchment Area confirms the Monbulk Bowling Club, overall, does not fit into the category of a problem gambling profile. Relevantly:
- (a) income levels in the Catchment Area indicate that the average income is slightly higher in Monbulk/Kallista/Olinda when compared to Yarra Ranges and Greater Melbourne;
 - (b) the rental market is considerably lower in the Catchment Area when compared with the rest of Yarra Ranges and Greater Melbourne;
 - (c) the Catchment Area has a much lower proportion of households experiencing rental stress compared to Yarra Ranges and Greater Melbourne, mortgage stress appears to be on par;
 - (d) the Catchment Area has a greater concentration of residents that have attained tertiary education when compared to Yarra Ranges and Greater Melbourne, however, as discussed at the Hearing, the suburb of Monbulk itself has a slightly lower educational attainment than Yarra Ranges and Greater Melbourne;
 - (e) the Catchment Area has a lower proportion of the workforce unemployed when compared to Yarra Ranges and Greater Melbourne; and
 - (f) the median age in the Catchment Area is older (43) than that of Yarra Ranges (40) and Greater Melbourne (36) which suggests an overall older demographic, which based on a 2010 study of problem gamblers are not a high-risk gambling group. At the Hearing and in the NBA Report, Mr Anderson noted that a more recent study suggests that people aged between 25 and 35 identifying as problem gamblers in 2010 could be the same people identifying as such in the recent study, which would indicate that being older may not be a protective factor after all and which would therefore reduce the weighting placed on this as a factor⁵⁴.
97. Mr Anderson submits that population growth in Yarra Ranges is slower than the growth rate in Greater Melbourne and Victoria⁵⁵ and that the projected increase in population for the municipality by Forecast ID will not extend to the township of Monbulk because it is an established small town with little development potential owing to stringent planning considerations⁵⁶.

⁵³ All references in paragraph 96 taken from NBA Report, page 45 – 48.

⁵⁴ The NBA Report also noted there is a slightly higher density of males living in the Catchment Area and Yarra Ranges (50.9% and 49.4% respectively) when compared with Greater Melbourne (49%) and a higher percentage of indigenous persons in the Catchment Area and Yarra Ranges of (0.8%) when compared with Greater Melbourne (0.5 %) which are both indicators of a higher risk of problem gambling.

⁵⁵ NBA Report, paragraphs 117 – 120.

⁵⁶ Ibid., paragraph 125.

98. The NBA Report also relies on factors beyond the social and economic profile of patrons in the Catchment Area in asserting that the approval of 10 new EGMs at the Monbulk Bowling Club will not have a detrimental impact on the relative disadvantage of the community in Yarra Ranges. In particular:
- (a) it is an existing gaming venue in a mature market, operating 30 gaming machines in the community since 1996;
 - (b) there is no signage regarding EGMs at the Monbulk Bowling Club on Moores Road, with the venue's signage being set back at the end of the driveway;
 - (c) if the Application is approved, it will become a 'small to mid-sized' venue having less than 50 EGMs, which is less likely to attract those with a propensity to excessive gambling, than a large anonymous venue⁵⁷; and
 - (d) it is in a suitable location for gaming by modern standards in that it is a destination venue i.e. not on a pedestrian 'ant trail' to daily activities, not within a strip-shopping centre and situated in such a location that people need to make a conscious decision to visit.
99. At the Hearing, Mr Anderson further detailed his assertion that Monbulk Bowling Club is a destination venue, in light of concerns raised by objectors, Council and his own report which shows the Monbulk Club is within 400 meters of the town centre which is considered to be walking distance by urban planning standards. Mr Anderson clarified that his view was that the venue is on the periphery of the town centre as opposed to being 'in' the town centre or on the 'periphery of the town', as alluded to in some objections. He explained that while you can walk to the venue from the town centre, it is not on the 'ant trail' meaning that you would not pass it when doing your day-to-day business. Mr Anderson does not consider that a destination venue, by definition, is exclusively whether you can walk to it or not.
100. The NBA Report states that the Monbulk Bowling Club is committed to RSG and the Application has provided an opportunity for it to address aspects of its gaming offering which are no longer best practice⁵⁸, noting that the Monbulk Bowling Club's gaming facilities have not been updated to since their introduction and therefore reflect RSG best practice from the 1990s. The Proposed Works, which are contingent upon the Application, will improve RSG in the following ways:
- (a) currently, the entrance foyer to the club opens directly onto the gaming room. The Proposed Works include installation of a new reception desk with screening to limit the line of sight

⁵⁷ NBA Report, paragraph 201.

⁵⁸ Ibid, paragraph 79.

into the gaming room;

- (b) a new break-out area will be introduced on the lower level to allow patrons to take a break from machines;
- (c) the bar and cashier area will be reconfigured to promote better visibility across the gaming room ;
- (d) a new staircase will be installed between the floors, accessible by a push-button operated door that will sound when the door is open to notify the cashier desk to a patron entering; and
- (e) the gaming room will be fitted with additional surveillance cameras.

Mr Anderson also noted that the physical separation of the gaming room (on the bottom floor) from the bistro and other entertainment areas on the top floor was a positive RSG feature because patrons, including children upstairs in the bistro cannot hear or see anything related to the gaming room. The Commission notes from its own observation that there is access to the bistro, the bowling greens and the members facilities directly from the car parking area.

101. Mr Anderson placed importance on regular training of gaming room staff by the venue support worker, Hamish Richardson, the extensive experience of Ms Rutzou with the Monbulk Bowling Club's gaming operations when considering the vulnerability of the community to gambling related harms. Ms Rutzou worked the very first gaming shift there in 1996 and her familiarity with the patrons is considered to be a further protective factor against harms arising from problem gambling as the opportunity for anonymity is not available at the venue.
102. Ms Rutzou gave evidence that she personally manages RSG compliance at the venue and that staff are encouraged to understand the Victorian Responsible Gambling Foundation's *Venue Best Practice Guide*, the *Venue Management and Staff Handbook* and *Responsible Gambling Code of Conduct*, which staff are trained in as part of their induction. At the Hearing, Ms Rutzou described her familiarity with all patrons of the club and in the gaming room, which she considers to be a protective factor against gambling related harms. Ms Rutzou said she encourages her staff to find out 'the story' of new patrons in the gaming room to assist them to identify problem gambling behaviour. The Monbulk Bowling Club encourages the use of YourPlay, however only one member at the club has signed up. Ms Rutzou stated that no members of the Monbulk Bowling Club are on the self-exclusion register. The Monbulk Bowling Club is regularly audited by Frontier Hospitality to ensure compliance with RSG obligations.

103. In the Council Report, Council refers to the Productivity Commission's 2010 inquiry into gambling and, among other things, the Productivity Commission's estimate that between 20% and 60% of EGM expenditure comes from those that can be considered problem gamblers⁵⁹. Council also provided a demographic analysis of the area around the Monbulk Bowling Club, focusing on certain measures that would indicate a vulnerability to problem gambling, including⁶⁰:

- (a) Monbulk has a higher proportion of low income households (23.5%) than the Victorian average (approximately 21%) and Yarra Ranges (18%);
- (b) housing stress⁶¹ in Monbulk/Silvan and across Yarra Ranges is high in comparison to the Victorian average, however rental stress is very low;
- (c) the data suggests a higher proportion of low income earning households in the region compared to Victoria, however in this case that was likely to be the result of the large number of elderly residents and 'tree changers' that make up the catchment. Many of this cohort are either retired or work part time, and their incomes are therefore very low;
- (d) there is a relatively large proportion of lone person households within the primary and secondary catchment's (as defined by the Council Report) which suggests that the region may be vulnerable as people living alone are less likely to have problematic gambling behavior monitored;
- (e) the proportion of residents with tertiary degrees is low in the surrounding catchment compared to Victoria, particularly in Monbulk/Silvan, however the proportion with no post-high school qualifications is broadly similar to the rate for Victoria as a whole;
- (f) there is a relatively high proportion of the workforce employed in blue collar sectors and sales which may suggest that the surrounding population may be more vulnerable to harm from problem gambling; and
- (g) data from the Department for Health and Human Services (2014) suggests rates of psychological distress, anxiety or depression are higher in the community of Yarra Ranges when compared to Victorian averages and that the suicide rate in Monbulk/Silvan was the second highest in Yarra Ranges for the period of 2009-2013.

104. Council did not attend the Hearing in order to provide further information about the claims in the Council Report.

⁵⁹ Council Report, page 9.

⁶⁰ Data from paragraph 103, see Council Report pages 13 -16.

⁶¹ Housing stress refers to households paying more than 30% of their income for housing: Council Report, page 14.

105. Objections to the Application contained submissions in response to the NBA Report's conclusion that the Catchment Area is less vulnerable to gambling related harms based on its demographic profile, including:
- (a) while the NBA Report indicates there is a lower rate of unemployment, there is a high level of casual and part time employees in the area;
 - (b) the income levels in the Monbulk area are potentially skewed by a wealthier few and may not be a true representation of the demographic. The region contains extremely wealthy estates alongside crumbling original hills cottages;
 - (c) changes in SEIFA ranking over a period of time (for example, indicators discussed in paragraphs 94(c) - 94(e)) does not necessarily mean that residents are objectively more affluent than they were, but rather that they look more advantaged by comparison to other regions;
 - (d) social factors are not picked up by census data such as homelessness, which according to the Yarra Ranges Community Health Centre in Belgrave, has increased by 8%. Many of these are women over the age of 65 who have experienced a relationship breakdown;
 - (e) 49% of the community have household incomes in the low (15.5%) or low to middle (33%) range, indicating that a significant proportion of the residents are balancing low to moderate incomes with a range of financial burdens; and
 - (f) the rates of reported family violence incidents in Yarra Ranges have increased by 4.8% in the last year and new research shows a correlation between the density of poker machines in an area and family violence rates⁶².

The Commission's view in relation to the vulnerability of the Catchment Area

106. Taking into account all of the material before it, including that discussed in paragraphs 36 to 39 above, the Commission finds that the Catchment Area features mixed, but generally lower, levels of socio-economic disadvantage. The Commission notes that the Applicant and Council both submitted that the Catchment Area exhibits lower levels of disadvantage on the respective SEIFA index adopted, however there were some discrepancies in the data between the NBA Report and Council Report in relation to household incomes and housing stress. Relying on the key demographic indicators presented in the NBA Report and the VCGLR Report, in particular the

⁶² Submission by Women's Health East, referencing Markham, F., et al, *The relationship between electronic gaming machine accessibility and police-recorded domestic violence: A spatio-temporal analysis of 654 postcodes in Victoria, Australia 2005-2014*, Social Science & Medicine (2016)

SEIFA index scores, the Commission ultimately finds that the Catchment Area shows low vulnerability.

107. The Commission accepts the evidence of Mr Anderson that the population growth in Yarra Ranges is comparatively slow and that the projected increase in population will not extend to Monbulk because it is an established small town with certain planning considerations that may restrict development. Further, the Application is intended to improve the infrastructure and quality of the Monbulk Bowling Club for the benefit of existing members and there was no evidence that the Application would increase the venue's appeal to a demographic beyond those who currently attend, with the exception of some comments regarding the need to attract some younger patrons. For these reasons, the Commission considers that any increased harms arising from problem gambling associated with the new expenditure will be felt most greatly by the Catchment Area and its current demographics.
108. In considering the extent to which new gaming expenditure may give rise to an increased risk of gambling related harm, the size of the venue is a relevant consideration. This is because larger venues are thought to offer increased anonymity for the problem gambler⁶³. The Commission notes Mr Clyne and Mr Anderson both submitted evidence at the Hearing that, if the Application is approved, with 40 EGMs the venue will be a small to mid-sized venue. Mr Anderson also said that he defines any venue with up to 50 EGMs as being 'small' and the NBA Report states that small venues are less likely to attract those with a propensity to gamble excessively than a large, anonymous venue.
109. With its existing 30 EGMs, the Monbulk Bowling Club is a small sized venue. The introduction of 10 new EGMs will increase the size of the venue by a third, however the Commission accepts that it will remain a small sized venue, albeit at the upper end, according to Mr Anderson's scale. The Monbulk Bowling Club will not be transformed in size to such an extent as to change the nature of the venue to increase the risk of attracting individuals who may spend more money on EGMs than they can afford due to increased anonymity associated with larger venues.
110. The Commission notes Mr Anderson's argument that the Monbulk Bowling Club is best classified as a 'destination venue' despite being within walking distance of the town centre. The Commission notes the objectors and Council submissions regarding the location of the Monbulk Bowling Club being within walking distance of community facilities including schools, supermarkets, community services and some neighbouring residences. The Commission further notes that the Monbulk

⁶³ See, for example, *Lynbrook Hotel* at 115 in which it was stated that a larger gaming room would be more attractive for problem gamblers. In that matter, the increase in venue size was found to be off-set by the additional staff in the gaming room.

Bowling Club signage, while set back from Moores Road, is nevertheless visible to pedestrians from that street. The Commission notes from its own observation that the signage is not visible from the car park in the main shopping area. The Commission considers that the Monbulk Bowling Club does fall within the definition of 'destination venue' relied upon by Mr Anderson and one in which a prospective patron would have to decide to attend as opposed to attending out of convenience having come across the venue in the course of their daily business. However, the Commission notes that the venue is somewhat more convenient and accessible to those proximate residents and patrons of nearby community services.

111. In considering the extent to which new gaming expenditure may give rise to an increased risk of problem gambling, the manner in which gaming is conducted at the venue is also a relevant consideration. On the information before it, the Commission notes that the Applicant has demonstrated a satisfactory commitment to RSG and, together with the additional RSG measures proposed as part of this Application, this will improve RSG at the venue and partly address the increased risk of problem gambling in Yarra Ranges associated with this Application.
112. In making this finding, the Commission accepts and relies on the evidence of Ms Rutzou regarding her experience and the culture of compliance she creates among staff at the Monbulk Bowling Club, the routine regulatory compliance audits by Frontier Hospitality showing general compliance with RSG obligations, and the Applicant's gaming room layout improvements as part of the Proposed Works including the addition of screens, additional CCTV and improved lines of sight from the bar.
113. Overall, in consideration of the evidence before it, the Commission considers that the potential expenditure associated with gambling harm as a result of the Application is a negative economic impact upon which it should place marginal weight. Issues relating to the negative social impacts associated with problem gambling are considered further in paragraphs 144 to 147 below.

Diversion of trade from other gaming and non-gaming venues

114. In the PVS Report, Mr Clyne estimated that 64% of gaming expenditure would be transferred from other gaming venues within Yarra Ranges and the City of Knox. At the Hearing, Mr Clyne said that this estimate is low compared to other EGM increase applications. As discussed in paragraphs 82 to 90 above, the nearest gaming venue is 15 kilometres away from the Monbulk Bowling Club.
115. With reference to the impact on surrounding venues, the PVS Report states that six venues in particular would be likely to experience losses in revenue if the Application were approved, however none of those venues are in the 'trade area', which is where the majority of the venue's



customers reside⁶⁴. Those venues are the Royal Hotel Ferntree Gully (-1.97%), Ferntree Gully Hotel (-0.87%), Ferntree Gully Bowling Club (-0.44%), Club Hotel (Ferntree Gully) (-0.20%), York on Lilydale Taverner Resort (-1.93%) and Zagame's Boronia (-0.12%)⁶⁵. In total, the estimated weekly losses from venues in the City of Knox is -\$3,995⁶⁶.

116. At the Hearing, Ms Rutzou gave evidence that the Monbulk Bowling Club's key competitors are the York on Lilydale Taverner and the Royal Hotel in Ferntree Gully and that patrons who are unable to access EGMs at the club would attend those venues instead.
117. There was no evidence presented by the Applicant regarding the transfer of expenditure from non-gaming venues, however one objector, submitted that diverting the disposable income of Monbulk into one facility and away from investment in resources that are considered healthier, more desirable and more representative, is not in the local interest. Relying on gaming expenditure figures at the Monbulk Bowling Club in the past five financial years, the objector also concluded that adding the anticipated income from an extra 10 EGMs to the 2017-2018 expenditure would divert \$2,334,948 from traders in the area. The Commission prefers the evidence of Mr Clyne's with respect to the level of transferred expenditure related to gaming venues and does not place any weight on the objector's submission regarding transfer from traders in the area broadly.
118. The Commission accepts the Applicant's evidence that 64% of anticipated transferred expenditure would be derived from other venues within Yarra Ranges and the neighbouring municipality the City of Knox. The Commission considers that a transfer rate of this size is not significant, however the diversion of trade will still have some detrimental economic impact on other venue operators. Having regard to these factors, the Commission assigns nil to marginal weight to this impact.

Conclusion on economic impacts

119. After considering the economic benefits of the Application and balanced against the detriments, the Commission considers that, on balance, there is likely to be a nil to marginal positive economic impact of the Application.

Social Impacts

120. The materials before the Commission and the evidence adduced at the Hearing detailed a range

⁶⁴ PVS Report, page 6, paragraph 15.

⁶⁵ Ibid., Appendix One, Table 6.

⁶⁶ Ibid., Appendix One, Table 7.

of social benefits and disbenefits associated with the Application.

Increased gaming opportunities for those who enjoy gaming

121. This is a positive impact if the Application will enable the Monbulk Bowling Club to better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs.
122. The Applicant submits that the proposed addition of 10 EGMs will assist it to provide an increased range of choice and variety of machine to patrons choosing to gamble responsibly at the venue. It submits that the additional machines are required to support the Monbulk Bowling Club's desire to be more competitive with other gaming venues and keep patrons attending its venue.
123. The Applicant submits that, despite the Gaming Room Utilisation Survey showing that the venue did not achieve peak utilisation during the survey period, patrons of the Monbulk Bowling Club have a desire for a greater variety of machines than what the club currently offers with 30 EGMs. The NBA Report says that the fact the Monbulk Bowling Club did not achieve peak utilisation during the survey period indicates that the purpose of the Application is not to meet a proven demand but to enhance the gaming machine options and to make it more competitive in the local gaming market through providing additional machines⁶⁷. At the Hearing, Mr Clyne said that having 40 machines would take the venue closer to the 'optimal' number of machines in terms of variety and denomination.
124. In her witness statement and at the Hearing, Ms Rutzou said that some patrons will leave the venue if they are unable to play their chosen machine or any machine at the Monbulk Bowling Club due to demand during busy periods. She said that some of those patrons had told her that they did not want to play elsewhere because they like the hospitality at the Monbulk Bowling Club, however the machine offering was too limited. Ms Rutzou said that currently, the club 'turns over' its EGMs approximately four times per year in order to create greater choice for its patrons, some of whom pay close attention to the deployment of the new machines, such is their excitement about this variety. However, 30 EGMs is not enough to have a great variety on offer at all times.
125. The Commission acknowledges that there is a benefit in increasing machine choice for recreational players and catering for (non-problem gambling) demand. The Commission notes the results of the Gaming Room Survey and accepts the evidence Mr Anderson that this could indicate the Applicant's intention is to improve the offering for patrons in the gaming room with greater variety. The Commission accepts the evidence of Ms Rutzou that patrons leave the venue

⁶⁷ NBA Report, paragraph 106.



when they are unable to play their chosen EGMs which indicates that the club cannot cater to their gaming desires.

126. The Commission notes that there are nine venues in Yarra Ranges currently operating 438 EGMs, which does not indicate an ease of access and high level of consumer choice for a person choosing to play EGMs in this municipality. The Commission accepts that the increase of EGMs from 30 to 40 will enhance the range and variety of EGMs available at the Monbulk Bowling Club for recreational players. Overall, the Commission considers this to be a social benefit to the community in Yarra Ranges and one on which it places marginal to low weight.

Improved services and facilities at the Monbulk Bowling Club

127. Separate from the economic benefit that may be associated with expenditure involved in capital works at the Premises, there are also potential social benefits to the community that may arise as a result of the Application.
128. As noted in paragraph 57 above, the Proposed Works include the redevelopment of existing facilities as follows:
- (a) refurbishment of the bistro and kitchen facilities;
 - (b) improvement to the upstairs layout in respect of the club and bistro demarcation and installation of an alfresco component;
 - (c) installation of a fireplace and more comfortable seating at the centre of these two areas; and
 - (d) general upgrade to venue furnishings.
129. Ms Rutzou gave evidence that the club intends to open the bistro at lunch and a café providing all day food. In the NBA Report, Mr Anderson noted that having an additional function venue available for hire would be a benefit to the community in light of its relative isolation in terms of local facilities. The NBA Report states that the Proposed Works will improve the amenity of the Monbulk Bowling Club for local patrons and improve RSG in the gaming room⁶⁸. The NBA Report states that the club has reported a decrease in revenue across food and beverage streams over the past three financial years, indicating that the venue is in need of a facelift to reinvigorate waning sales⁶⁹.
130. Some members of the community who objected to the Application noted in their submissions that

⁶⁸ NBA Report, page 32.

⁶⁹ Ibid., paragraph 51.

the Monbulk Bowling Club was in need of enhancement, however suggested that revenue from additional EGMs should not be relied upon to do so. Another objector noted that the dated facilities at the Monbulk Bowling Club are in keeping with the area.

131. Mr Anderson and Ms Rutzou submit that a longer-term goal of the Monbulk Bowling Club is to upgrade the bowling facilities through the replacement of the greens which will enable it to host finals competitions. The Applicant anticipates that this will come at a cost of \$150,000, however does not commit to this improvement as part of the Application due to uncertainty about revenue. Ms Rutzou nevertheless informed the Commission of the Club's plans in relation to the bowling green to demonstrate its commitment to the bowlers and reaffirm that the Monbulk Bowling Club's primary offering is the provision of bowls and quality infrastructure for its members. One objector submitted that the Application clearly indicates an intention by the Applicant to make gaming the primary focus of the Monbulk Bowling Club. The Commission notes in that regard, the business plans attached to Ms Rutzou's statement that clearly articulated the need for the Club to reduce its reliance on gaming in the future by improving its non-gaming attraction to the community.
132. The Council Report submits that there will be negligible benefits to the community in terms of new entertainment and recreation opportunities, following the installation of the new EGMs on the basis of the current availability of 30 EGMs at the venue and submissions made at the community meetings where residents expressed a desire for more alternative recreational and social opportunities in Monbulk⁷⁰. One submission in objection to the Application said that community of Monbulk was in need of a greater range of entertainment options, but did not consider that the proposed improvements to the Monbulk Bowling Club would achieve that.
133. The Commission notes it could be three years until the Monbulk Bowling Club has completed all capital improvements to the venue, based on the Proposed Conditions. The Commission finds some social benefit in the refurbishment of existing facilities as it will modernise the venue and make for a more pleasant experience, considering the scale and scope of the Proposed Works. However, it notes that the Proposed Works do not create any new facilities, but rather enhance the existing ones. The Commission finds that Monbulk Bowling Club's focus on bowling will remain the same if the Application is approved, however the gaming facilities will be greatly improved which will be likely to indirectly impact the bowling and non-gaming facilities in a positive way. On the whole, the Commission affords this social benefit a low weight.

⁷⁰ Council Report, pages 29 and 25.

Increased community contributions

134. In determining the net economic and social impact of applications of this nature, both the Commission⁷¹ and VCAT⁷² 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.
135. As noted in paragraph 54 above, the Commission has taken into account both the economic and social benefits associated with the proposed community contributions forming part of the Application in this section. That is, the Commission has considered the financial benefit enjoyed by recipients of the proposed community contributions and the improvement to the social fabric of the community that may result from those contributions, and given appropriate weight to that impact in its cumulative form.
136. The NBA Report states that the Monbulk Bowling Club is '*particularly community focussed*' based on Mr Anderson's experience with small town venues and feedback provided by venue management. He submits that the club has regular free entertainment, free barefoot bowling nights, vouchers, sponsorships and cash donations to a wide range of groups within the community which make it an important component of the Monbulk local community⁷³. The NBA Report assesses the impact of the additional \$15,000 per year in cash contributions proposed by the Applicant (**Additional Cash Contributions**), and the maintenance of the existing cash and in-kind contributions (**Existing Contributions**) and considers this to be a significant benefit.
137. The Applicant states that, if the Application is approved, it will make the Additional Cash Contributions in addition to maintaining the existing \$15,000 per year in cash contributions that it currently makes on average (**Existing Contributions**). At the Hearing, and in Ms Rutzou's Witness Statement, Ms Rutzou submitted that she expected to also increase the Monbulk Bowling Club's in-kind contributions up to the equivalent of \$110,000 (**Additional In-kind Contributions**), to include benefits such as the provision of a free meeting space upstairs for use by community groups under the Proposed Works. The Applicant submitted that, in the most recent three-year period, the Monbulk Bowling Club donated a total of \$327,281 in cash and in-kind contributions to the community⁷⁴. Recipients of the Existing Contributions in the past three years include a variety of local sporting clubs, schools, businesses, the local country fire association, historic

⁷¹ See, for example, *Application by Richmond Football Club* [2015] VCGLR (24 July 2015) (Commissioners Cohen & Owen).

⁷² 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.

⁷³ NBA Report, page 26.

⁷⁴ *Ibid.*, page 26.



society, Probus and the Monbulk Car Show. The Applicant also owns a house at the rear of the venue, which it rents to a member of the local community at a subsidised rate in consideration of the tenant's financial hardship⁷⁵.

138. The Applicant proposes to allocate the Additional Cash Contributions according to its existing process through which any community organisation can apply to the Monbulk Bowling Club for support and their application will be assessed against the *Venue Operator's Guidelines for Community Support Applications*. In the Proposed Conditions, the Applicant proposed to impose a condition on its venue operator's licence that the operation of the additional EGMs should cease in the event that the Additional Cash Contributions are not made in a given year.
139. Council submitted that the maintenance of the Existing Contributions and the Additional Cash Contributions would represent a benefit to the local community, however it submitted that the contributions are modest when considering the additional revenue to be earned by the Applicant. Council submitted that the Applicant should establish an arm's length structure for its grants through the local Bendigo Bank.
140. Objectors to the Application made submissions in relation to the Existing Contributions and Additional Cash Contributions. In particular, concerns were raised that the Existing Contributions were '*but a token gesture, a drop in the bucket... or a sweetener to keep people on side*' and did not balance out the \$1,840,000 taken annually out of the community. One objector submitted that in-kind contributions such as raffles, discounted meals and social events in the Monbulk Bowling Club's community benefit statement (an annexure to the NBA Report) are better described as 'inducements'.
141. The Commission notes that the Monbulk Bowling Club currently makes a significant contribution to the local community. The Commission has not seen any evidence to suggest that the Monbulk Bowling Club will not continue to provide similar benefits to the community if the Application is not approved. The Commission notes the Applicant's intention to make the Additional Cash Contributions and the Additional In-kind Contributions and to maintain the Existing Contributions. For the purpose of this Application, the Commission will assess the impact of the Additional Cash Contributions and Additional In-kind Contributions on the community of Yarra Ranges, but it will not afford any weight to the maintenance of the Existing Contributions.
142. The Commission accepts that the Additional Cash and In-kind Contributions will have a positive economic and social impact. The Commission notes that the Monbulk Bowling Club is a not-for-

⁷⁵ According to the NBA Report, the discount on rent is valued at \$5,500 per annum. \$5,500 has been included in the total for the cash and in-kind contributed by the Monbulk Bowling Club in the past three years of approximately \$327,281.



profit club that invests in the community, as can be seen through Mr Anderson's evidence in relation to the Existing Contributions. Although no specific organisation was targeted as recipient of the Additional Cash Contributions which may have aided the Commission in its assessment of impacts, the evidence provided shows that the Additional Cash and In-Kind Contributions will mainly benefit the Monbulk community.

143. Having regard to this increase in the community contributions that will occur of the Application is granted, the Commission considers the Additional Contribution to be a positive economic and social benefit, which it affords a low weight.

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

144. As established in previous Commission decisions⁷⁶, wherever accessibility to EGMs is increased there is always a risk of an increase in problem gambling, which leads to other costs such as adverse health outcomes, relationship breakdowns, emotional harms and other social costs. Accordingly, the Commission accepts there is potential for negative social costs through possible increased problem gambling expenditure and this would constitute a social disbenefit of this Application.
145. The Commission refers to and relies upon the evidence set out in paragraphs 90 to 113 above with respect to the economic impact of problem gambling on the community, which equally apply to the social impact of problem gambling. As indicated above at paragraph 90, the Commission accepts that harms associated with the incidence of problem gambling are wide-ranging and attributable to all PGSI categories of gamblers and across the community more broadly.
146. The Commission notes the submissions made by objectors including Women's Health East and the Outer East Primary Care Partnership that there has been an increased incidence of family violence incidents in Yarra Ranges, and that there is a correlation between EGM density in a community and rates of family violence.
147. Overall, the Commission finds that this Application, to vary the number of EGMs at an existing venue from 30 to 40, is estimated to be associated with new expenditure of approximately \$182,216 in the first 12 months following installation of the new EGMs. It accepts that a proportion of this new expenditure will be associated with gambling related harms. The Commission finds

⁷⁶ See, for example, *Hogan's Hotel at Hogan's Hotel Premises (Gaming – EGM Increase)* [2019] VCGLR 10 (9 May 2019), *Lynbrook Hotel, Dandenong Cranbourne RSL Sub-Branch Inc at Dandenong RSL premises (Gaming – EGM Increase)* [2018] VCGLR 44 (24 September 2018) and *Castello Cardinia Hotel Pty Ltd at Castello's Cardinia Hotel premises (Gaming – EGM Increase)* [2018] VCGLR 37 (10 September 2018).

that the Catchment Area exhibits mixed but generally lower socio-economic disadvantage. The Commission finds that Monbulk Bowling Club's future patron base is likely to consist of the same demographic within the Catchment Area with the same risk profile as it currently does. However, the Commission notes that the Applicant is seeking to attract some younger patrons to the venue, who may exhibit a new risk profile in term of gambling related harms and/or financial vulnerability. The Commission notes that the evidence regarding rates of family violence and EGM density appear to still show that there may be a correlation between the two as opposed to a causal link.

148. The Commission finds that the protective factors associated with the Application from an RSG perspective are positive and that the RSG measures associated with the Proposed Works will further improve RSG at the Monbulk Bowling Club. The Commission notes that the improved layout will not be achieved until the Proposed Works have been completed which may not occur for 12 months. Further, the Commission finds that the impact that an EGM increase of this size will have on the Monbulk Bowling Club will not transform it in such a way as to increase the risk of incidence and the impact of problem gambling on the community.
149. The Commission is therefore of the view that granting this Application has the potential to increase the incidence and impact of problem gambling in Yarra Ranges to a marginal extent. As such, the Commission accepts that the disbenefit associated with problem gambling is a negative social impact upon which it places marginal to low weight.

Community attitude

150. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*⁷⁷, 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 of an application as part of the 'no net detriment' test.
151. The evidence before the Commission indicates that the community attitude towards this Application has been mixed. In summary:
- (a) the Council, as the representative body of the relevant community and charged with statutory duties under various pieces of legislation, has made a submission in opposition to the Application⁷⁸. Council did not, however, appear at the Hearing to give evidence in relation to its submission and allow its claims to be tested by the Commission;

⁷⁷ (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.

⁷⁸ See also *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT 2606 at [42]; *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #2)* [2009] VCAT 2275 at [249] and [288]-[321].



- (b) as detailed in paragraph 25, the Commission received:
- (i) correspondence in support of the Application from 24 local individuals, 18 of whom indicated they were directly connected to the Monbulk Bowling Club as members, bowlers, employees, former board members or sponsorship recipients; and
 - (ii) correspondence in opposition to the Application from 15 predominantly local individuals (including one who submitted a pro-forma objection and one who indicated they were a member of the Monbulk Bowling Club), as well as submissions from the following community organisations operating in the Yarra Ranges:

151.b.ii.1. Outer East Primary Care Partnership;

151.b.ii.2. Women's Health East; and

151.b.ii.3. Yarra Ranges Township Group Network.

152. Two community meetings were held in relation to the Application that were facilitated by the Victorian Local Government Association. Submissions indicate that both objectors and supporters of the Application, and those who are neutral but simply curious to find out more about it, attended the meeting. At one of the meetings, Ms Rutzou answered questions from the community about the Application. According to the submission of one supporter (who is also a Monbulk Bowling Club board member), the guest speakers (some with tragic first-hand experiences of problem gambling) were not local and the objectors present made generalised assertions about problem gambling however none said they had problems with the Monbulk Bowling Club.
153. The Council Report states that it commissioned SGS Economics and Planning (**SGS**) to prepare a high-level, preliminary social and economic impact assessment report in relation to the Application. That preliminary report found that there would be a modest economic benefit associated with the Application at around \$1.43 in community benefits generated for every \$1 in problem gambling associated costs. Council had regard to that finding when considering its position on the Application, but nevertheless submitted that the proposal, on balance, will have some detrimental impacts to the local community, despite the modest economic benefit found by the SGS modelling. The Council Report makes further submissions on the impact of the Application in the context of the local policy framework, research in relation to gambling, health and economic and against the socio-economic profile of Monbulk and its surrounds, as discussed in the sections above.

154. The submissions from individuals and community organisations contained both general and specific concerns regarding the impact of the Application on the local community. Submissions in support of the Application included the following:
- (a) the additional EGMs will help the club and the community, will bring more business to the area, give current patrons more choice of machines and will help to improve the club facilities;
 - (b) the Monbulk Bowling Club's proposal has been in contemplation for many years. The Applicant needs the strategic support of the extra machines because the Monbulk Bowling Club is battling against falling or disinterested membership and must change its patterns if it is to have a long-term future;
 - (c) the cash and in-kind community contributions are relied upon by some community organisations;
 - (d) the Monbulk Bowling Club takes all reasonable steps to ensure gamblers do not over gamble and the risk of 10 extra EGMs to problem gamblers is minimal, while bringing extra income through tax savings;
 - (e) the Monbulk Bowling Club is a hub for the older population in the area and the improvements will increase usage by members and the wider community; and
 - (f) the Monbulk Bowling Club needs to upgrade from its current 'dagginess' and the Application will enable this.
155. In objection, there were submissions of a more generic, anti-pokies nature such as the do-gooder emails. There were also detailed submissions that were specific to the Application and directly considered the impacts that may be felt by the community of Monbulk. Of specific relevance to the Application, submissions included the following concerns:
- (a) the expansion of such an addictive form of entertainment will come at a cost as there is quite a high proportion of at-risk groups residing in Monbulk as seen by the increasing demand for food hampers and winter provisions from community groups to people experiencing financial hardship in the area;
 - (b) the Monbulk Bowling Club is not on the periphery of Monbulk Village and thus contravenes the Yarra Ranges land use policy for gaming machines, the SEIFA ranking and EGM density ratio for this region are unlikely to be as significant a predictor of socio-economic impact as environmental features such as the lack of alternative resources, the ageing population and

isolation by geographical features and zoning and the emergence of a high-profile gaming venue would destroy the tranquil and safe ambiance of Monbulk;

- (c) the population of Monbulk is approximately 2.4% of the population of Yarra Ranges therefore, if the Application is approved, the Monbulk Bowling Club would provide one machine for every 89.4 residents which places Monbulk at a considerably disproportionate risk of harm both socially and financially due to gambling. Further, research indicates that people who have gambling problems are more likely than people without to be victims and perpetrators of family violence. In 2016, Yarra Ranges had 1580 incidents of family violence that were reported to police, that number has increased by 34%⁷⁹;
- (d) rates of family violence have increased in the last year and there is a direct correlation between the density of poker machines in an area and family violence rates⁸⁰;
- (e) the Monbulk Bowling Club is in a low socio-economic area with people who frequently struggle to put food on the table for their children and a high rate of homelessness;
- (f) families locally and elsewhere are impacted adversely by monies lost on EGMs however many people are too proud or embarrassed to declare it. Families have been subtly and obviously torn apart; and
- (g) the refurbishment will make the gaming facility even more obvious and appealing to passing people and children.

156. The Commission finds that the Council Report contains more general concerns about EGMs and problem gambling rather than concerns directed at the Application. The Commission notes that while some of the submissions in objection to the Application directly challenged the evidence of the Applicant and the expert, the majority appear more concerned about EGMs and problem gambling in a general manner. The Commission acknowledges that there is heightened concern about family violence associated with this particular application due to the family violence statistics in Yarra Ranges.

157. The Commission acknowledges that the support for the Application comes mainly from members of the Monbulk Bowling Club. The Commission considers this to be evidence that the Monbulk Bowling Club operates for the benefit of its membership base, who are loyal and supportive of its activities in return. However, the Commission does find that the overwhelming number of submissions in support from individuals or organisations who directly benefit from the club's philanthropy reduces the extent to which it can rely on these submissions as evidence of the

⁷⁹ Submission by Outer East Primary Care Partnership.

⁸⁰ Submission by Women's Health East.

broader community of Monbulk's support for the Application.

158. In light of all submissions, the Commission finds that, while there is some negative attitude towards EGM gambling and problem gambling in general, there is an overall balanced attitude towards the Application from within the community of Yarra Ranges. The Commission considers it appropriate to attribute marginal weight to this negative social impact of the Application.

Conclusion on social impacts

159. 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 marginal positive social impact of the Application.

Net economic and social impact

160. The '*no net detriment*' test in section 3.4.20(1)(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 positive⁸¹.

161. After consideration of the material before it, including the evidence provided at the Hearing (and weighted as outlined above and summarised in tabular form at Appendix B of these Reasons for Decision), the Commission has concluded that there is likely to be a net positive social and economic impact on the well-being of the community in the municipal district in which the Monbulk Bowling Club is located if the Application is approved.

162. Overall, the Commission is satisfied that the net economic and social impact of approving the Application would not be detrimental to the well-being of the community in the municipal district in which the Monbulk Bowling Club is located, and therefore considers that mandatory pre-condition set out in section 3.4.20(1)(c) of the GR Act is satisfied.

CONCLUSION

163. The Commission has determined that on the evidence before it, the '*no net detriment*' test has been satisfied and the total number of EGMs will not exceed the relevant municipal limit. The Commission notes that there remains a discretion to determine whether or not to grant the Application. The Commission is satisfied that granting the Application would not be inconsistent

⁸¹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



with the relevant objectives of the GR Act, in that the Applicant understands and will continue to act in accordance with its obligations, so far as is reasonable to take measures to foster responsible gambling. The Commission also considers that this will work towards minimising gambling-related harm and accommodating those who gamble without harming themselves or others. Further, the Commission is not aware of any other matter that would warrant it to refuse to grant the Application.

164. Accordingly, the Commission is satisfied that it should exercise its discretion in favour of the Application and make the proposed amendments to the Applicant's venue operator's licence to increase the number of EGMs permitted in the Premises from thirty (30) to forty (40), subject to the conditions outlined in Appendix A below.

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

Appendix A

Conditions of the Decision of the Commission dated 21 August 2019 to vary the number of EGMs permitted in the approved premises, Monbulk Bowling Club, located at 11 Moores Road, Monbulk (the Premises) from thirty (30) to forty (40), imposed under section 3.4.20(3) of the *Gambling Regulation Act 2003*.

1. WORKS

- (a) The works at the Premises (as defined in clause 1(b)) must be substantially completed to the satisfaction of the Commission by the date that is 36 months after the date of this Decision to grant the additional ten (10) electronic gaming machines (**Additional EGMs**) at the Premises.
- (b) The Works shall consist of:
 - (i) the reconfiguration of the Gaming Room (inclusive of the installation of the Additional EGMs) situated in the Lower Ground Floor of Premises in accordance with drawing no. TP1.12 dated 10 January 2019 contained in Appendix 2 of the Social and Economic Impact Assessment prepared by NBA Group dated February 2019 (**SEIA**) (**Stage 1**); and
 - (ii) the renovation of the Ground Floor in accordance with drawing no. TP3.14 dated 10 January 2019 contained in Appendix 2 of the SEIA (**Stage 2**).
- (c) The Stage 1 Works must be substantially complete within 12 months of the date of this Decision.
- (d) If condition 1(a) or 1(c) is not complied with, the approval of the Additional EGMs will lapse and the Commission will reduce the number of electronic gaming machines in operation at the Premises in accordance with section 3.4.20(3E) of the *Gambling Regulation Act 2003*.
- (e) The Commission may, on the request of the Venue Operator, agree to extend the time for completion of any stage of the Works referred to in condition 1(b). The application for an extension of time to complete the Stage 1 Works must be made at least 30 days prior to the expiry of the 12 month period for completion of Stage 1. The application for an extension of time to complete the Stage 2 Works must be made at least 30 days prior to the expiry of the



36 month period for completion of the Stage 2 Works. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.

- (f) If the Commission agrees to extend the time for completion of any stage of the Works in accordance with condition 1(e), the Commission may require that any of the Additional EGMs cease operation during the period of any extension of time granted by the Commission.

2. **COMMUNITY CONTRIBUTIONS**

- (a) The Venue Operator will make cash contributions annually in the sum of \$30,000 (increased each year by CPI) (the **Contributions**) (comprised of existing cash contributions of \$15,000 per year and the additional cash contributions of \$15,000 per year proposed in the Application) for each financial year during which any of the Additional EGMs are in operation at the Premises.
- (b) The Contributions will be allocated each financial year to community groups and associations in accordance with the Venue Operator's guidelines for Community Support Applications and will provide a clear benefit to the local community in the Shire of Yarra Ranges.
- (c) If the Contributions are not allocated in full each financial year as required in condition 2(a), the operation of the Additional EGMs must cease immediately for so long as the Contributions (or part thereof) remain outstanding.

Appendix B

Summary of economic and social impacts

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

Economic impacts

	Impact	Paragraph numbers	Comment relevant to weight	Weight
Benefits	Expenditure on capital works	54 to 61	A potential economic benefit associated with the Application is the expenditure on the Proposed Works to redevelop the Monbulk Bowling Club. Contingent upon the Application, the Proposed Works are costed at approximately \$1.727 million. There is no guarantee that the Proposed Works will be undertaken by a local contractor, however as they are internal works and the Applicant prefers local supplier's, this is a greater possibility.	Marginal to low
	Supply contracts and complementary expenditure	62 to 67	The Application did not contain any figures or evidence in relation to the economic benefit associated with supply contracts and complementary expenditure. Given the evidence that there will be bistro for lunch and café style food available all day after the renovations, when previously there was no food available at these times, this will likely lead to increased complementary expenditure and supply contracts.	Marginal to Low



	Impact	Paragraph numbers	Comment relevant to weight	Weight
	Employment creation	68 to 72	The Application may result in long term employment benefits due to the increased number of operational EGMs and increased patronage of the facilities at the Monbulk Bowling Club. The Commission is satisfied the Application will create 2 FTE positions at the Monbulk Bowling Club over the next year and those positions are likely to be filled by residents of the municipality, based on existing hiring practices.	Marginal
	Increased gaming competition in Shire of Yarra Ranges	73 to 80	Increasing competition in gaming is a factor in light of the statutory purposes of the GR Act. There are nine gaming venues in Yarra Ranges and the nearest venue is 15 kilometers from the Monbulk Bowling Club. The Applicant gave evidence that customers move to other venues due to limited choice of EGMs at the Monbulk Bowling Club therefore the additional EGMs will make the venue more competitive and increase gaming competition in Yarra Ranges.	Marginal
	Gaming expenditure not associated with problem gambling	81 to 89	To the extent that gaming expenditure is not associated with gambling related harm, that such expenditure can be treated as an economic positive. In consideration of the estimated 64% transfer rate, new expenditure on EGMs is estimated to be \$182,216 which is an increase of 0.6% in the municipality. The RSG practices of the Monbulk Bowling Club are good and the Commission has confidence they will improve with the Proposed Works.	Marginal
Disbenefits	Gaming expenditure associated with problem gambling and gambling related harm	90 to 113	The portion of new gaming expenditure attributable to problem gambling is an economic disbenefit. The increase in EGMs by one third and the increase in venue attractiveness has the potential to increase gambling harm. However, the SEIFA scores indicate low vulnerability in the community, good RSG (and that which will improve with the Application), reasonably low EGM expenditure and the relatively modest amount of new expenditure.	Marginal



	Impact	Paragraph numbers	Comment relevant to weight	Weight
	Diversion of trade from other gaming and non-gaming venues	114 to 118	The anticipated transfer rate of 64% is expected to be spread across existing gaming venues within Yarra Ranges and neighbouring City of Knox. There was no evidence regarding transfer from non-gaming venues. There was some evidence that customers who may have moved to other venues will stay, however the impact is difficult to assess particular given some of the trade is anticipated to come from outside the municipality.	Nil to Marginal



Social impacts

	Impact	Paragraph numbers	Comment relevant to weight	Weight
Benefits	Increased gaming opportunities for those who enjoy gaming	121 to 126	The Application will increase gaming opportunities by providing an additional 10 EGMs at which patrons may choose to play. Increase of EGMs by a third at the venue will enhance the range and variety of EGMs available at the Monbulk Bowling Club for recreational players to meet customer needs. This is a marginal benefit in light of the current number of EGMs in the Monbulk Bowling Club (30) and within the municipality (438), as well as the 8 other gaming venues in Yarra Ranges.	Marginal to low
	Improved facilities enabling a greater range of services	127 to 133	Social benefits that may be associated with the Proposed Works include the availability of bistro and café food during lunch, and the refurbishment creating a more pleasant atmosphere in what a dated facility, which could increase the appeal of the Monbulk Bowling Club to younger patrons. The Proposed Works will ultimately yield enhancements as opposed to new services.	Low
	Increased community contributions (includes both economic and social benefits)	134 to 143	Additional community contribution of \$15,000 cash per annum to be distributed under the Applicant's prescribed community support program and additional in-kind contributions of up to \$110,000 are modest community contributions that are an economic and social benefit. There is no specific organisation named as a recipient of the community contributions, however the evidence shows the contributions will mainly benefit members of the community. The Applicant will maintain its existing community contributions. The refurbishment of the meeting room to be provided as a meeting space for community organisations to use free of charge is a benefit.	Low



	Impact	Paragraph numbers	Comment relevant to weight	Weight
Disbenefits	Possibility of increased incidence and the potential impact of problem gambling on the community including family violence	144 to 149	A proportion of total gaming expenditure at the Monbulk Bowling Club will be associated with problem gambling. Adverse impacts relating to problem gambling include health, jobs, finances, emotional states and relationships. Therefore, a portion of the \$182,216 of new expenditure in the first year of installation of the machines will be associated with problem gambling, including all PGSI risk categories. The Monbulk Bowling Club is located in a Catchment Area of low vulnerability, and the RSG practices at the Monbulk Bowling Club are good and will improve with the Application.	Marginal to Low
	Community attitude	150 to 156	The Commission has taken into account: <ol style="list-style-type: none"> 1. the Council's intended role in which it represents the community interest and the fact that it did not appear at the Hearing; 2. 18 objections and 24 submissions (18 from Monbulk Bowling Club members) in support of the Application from the local community. Overall mixed, yet balanced, attitude towards the Application from within the community of Yarra Ranges.	Marginal