



Victorian Commission for Gambling and Liquor Regulation

DECISION AND REASONS FOR DECISION

In the matter of an application under section 3.4.17(4) of the *Gambling Regulation Act 2003* by the Bairnsdale Bowls Club Inc for amendment of its venue operator's licence to vary the number of gaming machines at the approved premises the Bairnsdale Bowls Club, 54 Grant St, Bairnsdale from 25 to 26 gaming machines.

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

Decision:

That the application be granted.

Signed:

Miss Gail Owen

Acting Chairman



REASONS FOR DECISION

INTRODUCTION

1. This is an application by the Bairnsdale Bowls Club (**the Applicant**) for amendment of its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the Bairnsdale Bowls Club, corner Grant and Pearson Streets, Bairnsdale (**the Club**), from 25 to 26.
2. The relevant municipal authority is the East Gippsland Shire Council (**the Council**). On 19 March 2013, the Council informed the Commission that it did not wish to make a submission in support of, or in opposition to, the application.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

3. Gambling on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**the Act**). The Act recognises that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities and some members of some communities.¹ For this reason the Act includes safeguards to ensure an appropriate balance is struck between a lawful and legitimate recreational activity for some and harm for others. In particular, the balance is maintained by requiring an applicant who wishes to increase the number of EGMs at a venue to satisfy the Commission of the "no net detriment test" and the other matters set out in section 3.4.20(1) of the Act.²
4. The no net detriment test requires the Commission to weigh the likely positive social and economic impacts of an application against the likely negative social and economic impacts. The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either neutral or positive.³

¹ See: s 1.1(2) of the Act.

² See: *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275, [247] (Bell J).

³ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435 ("Romsey").



5. Section 28 of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* provides that where an application proposes to increase the number of gaming machines permitted at an approved premises by less than 10% of the number of gaming machines currently operating at the premises, that application may be determined without the need for a public inquiry. Accordingly, this application was determined by the Commission without a public inquiry.

THE SHIRE OF EAST GIPPSLAND AND THE BAIRNSDALE BOWLS CLUB

6. The Shire of East Gippsland (**East Gippsland**) is a rural Local Government Area located approximately 400 kilometres east of Melbourne and includes the major regional centres of Bairnsdale, Orbost and Lakes Entrance. East Gippsland occupies four Statistical Local Areas⁴ (**SLAs**): East Gippsland – Bairnsdale, East Gippsland – Orbost, East Gippsland – South-West, and East Gippsland – Balance.
7. East Gippsland is subject to a regional cap of 332 EGMs⁵. Currently there are 10 gaming venues in the municipality operating a total of 331 EGMs. The Club is one of six venues approved for gaming within the Bairnsdale SLA.
8. If this application is granted, the installation of an additional EGM at the Club will take the number of EGMs operating in East Gippsland up to the regional cap of 332.
9. East Gippsland has an average of 9.26 EGMs per 1,000 adults which is 78% more than the rural average and 59% more than the State average. Expenditure on EGMs in the East Gippsland for the 2011-12 financial year was \$24,314,026.84 which equates to an average expenditure per adult of \$680, which is 94% more than the rural average and 13% more than the State average. That said, gaming expenditure in East Gippsland has decreased by 21.07% in real terms over the last five years compared to a 17.61% decrease in rural Victoria over the same period.

⁴ The Statistical Local Area (SLA) is an Australian Standard Geographical Classification (ASGC) defined area which consists of one or more Collection Districts (CDs). SLAs are Local Government Areas (LGAs), or parts thereof. Where there is no incorporated body of local government, SLAs are defined to cover the unincorporated areas. SLAs cover, in aggregate, the whole of Australia without gaps or overlaps.

⁵ Pursuant to section 3.4A.5(3)(b) of the Gambling Regulation Act 2003 the Victorian Commission for Gambling and Liquor Regulation determined, in accordance with the criteria specified in the Minister for Gaming's Order on 15 August 2012, the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each region.



10. The East Gippsland – Bairnsdale SLA is ranked 69th out of the 84 rural SLAs on the SEIFA scale for disadvantage,⁶ indicating that the SLA in which the Club is located exhibits signs of disadvantage. When broken down into a Census Collection District level, 34% of collection districts within a 5km radius of the Club are in the first quintile of disadvantage, indicating that there are pockets of significant disadvantage in the areas surrounding the Club. The Commission accepts that East Gippsland is a relatively disadvantaged municipality and a number of areas surrounding the Club are significantly disadvantaged.

THE MATERIAL BEFORE THE COMMISSION

11. The Applicant provided the Commission with extensive material in support of its application, including:
- a) Social and Economic Impact Report, prepared by Urbis Group, dated May 2012
(Urbis Report);
 - b) Gaming Expenditure Estimate Report prepared by Mr David Baldi of Mercury Group Victoria **(Mercury Report);**
 - c) Witness Statement of Martin Sroczyński, undated;
 - d) Witness Statement of Neil Robertson, undated;
 - e) Expert Statement of Jacqueline Ann Hutchinson, dated 13 August 2012; and
 - f) Statement from Neil Robertson, undated.
12. Additionally, the Commission considered an Economic and Social Impact Report dated April 2013 and an undated Pre-Hearing Inspection and Compliance Report prepared by VCGLR staff.

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



The Bairnsdale Bowls Club

13. The Commission is advised that the Club was established in 1901 and has operated at its current site since inception. The Club consists of a 120 seat bistro, members' bar, bowlers' room, bowling kitchen, four full size croquet courts, a croquet club house, three bowling greens and a gaming room with 25 EGMs.
14. The Club currently has 1,875 members of which 1,083 are Social Members, 468 are Gaming Members, 237 are Bowling Members, 41 are Croquet Members, 41 are Associated Members and 5 are Life Members.
15. The Club provides food, sporting, function and meeting facilities to the Bairnsdale area, as well as other communities including Orbost, Lakes Entrance, Omeo, Swifts Creek, Paynesville and Lindenow.
16. The Club allows community groups to use Club facilities free of charge. These facilities are used for such activities as community functions and community group AGMs.
17. The Club provides its members with discounted bistro meals and drinks, as well as having access to the facilities of the Club.
18. The Club also makes cash and in-kind contributions to community and sporting groups, some recent examples of which include:
 - \$5,000 to Lindenow Football Club;
 - \$2,000 to Bairnsdale Tennis Club; and
 - \$300 to St Marys Primary School.
19. The Club plans to use the revenue that will be derived from an additional EGM to continue to fulfil its charitable objects, increase its financial contributions to the community and further develop and implement community focused initiatives and events. The additional revenue will also assist the Club in future refurbishments and developments, as well as to assist in the repayment of loans used to redevelop the Club in 2003.



20. The Club adopts and enforces the Clubs Victoria Code of Conduct as its Responsible Gambling Policy and requires all staff who work in the Club's gaming room to hold a Responsible Service of Gambling certificate. The Club is also a subscriber to the Clubs Victoria Self Exclusion Program. Senior staff members of the Club attend local Anglicare and Gamblers Help meetings.

Social and Economic Impact

21. The Urbis Report concluded that East Gippsland experiences a higher degree of socio-economic disadvantage relative to other municipalities in Victoria. Further, the Urbis report stated that the population of Bairnsdale is characterised by a slightly lower household income, as well as an older age profile and lower proportion of family households. These factors are reflective of a high proportion of retirees in the municipality.
22. The Urbis Report stated that the principal economic and social benefits of the application derived from the increase in revenue for the Club, which will assist it in:
- continuing and increasing the level of support the Club provides to a wide variety of community organisations;
 - supporting the Club, which is an important community facility and currently suffers a loss of gaming revenue to other venues in the East Gippsland shire, which affects the ability it has to support the wider community through a range of initiatives; and
 - further redevelop the Club including the refurbishment of bowling greens, conversion of one green to synthetic grass and construction of roofing to create an indoor green for day and night use.
23. The Urbis Report considered that the risk of an increase in problem gambling in East Gippsland as a result of the approval of this application will be mitigated through the following factors:
- EGMs are already offered at the Club and extensively throughout the municipality;
 - the Club is a destination venue, removed from areas of higher activity;
 - the municipal cap that applies to East Gippsland will not be exceeded;



- the nature of this venue as a Club, with its associated barriers to entry – such as membership and the payment of a fee to become a member – combined with the range of facilities offered and the older patron profile suggests that any change in problem gambling behaviour is likely to be insignificant; and
- the Club has strong Responsible Service of Gaming procedures in place and is committed to minimising harm experienced by patrons.

The Urbis Report concluded that approval of the application would have a positive social and economic impact on the community of Bairnsdale and the East Gippsland municipality.

Evidence of likely EGM expenditure

24. The Mercury Report estimated that, based on an assessment of the current performance of EGMs in the venue, their utilisation rate and the attractiveness of the venue to recreational gamblers, an additional EGM in the Club would generate additional annual revenue of between \$12,600 and \$31,500.
25. Mr Baldi estimated that the entirety of the additional expenditure would be transferred from other gaming venues within the municipality and, as such, should this application be approved there would be no net increase in EGM expenditure within the municipality.
26. The Commission accepts Mr. Baldi's estimate of likely EGM expenditure to be not unreasonable in this instance. Although the Commission doubts whether 100% of it will be transferred from other venues, it accepts that a high proportion of transferred expenditure is likely.

LIKELY ECONOMIC IMPACT OF APPROVAL

27. There is often an overlap between economic and social impacts of applications to operate EGMs. Be that as it may, the Commission considers that it is useful for the purpose of the balancing exercise to identify and analyse economic and social impacts as separate categories to arrive at a net position for each before undertaking the final analysis.⁷



28. The Commission accepts that there is unlikely to be a significant increase in expenditure within East Gippsland as a result of approval of this application. Expenditure that is derived from people pursuing gaming as a recreational activity is legitimate consumption expenditure and has an economic stimulus. However, expenditure that is derived from problem gaming is an economic burden as it leads to social costs such as a loss in productivity and an increase in health and social service requirements.
29. The Commission considers there to be an economic and social benefit in strengthening the financial position of the Club so that it may continue and increase its work in the community and continue to improve its facility. The on-going contributions the Club provides to community and sporting groups furthers economic stimulus within the municipality and should be seen as an ancillary benefit.
30. The Commission accepts that there is some potential for some overall economic downsides of the application through possible increased problem gambling expenditure. This potentiality is limited by the policies and processes that the Applicant has in place to identify and assist problem gamblers, as well as the relatively negligible increase in the number of EGMs. Accordingly, the Commission considers that there will be a neutral economic impact on the community if the application were to be approved.

LIKELY SOCIAL IMPACT OF APPROVAL

31. On the material presented to the Commission, it is clear that the Club has several aspirational goals in terms of increasing its activity and support in the community, as well as further developing the venue.
32. While the Commission cannot be certain of the exact benefits that the revenue from an additional EGM will bring, the Commission is satisfied that the increase in gaming revenue will be used for the betterment of the Club's members and the Bairnsdale community.
33. Accordingly, the Commission considers that there will be a neutral social impact on the community if the application were to be approved.



CONCLUSION

34. The Commission notes the high level of gaming expenditure and EGM density within East Gippsland but is not satisfied that approval of this application will have no more than a nominal impact on those factors. The Commission considers the risk of an increase in problem gambling as a result of approval of this application to be negligible.
35. The Commission has considered the likely social and economic impacts of the proposal and considered that those impacts are likely to be neutral.
36. On the material that has been put before it, the Commission is satisfied of the other matters in section 3.4.20(1). Accordingly, the Commission is satisfied that it should exercise its discretion to approve the application.

The preceding 36 paragraphs are a true copy of the Reasons for Decision of Miss Gail Owen, Deputy Chairman.