



Victorian Commission for Gambling and Liquor Regulation

DECISION AND REASONS FOR DECISION

In the matter of an application under s 3.4.17 of the *Gambling Regulation Act 2003* by Sale and District Greyhound Racing Club Inc for amendment of its venue operator's licence to vary the number of electronic gaming machines from 70 to 80 at the Sale and District Greyhound Racing Club, located at Sale-Maffra Road, Sale

Commission: Ms Helen Versey, Deputy Chair
Mr Des Powell, Commissioner

Appearances: Mr Dale Curtis, Solicitor, for the Applicant

Ms Frances Ford, Manager Community Wellbeing, for the Wellington Shire Council

Mrs Naomi Martin Edwards as Counsel Assisting the Commission

Date of Hearing: 5 January 2016

**Date of Decision and
Reasons for Decision:** 16 February 2016

Decision: The application is granted subject to the condition set out in paragraph 79 of these reasons for decision

Signed:


Helen Versey
Deputy Chair



REASONS FOR DECISION

INTRODUCTION

1. This is the decision and reasons for decision of the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) in respect of an application (**the Application**) under the *Gambling Regulation Act 2003* (**the Act**) for amendment of the venue operator's licence (**the Licence**) of the Sale and District Greyhound Racing Club Inc (**the Applicant**). The Application is to vary the number of permitted electronic gaming machines (**EGMs**) from 70 to 80 at the venue (**the Venue**) and premises (**the Premises**) approved under the Licence, the Sale and District Greyhound Racing Club located at Sale-Maffra Road, Sale.
2. The relevant municipal authority is the Wellington Shire Council (**Council**). By letter to the Commission dated 26 October 2015, Council indicated that it would make submissions in relation to the Application. On 21 December 2015, Council lodged a submission addressing the economic and social impacts of the Application on the wellbeing of the municipality.
3. The Commission conducted a public inquiry in respect of the Application on 5 January 2016. At the hearing, the Applicant was represented by Mr Dale Curtis, Solicitor, and Council was represented by Ms Frances Ford, Manager Community Wellbeing, assisted by Ms Karen McLennan, Coordinator Social Planning and Policy. Counsel Assisting the Commission was Mrs Naomi Martin Edwards.

LEGISLATION AND TASK OF COMMISSION

4. The conduct of gaming on EGMs is a legal commercial and recreational activity in Victoria, provided that it is done in accordance with the Act. The Act aims to establish a regulatory framework that balances policy considerations such as promoting tourism and economic development, including a legitimate recreational activity for some and fostering responsible gambling and harm minimisation for others.¹
5. Under s 3.4.17(1)(b) of the Act, variation of the number of EGMs permitted in an approved venue may be amended in accordance with Division 2 of Part 4 of Chapter 3 of the Act. Sections 3.4.18 to 3.4.19 of the Act provide for the manner in which requests for amendments under s 3.4.17(1)(b), and associated submissions by the municipal council, are to be made.
6. Section 3.4.20(1) of the Act requires the Commission to be satisfied of specified matters before amending a venue operator's licence, including, relevantly, that:
 - (a) the regional or municipal limit for gaming machines for the region or municipal district in

¹ The Act, ss 1.1, 3.1.1.



which the approved venue is located (**Municipal Limit**) will not be exceeded by the making of the amendment;² and

- (b) the net economic and social impact of the amendment will not be detrimental to the wellbeing of the community of the municipal district in which the approved venue is located³ – what is now commonly described as the ‘no net detriment test’ (**the Test**).

7. The Test requires the Commission to be satisfied that there will be no net detriment arising from the proposed amendment by objectively establishing that the net economic and social impact will not be detrimental to the wellbeing of the relevant community.⁴ In other words, the Commission must be satisfied that overall socio-economic effect of the proposed increase of EGMs on the community's wellbeing is either neutral or positive.

8. The Test involves the Commission considering:

- (a) the likely economic impacts of the proposed amendment;
- (b) the likely social impacts of the proposed amendment; and
- (c) the likely net effect of those impacts on the wellbeing of the relevant community.⁵

9. Given the common overlap of socio-economic issues, decisions of the Victorian Civil and Administrative Tribunal (**VCAT**) has held on review that for impacts that may be both economic and social,⁶ it does not matter whether the impact is considered on the economic side, the social side or both, so long as it is included, but not double-counted, in the Test.⁷

10. The Commission also notes VCAT's indication 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.⁸

² The Act, s 3.4.20(1)(b).

³ Ibid, s 3.4.20(1)(c).

⁴ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101 (**Mount Alexander**), [52] (Dwyer DP).

⁵ Cf *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422 (**Romsey No.1**), [42]-[43] (Warren CJ, Maxwell P and Osborn AJA).

⁶ For example, the benefits of gaming consumption.

⁷ *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275 (**Romsey No.2**), [352] (Bell J); *Mount Alexander*, [58] (Dwyer DP).

⁸ *Mount Alexander*, [60] (Dwyer DP).



11. This approach has been adopted in a number of VCAT decisions.⁹ The Commission has also adopted this approach to increase the clarity and transparency of its decision-making in this matter.
12. If the Commission is satisfied that the Test is met, and that the proposed increase in EGMs would not cause the Municipal Limit to be exceeded, it still has an overriding discretion as to whether or not to make the proposed amendment: it must decide whether to make the proposed amendment, with or without any changes from those originally proposed.¹⁰
13. The exercise of this discretion:
 - (a) involves having regard to the purposes of the Act and, in particular, the specific purposes of Chapter 3 of the Act dealing with the regulation, supervision and control of gaming machines;¹¹ and
 - (b) may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the Act as a whole.¹²

MATERIAL BEFORE COMMISSION

14. The Applicant provided the Commission with the following material in support of its Application:
 - (a) a social and economic impact assessment prepared by Nick Anderson of the NBA Group (**NBA**) and dated 25 September 2015 (**NBA Report**);
 - (b) an expenditure report prepared by Tim Stillwell of ShineWing Australia (**ShineWing**) and dated 25 September 2015 (**ShineWing Report**);
 - (c) the witness statement of Peter James Johnston, the general manager, nominee and authorised officer of the Applicant, dated 25 September 2015; and
 - (d) the witness statement of Leigh James Barrett, director and principal consultant of Leigh Barrett and Associates Pty Ltd, dated 25 August 2015.
15. In opposition to the Application, Council provided its social and economic impact assessment

⁹ See, for example, *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* [2013] VCAT 1389; *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Monash CC v L'Unico Pty Ltd* [2013] VCAT 1545; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192 (**Bakers Arms**).

¹⁰ The Act, s 3.4.20(2). See *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921 (**Ocean Grove**), [32] ff. (Morris J); *Bakers Arms* [2014] VCAT 1192, [126] (Code PM and Nelthorpe M). Cf *Mount Alexander* [2013] VCAT 101, [97] and following (Dwyer DP) (with respect to s 3.3.7 of the Act).

¹¹ *Mount Alexander*, [98] (Dwyer DP).

¹² *Ocean Grove*, [32] (Morris J); *Mount Alexander*, [99] (Dwyer DP); *Bakers Arms*, [126] (Code PM and Nelthorpe M). As to policy principles identified for consideration, see *Romsey No.1*, [7] (Warren CJ, Maxwell P and Osborn AJA).



submission dated December 2015.

16. The following material, prepared by officers of the Commission, was provided to the Applicant and Council, and considered by the Commission:
 - (a) an economic and social impact report dated December 2015 (**VCGLR Report**); and
 - (b) a pre-hearing inspection and compliance report dated 18 December 2015.
17. On the day of the hearing, the Applicant provided the Commission with:
 - (a) the Applicant's written submissions dated 5 January 2016;
 - (b) a breakdown of the increased gaming revenue and associated costs that would be anticipated if the Application is successful, which was prepared by Mr Stillwell;
 - (c) 'The Development of the Gippsland Economic Modelling Tool' by Federation University,
 - (d) 'Healthy Wellington: Municipal Public Health and Wellbeing Plan 2013-17' by Council;
 - (e) 'Background Paper – Risk Factors for Problem Gambling: Environmental, Geographic, Social, Cultural, Demographic, Socio-Economic, Family and Household' by the Victorian Responsible Gambling Foundation;
 - (f) 'Social and Economic Impact Assessment Framework for EGMs (Pokies)' by the Inner Northern Working Group on Gambling;
 - (g) 'Risk Factors for Gambling Problems: An Analysis by Gender' by Nerilee Hing, Alex Russell, Barry Tolchard and Lia Nower;
 - (h) a Victorian Responsible Gambling Foundation webpage summarising that paper;
 - (i) extracts of problem gambling risk factors from the sources listed in paragraphs (e)-(g) above; and
 - (j) a newspaper article, Council email and Council webpage informing the public about the survey conducted by Council in connection with the Application (**Council's Survey**).
18. Council handed up:
 - (a) its written submissions dated 5 January 2016;
 - (b) a Council's Survey results in respect of residents of Sale;
 - (c) an aerial map of the Venue and immediate vicinity;



- (d) a map of the Socio-Economic Indexes for Areas¹³ (SEIFA) scores and deciles in Sale;
- (e) the Sale, Wurruk and Longford Structure Plan;
- (f) a table setting out calculations of estimated additional gross gaming expenditure, prepared by Council;
- (g) a table setting out calculations of estimated and actual additional gross gaming expenditure at other venues;
- (h) tables showing EGM expenditure at those venues for the 2014/2015 financial year; and
- (i) tables showing EGM expenditure in the City of Greater Shepparton and the City of Glen Eira for the 2013/2014 and 2014/2015 financial years and the 2015/2016 financial year so far.

VENUE, PREMISES AND MUNICIPAL DISTRICT

- 19. The Premises are located in Sale within the Shire of Wellington (**Wellington**). Wellington is approximately 200 kilometres to the east of Melbourne. Sale itself is on the way to the Gippsland Lakes area and within close proximity to the Latrobe Valley and Ninety Mile Beach.
- 20. More specifically, the Premises are located on Sale-Maffra Road, to the west of Princes Highway, which is the major arterial road servicing the township of Sale and linking the two largest towns in Wellington, Sale and Maffra. The Premises are located just under 2km to the north of the Sale central business district and are zoned for public use. The zoning of the abutting land is varied.¹⁴ Land in the vicinity of (although not abutting) the Premises is zoned General Residential.
- 21. The Premises comprises a range of facilities, including:
 - (a) a greyhound racing track, kennel and training facilities;
 - (b) lounge areas overlooking the track;
 - (c) a dedicated gaming room with 70 operating EGMs;
 - (d) a sports bar;
 - (e) a café;
 - (f) a restaurant; and
 - (g) function and conference facilities.

¹³ Socio-Economic Indexes for Areas is a product developed by the Australian Bureau of Statistics that ranks areas in Australia according to relative socio-economic advantage and disadvantage.

¹⁴ Industrial 1, Public Use, Road, Rural Living, Low Density Residential and Public Park and Recreation.



22. The VCGLR Report sets out the following information.

- (a) Wellington is a rural Local Government Area (LGA) located approximately 200 kilometres east of Melbourne and covers an area of approximately 10,817 square kilometres. The SEIFA score for the Wellington LGA as a whole is 974.1. This means Wellington is ranked 25th out of 79 LGAs across Victoria, where 1st is the most disadvantaged LGA.
- (b) Wellington consists of five statistical local areas (SLAs),¹⁵ and the Venue is located in the Sale SLA. Statistical Area Level 1 (SA1) has been designed by the Australian Bureau of Statistics as the smallest unit for the release of Census data. As Wellington is a rural LGA, the immediate surrounding area considered includes all SA1s within a 5km radius. The immediate surrounding area of the Premises consists of 41 SA1s, and the estimated usual resident population for this area is 16,147.
- (c) The estimated adult population of Wellington is 32,660¹⁶ which ranks 4 out of 35 rural LGAs, with 1 being the most populated. The annual rate of population growth was projected by the former Department of Transport, Planning and Local Infrastructure to be 0.7% for the period 2016 to 2021, as compared with the Victorian average of 1.7%.
- (d) Currently, there are seven gaming venues within the municipality with approvals to operate a total of 314 EGMs. However, the number of EGMs actually in operation in these venues, as opposed to the number permitted to be operated, is 308 EGMs.
- (e) Wellington has an EGM density of 9.4 EGMs per 1,000 adults, which is 76.4% higher than the rural average of 5.3 EGMs per 1,000 adults and 65% higher than the State average of 5.7 EGMs per 1,000 adults. It has the 4th highest EGM density per 1,000 adults of 26 rural LGAs.
- (f) The average gaming expenditure per adult in Wellington for the 2014/2015 financial year was approximately \$657, which is 96% more than the rural average of \$335 and 18.7% more than the State average of \$553. Wellington is ranked 2nd highest of 26 rural LGAs in terms of expenditure per adult.
- (g) Overall gaming expenditure within Wellington has decreased by 24.8% in real terms over the past five years to June 2015. The rural average has experienced a decrease of 18.2% over the past five years.
- (h) 27.5% of SA1s within a 5km radius of the Venue are in the first quintile, which is relatively

¹⁵ The SLA is an Australian Standard Geographical Classification defined area which consists of one or more Collection Districts. An LGA comprises one or more SLAs. SLAs, in aggregate, cover the whole of Australia without gaps or overlaps.

¹⁶ Contrast with the figure of 41,335 in the NBA Report.



disadvantaged.

- (i) The unemployment rate in Wellington is 4.6%, which is below the rural unemployment rate of 5.1%. Unemployment in Wellington has decreased from 4.8% to 4.6% over the past 12 months.

23. Wellington is subject to a municipal limit of 324 EGMs.¹⁷ This is the maximum permissible number of gaming machine entitlements under which gaming may be conducted in Wellington.

EFFECT OF PROPOSED AMENDMENT ON MUNICIPAL LIMIT FOR GAMING MACHINES

24. The Commission is satisfied that granting the Application would result in an increase in the number of EGMs within Wellington that would not exceed the Municipal Limit.¹⁸

APPLICANT'S SUBMISSIONS AND WITNESSES RELEVANT TO THE TEST

25. In relation to the Test, it was the Applicant's submission that the net economic and social impact of the increase sought would not be detrimental to the wellbeing of the Wellington community based on:

- (a) the marginal increase to the number of EGMs, new expenditure, and Wellington EGM density and expenditure per adult;
- (b) the comparatively significant benefits of the Application.

26. The Applicant made the submission that the proposed multimillion-dollar relocation and redevelopment of the Venue would be assisted by approval of the Application but are not reliant on it.

Mr Leigh James Barrett

27. Mr Barrett is a director and principal consultant of Leigh Barrett and Associates Pty Ltd who specialise in the provision of a range of regulatory compliance services and staff training for gaming venues in Victoria. He adopted his witness statement dated 25 September 2015 and gave oral evidence to the Commission in relation to the Application.

28. According to his statement, Mr Barrett has been engaged by the Applicant since 2009 to provide regulatory compliance services. This has involved developing the Applicant's responsible gambling policies and procedures, training the Applicant's staff and conducting quarterly audits of the Applicant's regulatory compliance since October 2009. Based on those audits, Mr Barrett

¹⁷ On 10 September 2012, pursuant to s 3.4A.5(3A)(b) of the Act and in accordance with the criteria specified in the Order made by the Minister for Gaming on 15 August 2012, the Commission determined the maximum permissible number of gaming machine entitlements for each municipal district in Victoria.

¹⁸ In accordance with s 3.4.20(1)(b) of the Act.



has found the Applicant to be strongly compliant. Mr Barrett's statement details the responsible gambling practices engaged in by the Applicant's staff and management, and the responsible gambling training that all of the Applicant's gaming room and front-of-house staff and management committee members undergo, which includes an approved Responsible Service of Gambling (**RSG**) course.

29. Mr Barrett gave evidence that the commitment of the Applicant's management to responsible gambling practices is extremely high – those practices start at the top with the directors and management of the Applicant and are taken on board by all staff. Mr Barrett said that he has observed a high level of interactions between staff and gaming patrons, including interactive breaks from play such as funny money auctions in which patrons use fake money to bid for small household appliances.

Mr Timothy James Stillwell

30. Mr Stillwell is a director and partner of ShineWing. He has 18 years' experience in accountancy across a broad range of industries, including gaming and hospitality, and has developed an intricate knowledge of gaming industry performance and regulatory requirements. The Commission accepts that Mr Stillwell is qualified to give expert opinion on gaming expenditure predictions.
31. Mr Stillwell prepared the ShineWing Report, which he adopted before giving oral evidence to the Commission at the hearing of the Application.
32. Adopting the utilisation method,¹⁹ Mr Stillwell's evidence was that in the first 12 months of trade following installation of the additional EGMs sought:
- (a) additional gross gaming expenditure would be between \$59,422 and \$109,062;
 - (b) 40% of that additional expenditure would be transferred expenditure from within Wellington; and
 - (c) new expenditure would be \$35,653 to \$65,437.

Mr Peter James Johnston

33. Mr Johnston is the general manager, nominee and authorised officer of the Applicant. He adopted his witness statement dated 25 September 2015 and gave oral evidence to the Commission in relation to the Application.

¹⁹ Which, according to the ShineWing Report, involves analysis of the utilisation statistics of the current EGMs at a venue in order to determine assumed incremental gaming expenditure for the additional EGMs based on periods of peak utilisation (ie where ostensible demand exceeds supply).



34. According to Mr Johnston's statement:

- (a) all of the Applicant's directors are trained in RSG and he himself has worked in the gaming industry for 20 years;
- (b) the Applicant's short-term strategy is to obtain approval to install an additional 10 EGMs at the Premises;
- (c) its medium-term strategy is to relocate the Venue to land it has purchased to construct a new gaming, racing and entertainment complex to be operational by the 2022/2023 financial year;
- (d) it is imperative that the Club maintains current EGM revenue in order for the redevelopment and relocation to occur;
- (e) the Applicant does not expect the additional EGMs sought to generate any significant additional revenue, but requires them to cater for current patron demand during peak periods, in which at times the Applicant has insufficient EGMs to cater for patron demand;
- (f) not only does the Applicant provide a great venue for hospitality, social pursuits and employment opportunities, but it is responsibly managed and operated and acts as a major contributor to the local economy; and
- (g) the Applicant engages in various responsible gambling practices and promotes a strong culture of responsible gambling and customer welfare.

35. Building on this, Mr Johnston's oral evidence confirmed the Applicant's commitment to responsible gambling, from its board down to its staff.

36. Mr Johnston confirmed that in addition to maintaining its current community contributions, the Applicant will distribute \$30,000 to the community through a committee that is to include board members and Council representatives.

Mr Nicholas Barry Anderson

37. Mr Anderson is the Managing Director of NBA, which is a planning and development consultancy. He is a qualified town planner and urban development professional. The Commission accepts Mr Anderson has the experience to undertake and provide expert opinion on the assessment of socio-economic impact he has done for this Application.

38. Mr Anderson prepared the NBA Report. He adopted the NBA Report as well as giving oral evidence to the Commission in relation to the Application.



39. The NBA Report states that the Venue is located in the Sale Statistical Area Level 2 (**SA2**),²⁰ which is in the third decile within Victoria and the fourth decile within Australia, making it one of the more disadvantaged areas, while the Wellington LGA is in the fifth decile within Australia.
40. The NBA Report cites the Applicant's data that approximately 50% of patrons come from within a 5km radius and the other 50% comes from well outside this catchment, making it a destination venue (as opposed to a venue of convenience).
41. The NBA Report sets out the Applicant's current level of cash, sponsorship and in-kind contributions to the community, putting the value of those cash and sponsorship contributions for the last 10 years at over \$300,000.
42. The NBA Report concludes that the net economic and social impact would be positive.
43. In addition, Mr Anderson gave oral evidence as follows.
 - (a) When considering the figures for EGM density and estimated new expenditure that would result from approval of the Application, the significant percentage of patrons who come from outside Wellington should be taken into account so as to qualify those figures.
 - (b) The significant benefits of the Application are the location of the Venue, the additional community contributions proposed and the nature of the Venue as a genuine destination venue.
 - (c) Due to the distinctly separate gaming room at the Premises in the context of a large, multiuse venue, there may be a need for additional shifts for staff if the additional machines attract additional patrons.

COUNCIL'S SUBMISSIONS AND WITNESSES RELEVANT TO THE TEST

44. Council's submissions in relation to the Test focused on possible detrimental social and economic impacts on the wellbeing of the Wellington community.
45. Council made the submission that the Sale SLA has an EGM density of 19.2 per 1,000 adults, which would increase to 20 EGMs per 1,000 adults if the Application is granted – double the density allowed in many areas under the regional caps policy and more than three times the State average. It went on to say that to add more EGMs in the Sale SLA would exacerbate existing problems associated with the oversupply of EGMs.
46. Council referred to its responsible gambling policy (**Council's Policy**), which primarily relates to the need to reduce the number of machines in Sale SA2.

²⁰ The area of each SA2 is based on gazetted State suburbs and localities: the NBA Report.



47. According to Council, based on gross gaming expenditure of over \$6.1 million at the Venue in the 2014/2015 financial year, an additional 10 EGMs could increase gross gaming expenditure at the Venue by up to \$873,520 per year. In the Council's submission, whatever the increase, it is money that the local economy – and local households – cannot afford.
48. Council cited Productivity Commission data on problem gambling and concluded that increasing the number of EGMs can only have a negative impact on problem gamblers and their immediate networks (an estimated 5-10 people per problem gambler).
49. Council noted that the additional \$30,000 in community contributions pledged by the Applicant is in lieu of the equivalent amount of community support contributions that would otherwise be payable as tax and complained that the Applicant had failed to provide adequate information about how and to what parts of the community the money would be allocated.
50. Council's survey was relied upon by Council as evidence of the community's concerns about EGMs generally and opposition to the Application specifically.
51. Council concluded that the overall social and economic impact of the additional EGMs sought would be detrimental.

Ms Karen McLennan

52. Ms Karen McLennan is Council's Coordinator of Social Planning and Policy and has been in the role for four years. She is responsible for the development of Council's public health and wellbeing plan under the *Public Health and Wellbeing Act 2008*. Ms McLennan gave oral evidence to the Commission at the hearing of the Application.
53. Ms McLennan explained that Council's Policy was developed as a result of community concerns about the high level of expenditure on EGMs in Wellington, and that Council's Survey confirmed the currency of those concerns and Council's Policy.
54. Ms McLennan also gave evidence about Wellington's vulnerable population groups and that Wellington has become more disadvantaged between 2001 and 2011 according to SEIFA data.

Ms Sandra Luxford

55. Ms Luxford is a social worker employed by Latrobe Community Health Service as a problem gambling counsellor. She has worked as a counsellor for about 20 years and the last 3 years of this she has worked as a problem gambling counsellor. The Latrobe Community Health Service problem gambling services covers all of Gippsland.
56. Ms Luxford gave evidence of her professional experience and knowledge relating to problem gambling generally and that her client load from Sale specifically is around 15 and relatively



stable.²¹

57. Ms Luxford's evidence indicated that clients suffering from gambling problems have mixed reactions to staff interaction with gaming patrons – some clients seem to like it, whilst others will avoid it.

COMMISSION'S CONSIDERATION OF THE TEST

58. The Commission's consideration of the Test is its assessment of the likely economic and social impacts of the proposed increase in EGMs on the wellbeing of the Wellington community, incorporating the relevant factual findings and the weight attributed to each of those impacts. Its determination of the net economic and social impact of the proposed increase is based on that assessment. The Commission's consideration of the Test in this case is set out in full below and summarised in tabular form in the appendix to these reasons for decision.

ECONOMIC IMPACTS

59. The Commission accepts the evidence of Mr Stillwell contained in the ShineWing Report, with particular reference to the new expenditure of \$35,653 to \$65,437 and transferred expenditure of 40% predicted to occur if the additional 10 EGMs are installed at the Premises. It does not accept the lineal projections of Council with respect to new expenditure.
60. The Applicant has committed to contribute an additional \$30,000 per annum to the community if the Application is granted. The Commission considers this would be an economic benefit to the community. It is a significant increase from the current level of contributions and the Commission is satisfied that both the current level of contributions will be maintained and the proposed additional contribution will be made. Accordingly, the weight attributed to this benefit is marginal.
61. To the extent of any new expenditure that is not attributable to problem gambling, the Commission considers this to be an economic benefit. However, the Commission also notes that the proposed increase is relatively modest, and as such, that economic benefit is assigned marginal weight.
62. The proposed relocation and redevelopment of the Venue is estimated by Mr Anderson to cost over \$20 million in a joint venture between the Applicant and Greyhound Racing Victoria, with the Applicant's share estimated to be \$14 million. The redevelopment would be a major benefit to the community in the mid to long term. The Applicant's submission was that the redevelopment is not contingent on the proposed increase in EGMs, but would be assisted by the increase. The NBA Report indicates that the renewal of the present entitlements, plus those for the additional 10 EGMs sought, is required to fund the development. Taking all this into account, the

²¹ Ms Luxford did not indicate whether this refers to 15 clients or 15% of her client load.



Commission attributes no weight to the economic impact of the proposed redevelopment.

63. In relation to additional employment, the Commission accepts Mr Anderson's evidence that, at a minimum, existing levels of staffing will be maintained. The redevelopment may eventually lead to additional employment, but there was little to no evidence led that that additional employment will be an impact of the additional EGMs. Mr Johnston and Mr Anderson gave evidence that there may be some requirement for extra shifts for staff. Mr Johnston also stated that recruitment of a function manager (as referred to in the NBA Report) will not be solely based on a gaming revenue but rather a whole-of-club expenditure. Given that very little additional employment is expected to be necessary as a result of the additional EGMs, the Commission gives this factor no weight.
64. The Applicant did not claim that complementary expenditure would result from approval of the Application, nor did the Commission identify any evidence of complementary expenditure. Accordingly, this factor has not been given any weight.
65. There was limited evidence provided as to the likely levels of additional supply contracts as a result of the additional EGMs. Mr Johnston gave evidence that the installation of the additional EGMs would involve some carpentry and cabinetry work and extra cleaners may be required for the additional EGMs. The NBA Report indicated that the redevelopment would lead to additional but temporary contracts for local businesses (for example, 45 jobs for the 18-24-month construction phase), but there was no evidence led that those additional contracts will be an impact of the additional EGMs. Accordingly, the Commission has not attributed any weight to this factor.
66. Relative to the current number of EGMs (70), a low number of additional EGMs (10) is proposed. As a result, there is likely to be little to no increase in gaming competition in the community. No evidence was led that the proposed increase in EGMs would result in an increase in gaming competition. The Commission attributes this factor no weight.
67. The low level of anticipated new expenditure (relative to transferred expenditure of 40% and also gross expenditure in Wellington) and current levels of utilisation of EGMs at the Premises indicate that the risk of an increase in the negative economic impact of problem gambling is low.²²
68. The Commission considers further that this risk is mitigated by:
 - (a) the Premises' location (outside the Sale CBD), layout (with a separate gaming room) and nature (as a destination venue);

²² In assessing the extent of this disbenefit, the Commission notes that as transferred expenditure is not new expenditure, any transferred expenditure would not be representative of any increase in the economic impact of problem gambling.



- (b) 50% of the Venue's patronage coming from outside the catchment area; and
- (c) the RSG practices at the Venue, which are demonstrative of the institutionalisation of RSG from the top down.

69. Overall, the Commission attributes marginal weight to the possible increase in the economic impact of problem gambling on the Wellington community.

SOCIAL IMPACTS

70. Additional EGMs may better serve the needs of patrons by providing a wider variety of choice of EGMs for recreational gamblers. However, given the relatively low number of additional EGMs sought and the existing utilisation rates at the Premises, this impact is likely to be limited. Accordingly, the Commission has assigned this factor only marginal weight.
71. As referred to in paragraph 62 above, the proposed redevelopment and resultant enhancement of facilities are not attributable to the additional EGMs sought, save that the increase in EGMs would be of general assistance. This is therefore of only limited relevance to the Commission's consideration of the likely social impacts of the proposed increase. The Commission accordingly attributes no weight to the possible enhancement of facilities at the Premises for local patrons.
72. The additional \$30,000 pledged in community contributions could have a positive impact on local community organisations and members, including in the form of social benefits. The Commission has given this impact moderate weight.
73. The Commission accepts that any possible increase in problem gambling carries with it the potential of negative social impacts. However, current levels of utilisation of EGMs at the Premises indicate that any increase in the incidence and negative social impacts of problem gambling is likely to be low. The Commission acknowledges the evidence presented by Council as to the health and social problems associated with problem gambling, but notes that it did not relate to the Venue specifically. The Commission is of the view that the factors set out in paragraph 68 above will act to reduce the possible increase in the social impact of problem gambling. The Commission therefore attributes a marginal weight to the possible increase in health and social problems.
74. The Commission acknowledges Council's commitment to the wellbeing of its community and the community concerns expressed in Council's Survey. However, the Commission notes the distinction between general issues related to problem gambling as opposed to an attitude specifically related to the Applicant and the Application. Although the Commission does not accept the Applicant's submission that Council's Survey was biased, the Commission notes that the survey largely reflected community concerns about gambling generally. Very few responses



related to community concerns specifically about the Venue. The Commission notes the positive views expressed in the Applicant's survey in regards to responsible gambling and the expectation of no change to the community's wellbeing. Given that it was only completed by the Applicant's members, who could be expected to be supportive of the Application, the Commission has taken into account that those views are of a particular section of the community. Accordingly, the Commission has attributed a low weight to community concerns and views overall.

NET ECONOMIC AND SOCIAL IMPACT

75. After consideration of all the evidence as to the likely social and economic impacts of the increase in EGMs sought, including attributing an appropriate weight to each of those impacts, the Commission has concluded that there is likely to be an overall neutral social and economic impact, and therefore no net detriment, to the wellbeing of the Wellington community if the Application is granted.

EXERCISE OF OVERRIDING DISCRETION AND DECISION

76. Having determined that the Test has been satisfied, there remains a discretion on the part of the Commission to determine whether or not to grant the Application.²³
77. In exercising its discretion, the Commission is required to have regard to the purposes of the Act and, in particular, the specific purposes of Chapter 3 of the Act dealing with the regulation, supervision and control of gaming machines. Further, it may be influenced by broader policy considerations drawn from the content and objectives of the Act as a whole.
78. In this case, the Commission is satisfied that there are no reasons that would make it appropriate to exercise its overriding discretion to refuse the Application.
79. Accordingly, the Commission has decided to grant the Application. In doing so, the Commission believes it is appropriate that the increase in the number of EGMs is subject to the following condition:

Community Contributions

The Venue Operator, from the commencement of the operation of the 10 additional EGMs at the Approved Venue until 15 August 2022:

- *maintains its current level of cash and in-kind contributions to the community;*
and
- *contributes an additional \$30,000 per annum (indexed annually to All Groups CPI – Melbourne) to the community of the municipality of the Wellington Shire*

²³ The Act, s 3.4.20(2).



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Council, to be distributed by the Venue Operator in consultation with the Wellington Shire Council.

The preceding 79 paragraphs are a true copy of the decision and reasons for decision of Deputy Chair Helen Versey and Commissioner Des Powell.

APPENDIX – SUMMATION OF SOCIAL AND ECONOMIC BENEFITS AND DISBENEFITS

The following table is a summation of the economic and social benefits and disbenefits considered by the Commission in reaching its decision. It is to be read in conjunction with the Commission's reasons for decision. The weight attributed to each factor is determined in light of the particular circumstances of the application as detailed in the reasons for decision.

Likely economic impacts of proposed increase in EGMs on municipal district community's wellbeing

Benefit	Impact	Para	Comments, including weight
	Relocation and reconstruction of the Premises	62	Proposed redevelopment is estimated to cost over \$20 million and is not contingent on the proposed increase in EGMs, but the Applicant's long-term financials would be assisted by the increase. No weight.
	Increase in gaming expenditure not associated with problem gambling	61	Extent of additional gaming expenditure is not likely to be significant relative to current expenditure and therefore the proportion not associated with problem gambling is also likely to be minimal. Marginal weight.
	Community contributions	60	Proposed additional community contribution of \$30,000 per annum, which the Applicant has pledged, subject to approval of the proposed amendment, would be an economic benefit to the community. It is a significant increase from the current level of contributions and the Commission is satisfied that both the current level of contributions will be maintained and the proposed additional contribution will be made. Marginal weight.
	Additional employment	63	Very little additional employment expected to be necessary as a result of the additional EGMs. At a minimum, existing levels of staffing will be maintained. No weight.
	Complementary expenditure	64	The Applicant did not claim that complementary expenditure would result from approval of the Application, nor did the Commission identify any evidence of complementary expenditure. No weight.



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	Impact	Para	Comments, including weight
	Supply contracts for other local businesses	65	There was limited evidence provided as to the likely levels of additional supply contracts as a result of the additional EGMs. No weight.
	Increase in gaming competition in the community	66	Relative to the current number of EGMs (70), a low number of additional EGMs (10) is proposed. As a result, there is likely to be little to no increase in gaming competition. No weight.
Disbenefit	Possible increase in economic impact of problem gambling	67-69	Low level of anticipated new expenditure (relative to gross expenditure in Wellington) and current levels of utilisation of EGMs at the Premises are indicative of any potential increase in the negative economic impact of problem gambling also being low. Other mitigating factors include the Premises' location, layout and nature, the significant proportion of patrons who come from outside the catchment area and the RSG practices at the Venue. Marginal weight.



Likely social impacts of proposed increase in EGMs on municipal district community's wellbeing

	Impact	Para	Comments, including weight
Benefit	Wider variety of choice of EGMs for recreational gamblers	70	Additional EGMs may better serve the needs of patrons. However, given the relatively low number of additional EGMs sought and the existing utilisation rates at the Premises, this impact is likely to be limited. Marginal weight.
	Enhancement of facilities at Premises for local patrons	71	The proposed redevelopment and resultant enhancement of facilities are not attributable to the additional EGMs sought, save that the increase in EGMs would be of general assistance. No weight.
	Community contributions	72	The additional \$30,000 pledged in community contributions could have a positive impact on local community organisations and members, including in the form of social benefits. Moderate weight.
Disbenefit	Possible increase in health and social problems if there is an increase in problem gambling	73	The Commission accepts there is potential for negative social impacts through possible increased problem gambling. However, this risk is mitigated by the location, layout and nature of the Premises, the significant proportion of patrons who come from outside the catchment area and the RSG practices at the Venue. Current levels of utilisation of EGMs at the Premises also indicate that any increase in the incidence and negative social impacts of problem gambling is likely to be low. Marginal weight.



Impact		Para	Comments, including weight
Community concerns		74	<p>The Commission acknowledges Council's commitment to the wellbeing of its community and the community concerns expressed in Council's Survey. However, the Commission notes the distinction between general concerns related to gambling as opposed to an attitude specifically related to the Applicant and the Application, and that the Application relates to an increase in the number of gaming machines (rather than the establishment of a new venue).</p> <p>Low weight.</p>