

Victorian Commission for Gambling and Liquor Regulation

DECISION AND REASONS FOR DECISION

In the matter of an application under section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* by the Glenroy RSL Sub-Branch Inc. for amendment of its venue operator's licence to vary the number of electronic gaming machines at the approved premises, the Glenroy RSL, located at 186 Glenroy Road, Glenroy, from forty (40) to fifty (50).

Commission:

Dr Bruce Cohen, Chair
Ms Helen Versey, Deputy Chair

Appearances:

Ms Jennifer Trewhella of Counsel for the Applicant (instructed by Williams Winter Solicitors)

Mr Justin Ghattas as Counsel Assisting the Commission

Date of Hearing:

9 September 2015

Date of Decision:

22 October 2015

Date of Reasons:

22 October 2015

Decision:

The application is granted subject to the conditions outlined at Paragraph 110 of these Reasons for Decision.

Signed:

Bruce Cohen
Chair



REASONS FOR DECISION

INTRODUCTION

1. This is an application by the Glenroy RSL Sub-Branch Inc. (**the Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) for amendment of its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the Glenroy RSL, 186 Glenroy Road, Glenroy (**the Premises**), from 40 to 50 (**Application**).
2. The Premises is located in the City of Moreland (**Moreland**) and the relevant municipal authority is the Moreland City Council (**the Council**).
3. By letter to the Commission dated 31 July 2015, the Council indicated that it would make submissions in opposition to the Application. On 25 August 2015, Council made their submissions to the Commission.
4. By letter to the Commission dated 7 September 2015, Council indicated their intention to withdraw the objection to the Application, after having negotiated with the Applicant in relation to the imposition of particular conditions of approval should the Commission grant the Application.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

5. 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* (**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. For this reason the 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.
6. The objectives of the Act are set out in s 1.1, which provides, inter alia:

- ...
- (2) *The main objectives of this Act are—*
- (a) *to foster responsible gambling in order to-*
 - (i) *minimise harm caused by problem gambling; and*
 - (ii) *accommodate those who gamble without harming themselves or others;*
 - (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*
 - (b) *to ensure that gaming on gaming machines is conducted honestly;*
 - (c) *to ensure that the management of gaming equipment and monitoring equipment is free from criminal influence and exploitation;*
 - (d) *to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;*
 - (e) *to ensure that-*
 - (i) *community and charitable gaming benefits the community or charitable organisation concerned;*
 - (ii) *practices that could undermine public confidence in community and charitable gaming are eliminated;*



- (iii) *bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;*
- (f) *to promote tourism, employment and economic development generally in the State.*

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

- (1) *The purpose of this Chapter is to establish a system for the regulation, supervision and control of gaming equipment and monitoring equipment with the aims of—*
 - (a) *ensuring that gaming on gaming machines is conducted honestly; and*
 - (b) *ensuring that the management of gaming equipment and monitoring equipment is free from criminal influence or exploitation; and*
 - (c) *regulating the use of gaming machines in casinos and other approved venues where liquor is sold; and*
 - (d) *regulating the activities of persons in the gaming machine industry; and*
 - (e) *promoting tourism, employment and economic development generally in the State; and*
 - (f) *fostering responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling;*
 - (ii) *accommodate those who gamble without harming themselves or others.*
- (2) *The purpose of this Chapter is also to—*
 - (a) *provide for the allocation of gaming machine entitlements in order to maximise the financial and social benefits to the Victorian community within the regulatory framework applying to the allocation of entitlements;*
 - (b) *promote a competitive gaming industry with the aim of providing financial and social benefits to the Victorian community.*

8. The relevant provision concerning this particular Application is to be found in s. 3.4.17(1)(b) of the Act, which provides:

- (1) *The conditions of a venue operator's licence including—*
 - (a) ...
 - (b) *variation of the number of gaming machines permitted in an approved venue;*
 - (c) ...
 - (d) ...*may be amended in accordance with this Division.*

9. Section 3.4.18 to 3.4.19 of the Act provide for the manner in which requests for amendments under section 3.4.17(1)(b) are to be made. Relevantly for this 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 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 for consideration before the Commission with respect to a proposed amendment. Relevantly for this Application that section provides, inter alia:

- (1) *Without limiting the matters which the Commission may consider in deciding whether to make a proposed amendment the Commission must not amend a venue operator's licence unless—*
 - ...
 - (b) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the regional limit or municipal limit for gaming machines for the region or municipal district in which the approved venue is located will not be exceeded by the making of the amendment; and*
 - (c) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the net economic and social impact of the amendment will not be detrimental to the well-being of the community of the municipal district in which the approved venue is located;*
 - ...

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

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

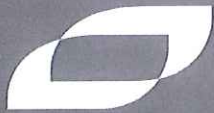
- the likely economic impacts of approval;
- the likely social impacts of approval; and
- the net effect of those impacts on the well-being of the relevant community.²

14. As such, the 'no net detriment' test is a composite test requiring consideration of a single net impact in economic and social terms on well-being of the community.³ The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic

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.



and social impacts of approval on the well-being of the relevant community will be either neutral or positive.

15. The Commission recognises that the task of identifying likely benefits and disbenefits will not always be straightforward given the overlap of socio-economic issues, and the quality and availability of relevant data and cogent evidence. Some economic outcomes may have social consequences, and vice versa.⁴ On review, decisions in the Victorian Civil and Administrative Tribunal (**VCAT**) have held that for impacts that may be both economic and social – for example the benefits of gaming consumption – it does not matter whether the impact is considered on the economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.⁵

16. The Commission also notes that on review, it has been indicated by VCAT that:

*A table of likely economic and social benefits and disbenefits, and with some comments relevant to the relative weight to be given to particular factors ... is a useful way of transparently dealing with the 'no net detriment' test, and might perhaps be considered for wider application.*⁶

This approach has been adopted in a number of VCAT decisions.⁷ To facilitate greater consistency between the Commission and VCAT, the Commission has adopted the same approach in this instance.

17. If the Commission is not satisfied that the 'no net detriment' test is met, that is clearly fatal to the application given the opening words of s 3.4.20(1) of the Act. The test is a mandatory pre-condition to approval. However, although s 3.4.20(1) sets out certain mandatory considerations for the Commission, the provision is not cast in exhaustive terms. If the Commission is satisfied that the 'no net detriment' test is met, it still has an ultimate discretion as to whether or not to grant the approval.⁸ The Commission must decide whether to make the proposed amendment, with or without any changes from that proposed by the Applicant, even where there applicant has satisfied the minimum threshold of the 'no net detriment' test.⁹

18. In considering the exercise of this discretion:

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

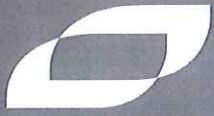
⁵ See *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #2)* [2009] VCAT 2275, [352] per Bell J; *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [58] per Dwyer DP.

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

⁷ See, 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.

⁸ 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 s. 3.3.7).

⁹ *Gambling Regulation Act 2003*, section 3.4.20(2).



- it must be exercised 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;¹⁰ and
 - it may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the Act as a whole.¹¹
19. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹² that if all of the mandatory considerations under the 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.
20. The Commission notes that one category of matters which has been a relevant consideration in this exercise of discretion has been the impact that an increase in gaming machines may have on surrounding municipalities. This approach was taken by the Victorian Civil and Administrative Tribunal's in *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation*,¹³ and also previously by the Commission.¹⁴ The impact on surrounding municipalities as a relevant consideration for the Commission is also reflected in the requirement under section 3.1.18(1)(c)(ii) for submissions to be provided by the Applicant on this issue, and for the relevant municipal council to make similar submissions pursuant to section 3.1.19(1)(b).

MATERIAL BEFORE THE COMMISSION

21. Prior to the hearing, the Applicant provided the Commission with the following material in support of its Application:
- (a) Social and Economic Impact Assessment prepared by NBA Group (**NBA**) dated June 2015;
 - (b) Expenditure Report prepared by Progressive Venue Services Australia Pty Ltd (**PVS**) dated 10 April 2015;

¹⁰ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [98] per Dwyer DP.

¹¹ *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 *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [7] per Warren CJ, Maxwell P and Osborn AJA.

¹² [2013] VCAT 101, [98].

¹³ [2014] VCAT 1192, [127] per Code PM and Nelthorpe M.

¹⁴ In the matter of an application from the Bakers Arms Hotel Pty Ltd to amend the venue operator licence to vary the number of gaming machines at the Braybrook Hotel, determined 31 October 2013, at 116.



- (c) Witness Statement of Kenneth Raymond White, President of the Applicant, dated 11 June 2015;
 - (d) Witness Statement of David William May, General Manager of Applicant, dated 11 June 2015; and
 - (e) Witness Statement of Renae Lee Nicholson, Secretary of the Committee of the Applicant, dated 11 June 2015.
22. Prior to the hearing, Council provided the Commission with the following material in opposition to the Application:
- (a) Social and Economic Impact Assessment prepared by Symplan (**Symplan**) dated 25 August 2015;
 - (b) submissions of neighbouring municipal councils:
 - (i) Hume City Council, dated 10 August 2015; and
 - (ii) Moonee Valley City Council, dated 25 August 2015.
 - (c) correspondence from Glenroy Neighbourhood Learning Centre to Symplan dated 26 August 2015.
23. On 7 September 2015, the Commission was provided with correspondence confirming the withdrawal of Council's objection to the Application. The correspondence stated, inter alia:

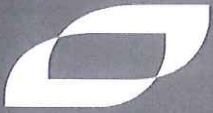
"Discussions have recently taken place between the Glenroy RSL and Council regarding the Application. As a result, Council hereby withdraws its objection on the basis that it has been agreed with the Glenroy RSL that the following 2 conditions be imposed if the Application is approved:

1. *The Glenroy RSL agrees to contribute \$20,000.00 per annum (for the life of the entitlements) towards initiatives for community support and education within Moreland, as agreed in consultation with Council.*
2. *If the works proposed in application to amend planning permit MPS/2000/1057/A are not substantially completed within 2 years of the date on which the corresponding planning permit is granted, this approval will lapse and the number of electronic gaming machines that may be operated by the Glenroy RSL will revert to 40.*

We respectfully request that the Commission take this into account in determining the application."

The Council did not appear at the hearing of the Application.

24. Prior to the hearing, the following material prepared by Commission officers was provided to the Applicant and the Council, and was considered by the Commission:
- (a) a report titled *Economic and Social Impact Report* dated September 2015 (the **VCGLR Report**); and



- (b) a report titled *Pre-Hearing Inspection and Compliance Report* dated 24 August 2015.
- 25. On the day of the hearing, the Commission was provided by the Applicant:
 - (a) an outline of submissions on behalf of the Applicant; and
 - (b) a copy of a document titled "*Using Retail Gravity Theory to Model Gaming Venue Expenditure and Transfer in Victoria*" prepared by Bruce Waddington, Geotech Information Service, dated 26 June 2014.
- 26. Following the hearing, the Commissioners undertook a site visit of the Premises.

CITY OF MORELAND AND THE GLENROY RSL

- 27. The Premises are located on the north side of Glenroy Road, within an established part of the Glenroy Activity Centre. The Premises are situated to the east of the Glenroy Train Station and are separated from the main commercial strip of the Glenroy Shopping Centre by an at-grade railway line.
- 28. The Premises currently comprises –
 - (a) a reception area at the entrance;
 - (b) a 100 seat bistro, open 7 days a week for lunch and dinner;
 - (c) a function room which seats 140 people;
 - (d) a gaming lounge which currently has 40 EGMs installed;
 - (e) a Sports Bar;
 - (f) office space;
 - (g) children's play area; and
 - (h) an alfresco dining area.
- 29. As detailed in the VCGLR Report:
 - (a) Moreland is a metropolitan Local Government Area (**LGA**) located approximately 10 kilometres north of Melbourne, and covers approximately 51 square kilometres. Major centres within Moreland include Brunswick, Coburg and Glenroy. Moreland has an estimated adult population of 135,774 and the annual rate of population growth was projected by the then Victorian Department of Transport, Planning and Local Infrastructure to be 1.8% for the period 2016 to 2021, as compared with the Victorian average of 1.7%;

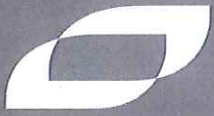


- (b) part of Moreland is subject to a regional cap of 640 EGMs and the remaining part is subject to a municipal limit of 445 EGMs.¹⁵ The Premises are located in the area that is subject to the municipal limit. Currently, there are three venues within that area with approvals to operate, and are operating, a total of 129 EGMs. The Commission is satisfied in accordance with section 3.4.20(1)(b) that approval of this Application would increase the number of licenced EGMs within Moreland to 139 and, as a result, the relevant municipal limit would not be exceeded;
- (c) overall, the Commission has estimated that Moreland currently has an EGM density of 5.2 EGMs per 1000 adults, which is 3.8% lower than the metropolitan average (5.4) and 9.1% lower than the State average (5.7). This ranks Moreland as the 19th highest of 31 metropolitan municipalities in terms of EGM density per 1000 adults. If the Application is approved, the EGM density in Moreland would rise by 0.1% to 5.3 EGMs per 1000 adults;
- (d) Moreland has an estimated average gaming expenditure of \$468 per adult, which is 18.8% less than the metropolitan average (\$576) and 15.5% less than the State average (\$553). Applying the estimate of increased gaming expenditure as received from the Applicant, approval of this Application would result in an increase in average gaming expenditure per adult of 0.9%. Overall, gaming expenditure within Moreland has decreased by 21.91% in real terms over the past five years, which is a greater decrease than the metropolitan average of 21.51% in real terms over the past five years;
- (e) in relation to the area immediately surrounding the Premises (i.e. within 2.5km), approximately 65% of SA1s¹⁶ within 2.5km of the Premises are in the two most disadvantaged quintiles of the SEIFA¹⁷ index of relative socio-economic disadvantage scores, with approximately 16% of SA1s being in the fourth or fifth quintiles; and
- (f) during the March 2015 quarter, it is estimated that the unemployment rate in Moreland is 7.4%, which is higher than the metropolitan unemployment rate of 6.6%. Unemployment in Moreland has decreased from 8.1% to 7.4% over the past 12 months.

¹⁵ Pursuant to section 3.4A.5(3A)(b) of the Act, the Commission determined, in accordance with the criteria respectively specified in two Minister for Gaming's Order dated 15 August 2012 (see *Victorian Government Gazette S279 and S280, 15 August 2012*), the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each specified region and each municipality (or that part of the municipality for which a regional cap did not apply). The maximum number of entitlements that apply for areas subject to regional caps and for those areas for which municipal limits apply are set out in *Victorian Government Gazette G 31, 13 September 2012 (pp. 2042-45)*.

¹⁶ Statistical Area Level 1 (SA1) have been designed by the Australian Bureau of Statistics (ABS) as the smallest unit for the release of Census data.

¹⁷ Socio-Economic Indexes for Areas (SEIFA) is a product developed by the ABS that ranks areas in Australia according to relative socio-economic advantage and disadvantage. It consists of four different indexes, including the Index of Relative Socio-economic Disadvantage.



APPLICANT WITNESSES AND SUBMISSIONS

Mr Kenneth Raymond White

30. Mr White is the President of the Applicant and adopted his written statement dated 11 June 2015 as his evidence. Mr White gave oral evidence to the Commission about the operation and financial position of the Premises. Mr White stated that the Premises only operated for the benefit of the community in which it was situated and the benefit of former and current returned servicemen and women.
31. Mr White indicated that the Applicant was heavily involved in welfare and charitable work in respect of veterans, the local community, or any other person who asked for help. In particular, Mr White outlined the breadth of this work, which included assistance with transportation and attendance at hospital appointments, home visits, arrangement of RSL services at funerals, and providing use of the function facilities to any community organisation that requests use.
32. Mr White also provided the Commission with some insight into how the Applicant determines where, and to whom, donations and community contributions are made. Mr White indicated that the Applicant assesses requests for donations on a case-by-case basis, with a preference that contributions are made to the local community and organisations as opposed to broader organisations that may not necessarily be located within the community, and thus not have the same impact on welfare or use.
33. Whilst welfare and donations were primarily provided to organisations within the Glenroy locality, Mr White outlined that the Applicant was not limited to the local community and provided assistance and made school visits to areas in the broader region beyond Glenroy. In support, Mr White provided a list of over 35 recipients for which donations or scholarships were made, including sporting, social, health and welfare organisations, as well as schools. Several donations were also provided to veterans and ex-servicemen and women.
34. In addition to the external assistance that the Applicant provides, Mr White stated that the Applicant also subsidises meals and entertainment at the Premises (to the value of almost \$110,000), subsidised room hire (to the value of \$25,200), the arrangement of trips for war widows three times per year at a cost of \$1,300 each, and the provision of a fleet of mobility scooters (inclusive of servicing and maintenance) at a cost of \$1,900 each.
35. Mr White stated that the proposed development was aimed at creating extra income, that all the finances that come to the Applicant are spent on the Premises, welfare or donations, and that the finances remain with the Applicant and are not returned to ANZAC House.



36. It was the submission of Mr White that the grant of the Application would make the operation of the shuttle bus easier and allow the Applicant to expand the reach of assistance of the Applicant to greater portion of the local area.

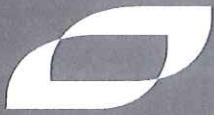
Mr David William May

37. Mr May is the General Manager of the Premises and adopted his written statement dated 11 June 2015 as his evidence. Mr May gave oral evidence to the Commission in relation to the Applicant generally, as well as specific information concerning the operation of the Premises.
38. Mr May oversaw the last major redevelopment of the Premises in 2001, at a cost of \$2.6 million. That redevelopment involved a redesign of the venue and gaming area.
39. Mr May indicated that the Premises have a very low staff turnover. Of the 28 employees at the Premises, eight have been employed for at least ten years.
40. The Premises currently have 952 members, made up of 161 service members, 386 affiliate members, 366 social members and 39 community members, and has increased for five consecutive years.
41. Mr May stated that the proposed redevelopment was aimed at increasing these membership numbers by appealing to a greater proportion of the population of the community. In particular, young families – often second generation families of veterans – were a demographic that the Applicant was interested in catering for, by virtue of improving the facilities at the Premises and catering to the character of that demographic.
42. Mr May stated that the Premises needed to remain current and appealing by improving and updating the facilities, and making those facilities family-friendly, safe and modern, with a focus on tailoring the Premises to become a destination venue for entertainment and dining in the local area.
43. Mr May stated that should the Application be granted, the operation of EGMs would occur immediately and the proposed redevelopment works would commence around March 2016. Mr May also indicated that the redevelopment works would be completed by “this time next year”, as he was conscious of employees being unable to work at the Premises for an extended period should the works continue for a longer period.
44. Mr May supported the evidence of Mr White, and reiterated that the additional revenue raised by the additional EGMs would be used by the Applicant to increase the level of social and welfare services available to the community.
45. In response to questions from the Commission, Mr May confirmed that the redevelopment would commence irrespective of the outcome of the Application. Mr May did, however, qualify the extent of the redevelopment, and indicated that whilst the works may still occur over the same period of

time, they may not be to the extent as originally planned and outlined to the Commission, and other areas of the Applicant's operations may suffer, such as the extent of donations and welfare services that are provided to the community.

Ms Renae Lee Nicholson

46. Ms Nicholson is the Secretary of the Committee of the Applicant and adopted her written statement, dated 11 June 2015, as her evidence. Ms Nicholson gave oral evidence to the Commission in relation to the Premises, particularly her role with the Committee of the Applicant and her day-to-day responsibilities at the Premises.
47. Ms Nicholson provided evidence in relation to the Responsible Service of Gaming (**RSG**) at the Premises, and the requirements that the Applicant has in relation to employees obtaining appropriate RSG training and qualifications.
48. Ms Nicholson stated that a minimum of two staff members monitor the gaming floor at all times during trade. As part of ensuring that the Premises adheres to RSG requirements, Ms Nicholson stated that she monitors all the self-exclusion records and updates them daily. The Premises holds three copies of excluded persons at various locations throughout the Premises. This is to enable staff members throughout the Premises to familiarize themselves with excluded persons and ensure that any breaches are quickly recognized and rectified.
49. Ms Nicholson indicated the Applicant enjoys a good relationship with the venue support worker, Ms Louise Crowe, of Gamblers Help Northern, who provides regular training sessions and contact to enable staff at the Premises to provide a safe gambling environment to patrons. Staff are required to complete questionnaires annually regarding responsible gambling and the Applicant's code of conduct.
50. In addition to venue-level commitments and training, Ms Nicholson also stated that the Applicant intends to become involved in the Gambler's Attitudes and Perceptions Study by the Victorian Responsible Gambling Foundation to explore the attitudes of regular patrons toward gambler's help measures and services.
51. Ms Nicholson stated that the measures implemented at the Premises, such as regular hourly announcements of the departure of shuttle bus services and providing refreshments, assist members in reducing their time in the gaming room and taking regular breaks in play.
52. Ms Nicholson provided further information in relation to the shuttle bus, which runs on the hour every day from 11 am and provides assistance to patrons that may have reduced mobility or need transport home. This is a service that the Applicant provides at a cost of approximately \$94,000 per year, inclusive of running costs involving fuel, insurance and drivers wages, in addition to the original cost of \$52,000 to purchase the vehicle.



53. It was Ms Nicholson's position that the grant of the Application will ensure that the Applicant remains a charitable leader and community hub that provides widows, veterans and the wider community with a facility that provides a variety of support, entertainment and welfare measures.

Mr Nicholas Barry Anderson

54. Mr Anderson is the Managing Director of NBA, which is a multi-disciplinary planning and development consultancy. Mr Anderson adopted his Social and Economic Impact Assessment dated June 2015, as well as giving evidence to the Commission in relation to the Application.
55. Mr Anderson stated that he is the retained planner for the RSL network across the State of Victoria and the current Application is the fourteenth such application in which he had been involved in before the Commission.
56. Having had the benefit of several previous applications, and that evidence that accompanies those applications, Mr Anderson stated that the nature of operation of RSL sub-branches is very different from that of hotels or pubs. In particular, Mr Anderson stated that the requirements of those types of establishments to make community contributions will usually involve the prescriptive outline by way of business case or plan so as to account for those funds. Conversely, RSL sub-branches commit to whatever they earn going back to the community and will often determine the use of funds on an ad-hoc or dynamic basis.
57. Mr Anderson stated that he visited the Premises on a number of occasions to assist with the Applicant's planning application as well as to enable him to prepare his report to the Commission.
58. Mr Anderson stated that the Applicant commits in excess of \$200,000 per annum in cash and in-kind contributions to members and the local community. Moreover, Mr Anderson considers these contributions to be somewhat higher than that which is typically made, by virtue of the mature suburban location and significant number of sporting and community organisations that exist within this location.
59. In addition to the significant number of contributions that the Applicant makes to a variety of organisations, Mr Anderson considered the "prescriptive" amount of \$20,000 per annum as agreed between the Applicant and Council to be a benefit to the community programs for which it will be attributed to for the life of the EGM entitlements.
60. Mr Anderson considered the addition of ten EGMs – in an established suburb within an established gaming market at a venue that is both isolated from other venues in the LGA and a significant distance from the capped area – to be a positive for the community.
61. Furthermore, Mr Anderson considered that the attractiveness of the Premises to already be quite high, given the lack of competition for dining or gaming in the immediate area surrounding the Premises. As such, there is less benefit associated with the proposed redevelopment. However,



as the community changes and growth occurs by way of the Council growth plan, the population will create demand for better facilities and infrastructure in the area.

62. Mr Anderson considered that the changes required at the Premises to modernize the facilities would be comparatively minor to those that are required at venues that have not undertaken redevelopment works for several years or decades. Broadly, Mr Anderson stated that the Premises required some degree of updating to appeal to a broader range of the community, as well as ensuring that patrons are aware of the facilities and their use. In addition, Mr Anderson believes that updating the facilities will appeal to families, with new interactive play equipment ensuring that the Premises appeals to a modern, younger demographic.
63. Mr Anderson considers the Glenroy area, and their level of relative disadvantage, to be something that “balances itself out” when consideration is given to the population of Glenroy. Mr Anderson considered that the demographics and socio-economic status of Glenroy may mask the situation ‘on the ground’, given that a significant proportion of residents would likely own a significant asset – that is, their home – but not earn a significant income. He also stated they would probably not have a high level of debt. Mr Anderson contended that the measurement of disadvantage only considers income, and not assets that are held, and as such does not provide a proper representation of the real social and economic situation of the areas surrounding the Premises in Glenroy.
64. In addition, Mr Anderson referenced the strategic statement from Council, which aims to increase and develop the use of commercial and residential land in the municipality. As a result, Mr Anderson contended that the socio-economic advantage in Moreland generally, and Glenroy specifically, is trending upwards and that this will happen quickly. Should the Commission decide to grant the Application, the Applicant would be able to contribute to the social and economic benefits in the area and assist in the development of the municipality at a venue level.
65. In relation to the concern of neighbouring municipalities to Moreland, Mr Anderson contended that residents of Moonee Valley were, in fact, wealthier than those in Glenroy, with reference to the SEIFA index of disadvantage. In relation to Hume, Mr Anderson considered that residents travelling from the Hume municipality would be travelling a significant distance – more than double the standard 2.5 kilometres that is used in metropolitan areas where venues make application to the Commission to increase the number of EGMs at a venue – and as such, Mr Anderson believes it to be fairly unlikely that residents of Hume would make up a significant proportion of the clientele at the Premises.
66. Mr Anderson contended that as part of urban gentrification, the development of venues must cater for a variety of gaming and non-gaming uses. Further, Mr Anderson considered the area will undergo a process of urban renewal that will attract investment and demographics that will choose to utilise entertainment and dining options that promote safe and modern facilities.



67. In response to evidence submitted by Council – namely, the Symplan report – Mr Anderson disagreed on several fronts. In summary –
- (a) Mr Anderson did not consider that the Application went against the strategic policy framework for Moreland, as the Premises is not a new gaming venue and the proposed redevelopment comply with Council objectives for the area;
 - (b) the Premises are situated in such a location that lends itself to some degree of isolation, and as such, it cannot be considered likely that the Premises would be a location for impulse gaming;
 - (c) the Glenroy area and trade network is a mature gaming area and, as such, Mr Anderson refutes the position of the Symplan report in relation the level of vulnerability to problem gambling;
 - (d) the level of expenditure at the Premises is not high and does not expose the Premises to an increased risk of problem gambling. Further, Mr Anderson considers that the Symplan Report does not acknowledge that the Premises is an RSL sub-branch, which do not generally fall within high risk category of gaming venues;
 - (e) the structure of RSL sub-branches are such that there is not a prescriptive structure in relation to the manner in which funds are spent. Therefore, whilst there may not be a clear and structured demonstration of where community contributions will be made, the nature of RSL sub-branches are such that requires all funds to be spent on welfare or member based objectives, or on the physical premises;
 - (f) a reduction in the exposure to gambling will almost never occur unless the venue is closing. On that basis, Mr Anderson contends that the Commission should not give weight that aspect of the Symplan Report;
 - (g) Mr Anderson argued that it is not the case that there are no non-statutory harm minimisation measures in place. He stated that the Applicant is very pro-active with such measures, as confirmed in his discussions with Ms Crowe of Gamblers Help Northern; and
 - (h) the welfare services in the area have provided no feedback that gambling is resulting in increased access to their services, contrary to what was indicated in the Symplan Report.
68. Mr Anderson's assessment of the Application was that it would have a positive impact on the community, both currently and into the future when considering the urban renewal and gentrification measures that are predicted to occur.



Mr Michael Lupton Clyne

69. Mr Clyne is a Gaming Consultant with PVS, which provides expenditure estimates in relation to EGM spending. Mr Clyne adopted his Expenditure Report dated 10 April 2015, as well as giving oral evidence to the Commission in relation to the Application.
70. Mr Clyne provided the Commission with information in respect of predicted expenditure as a result of the grant of the Application.
71. Mr Clyne estimated that the introduction of an additional ten EGMs into the Premises will result in increased expenditure of approximately \$1.02 million in the first 12 months of operation. Of that increase, Mr Clyne estimates that approximately 95% will be transferred expenditure from other existing venues. Mr Clyne explained that because total gaming expenditure in Moreland is decreasing then if any venue is expanding, this is likely due to a transfer from within Moreland or surrounding municipalities.
72. Mr Clyne provided the Commission with a brief explanation of the Geotech Model, being the retail gravity based model that was used to provide the expenditure estimate. In summary, the Geotech Model predicts the probability of a person attending a venue based on the convenience (distance from a venue) and attractiveness (relative to other venues in the trade area).
73. Mr Clyne explained that venue attractiveness for gaming patrons is determined with reference to various factors, in addition to the number of EGMs that are at a particular venue, including:
 - (a) external signage;
 - (b) parking;
 - (c) existence of a bottle-shop;
 - (d) first impression of the venue;
 - (e) existence of TAB facilities;
 - (f) accessibility and presentation of the gaming room; and
 - (g) internal fit-out.
74. In relation to the convenience of the venue, Mr Clyne explained that the Geotech Model uses navigational software to determine the likelihood of persons within particular statistical areas to travel to a particular venue.
75. Mr Clyne conceded that while the increase of EGMs will impact the attractiveness "score" of the Premises, utilisation levels were not taken into account when determining that score.
76. Mr Clyne explained that the Geotech Model predicted expenditure of additional EGMs at a fully operational level over a 12 month period. Mr Clyne indicated that the estimate is likely an "optimistic" estimate, given that there will be some time between the installation and operation of the EGMs and the recognition of the new EGMs by gaming patrons.



77. In responding to questions from the Commission, Mr Clyne agreed that historical expenditure estimates at the Premises have generally been caused by a shift in expenditure from other venues in the municipality, as well as from surrounding municipalities within the trade area. Mr Clyne also stated that the shift in expenditure could be caused by factors not accounted for in the Geotech model, such as the quality of the staffing and the nature of the EGMs. Mr Clyne stated that the proposed renovations of the Premises are unlikely to have a major impact on gaming expenditure, but will have an impact on the venue attractiveness for non-gaming patrons.
78. Mr Clyne considers that the estimated new expenditure of \$53,630 will have a negligible impact upon the total actual gaming expenditure within Moreland.

'NO NET DETRIMENT' TEST

79. The Commission's assessment of the economic benefits and disbenefits and social benefits and disbenefits associated with its consideration of the '*no net detriment*' test in relation to this Application, including the weighting given to each of these impacts is set out below (and summarised in tabular form at Appendix One).

ECONOMIC IMPACTS

80. The Commission accepts the evidence of Mr Clyne that approval of this Application is likely to result in an increase in gaming expenditure at the Premises of approximately \$1,019,670 over the first 12 months, consisting of \$53,630 new expenditure and \$966,040 transferred expenditure from other gaming venues in Moreland and surrounding municipalities.
81. The Commission finds that the portion of new expenditure not attributed to problem gambling is an economic benefit, although some of that benefit is likely to be derived from patrons who live outside Moreland. In any event, the extent of the new expenditure is not large, and, as such, a low weight is given to this benefit.
82. To the extent that a portion of new expenditure is attributable to problem gambling, this represents an economic disbenefit.¹⁸ In assessing the extent of this disbenefit, the Commission recognises that it does not include transferred expenditure because such expenditure cannot exacerbate

¹⁸ 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 Ltd 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 v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [178] and following per Dwyer DP. For completeness the Commission considers both the economic and social impacts of problem gambling in its assessment of this Application.



problem gambling.¹⁹ The very low level of anticipated new expenditure is indicative of the potential increase in problem gambling being low. So too is the overall demographic profile of Moreland and the age profile of patrons of the Premises.

83. The Commission recognises, however, that there is considerable variation in Moreland's demographic and socio-economic profile by reference to SA1s within the municipality. The Commission also accepts the position expressed by Morris J in *Branbeau Pty Ltd v Victorian Commission for Gaming Regulation* [2005] VCAT 2606 at [51] that:

*"Although the [no net detriment] test requires consideration of the impact of approval on the well-being of the community of the municipal district in which the premises are located, logic and common sense require this to be considered in the context of the spatial impact of the gaming machines to be installed in the venue concerned."*²⁰

84. As is shown at Appendix 10 of the Social and Economic Impact Assessment prepared by NBA, the SA1s in the 2.5 kilometre area surrounding the Premises rank as considerably more disadvantaged (according to the ABS SEIFA Index of Relative Disadvantage) than those areas further south in the municipality. This is particular so in those areas to the north of the Premises.
85. The Commission also accepts the evidence of Mr Anderson that the area in which the Premises are located is undergoing urban renewal, and thus demographic and socio-economic change, a process which appears to be consistent with the Council's "*Glenroy Major Activity Centre (GMAC) Economic Analysis & Action Plan*". The Commission notes that recent demographic and socio-economic changes will not be captured in a SEIFA Index that is based on 2011 Census data.
86. Having regard to all of these factors, in particular because of the low level of anticipated new expenditure, the Commission accepts that any increase in problem gambling in the municipality as a result of the Application is likely to be minor, and hence a low weight is placed on this impact. In reaching this view, the Commission notes that the "*no net detriment test*" relates only to the municipality in which the Premises are located. Issues associated with surrounding municipalities are relevantly matters for the Commission in its consideration of its ultimate discretion as to whether or not to approve the Application.
87. The Commission finds that the approval of additional EGMs will create an improved financial position for the Applicant which will enable the proposed redevelopment to take place at the Premises within the timeframe proposed, whilst maintaining and expanding on the levels of community contributions that have been the case historically.

¹⁹ See *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [113] 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.

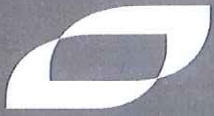
²⁰ See also *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor* [2009] VCAT 2275, [274] per Bell J.



88. The redevelopment of the Premises will provide an economic benefit by providing employment during both the construction phase and on an ongoing basis, and by improving the gaming and non-gaming facilities that can be utilised by a wider cross-section of the community, which will, in turn, provide the Premises with the ability to maintain a significant level of community contributions to the local area. This benefit is given moderate weight by the Commission.
89. The Commission considers that the community contributions of \$20,000 per annum (for the life of the entitlements) which the Applicant has volunteered to make in consultation with the Council if the Application is approved is an economic benefit to the community which, although not large, is of moderate weight in an application of this nature. In relation to these contributions, the Commission also notes that it recognises it can be beneficial where an Applicant and representatives of the local community can work through issues related to an application of this type in a constructive manner, as appears to have been done in this instance. Not only does it potentially resolve issues of concern, it also provides the Commission with insight into the views of the local community, and their representatives. The Commission notes, however, that it is not bound to accept a condition of the type that has been proposed by the Applicant, even if it has been agreed to by the Council.
90. The Commission also considers that there are various other economic benefits and disbenefits associated with the Application for which a low weight is given:
- (a) increase in competition in gaming in Moreland – while this is an important factor in light of the statutory purposes of the Act and the consumer benefits that derive from competition, it is an economic benefit which is given a very low weight in the current Application having regard to the number of EGMs operating in Moreland and surrounding areas, the number of additional machines proposed for the Premises and the current usage rates of existing machines at the Premises; and
 - (b) diversion of trade from other segments of the economy – while present, this economic disbenefit is expected to be low given the small increase in EGM numbers at the venue, the estimates of new and transferred expenditure that is anticipated to result if the Application is approved, and the size of the LGA economy.
91. Overall, the Commission considers that there will be a minor, but positive, economic impact on the Moreland community if the Application was to be approved.

SOCIAL IMPACTS

92. 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, family breakdowns, and



other social costs. Accordingly, the Commission accepts there is potential for negative social costs through possible increased problem gambling expenditure.

93. The Commission accepts the evidence of Mr Anderson that the Premises exhibits a number of factors that may decrease the risk of problem gambling, such as the Premises being a club, and the present older patron demographic utilising the Premises. The Commission finds that the Application will not directly alter any of these factors through the introduction of an additional 10 EGMs. The Commission considers it likely that these factors have some impact in limiting the risk of increased problem gambling at the Premises.
94. The Commission also considers the risk of an increase to problem gambling as a result of this Application being approved is limited by the level of accessibility to EGMs in Moreland that already exists.
95. Overall, taking into account the marginal increase in EGM density and EGM expenditure per adult together with the socio-economic profile of the municipality, the Commission finds that Moreland does not present as particularly vulnerable to problem gambling and is satisfied that the potential for an increase in problem gambling across the entire municipality is very low. However, as discussed above, the Commission also recognises that it is a relevant consideration to have regard to the area in which the Premises are located, and that this area is more disadvantaged than areas further south in the municipality. As such, the Commission considers that the appropriate weighting for the Application should be somewhat greater – hence a low weighting is applied.
96. The Commission finds that the increased number of EGMs at the Premises will better serve the needs of gaming patrons through providing a wider range of EGMs from which to choose. However, given the current number of EGMs and utilisation rates at the Premises, the Commission considers this to be a negligible social benefit and hence one on which it places very low weight.
97. The Commission also finds that the increased number of EGMs will enable the Applicant to renovate and enhance facilities at the Premises whilst enabling it to maintain and expand its level of community contributions. The Commission places moderate weight on the benefit associated with the enhanced facilities as it accepts that the improvements to the Premises will occur irrespective of the outcome of this Application, but would have a negative impact on the ability of the Applicant to continue to make a significant financial community contribution should funds be diverted to the proposed redevelopment works.
98. In relation to proposed community contributions, the Commission considers the level of community contributions and the impact on local community organisations to be a significant social benefit which is given high weight. This is particularly so as the proposed contributions have been discussed with Council, and represent one of the bases upon which Council withdrew



their objection to the Application. The Commission notes that, while the Applicant has not proposed that any part of the community contributions be available to bodies concerned with problem gambling, the proposed method of distribution would not preclude such an outcome.

99. Finally, as was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,²¹ the Commission recognises that whilst community apprehension is not an over-riding factor (in the sense that the Application is not a referendum on gaming), it is a relevant factor in the consideration of particular social impact *within*, and as part of, the 'no net detriment' test.

100. As such, it is relevant for the Commission to consider the extent to which a particular approval may lead to unhappiness or discontent in a particular community, and thus be detrimental to the well-being of that community. In this instance, the Council initially objected to the Application. Further, in the Symplan Report which Council provided to the Commission, details were given of a proposed amendment to the Moreland Planning Scheme to introduce a new gambling policy at Clause 20.09. The Report stated, inter alia, that it is appropriate to "*give this some weight in assessing the application as it evidences Council's thinking on matters pertaining to gaming.*" The Symplan Report sets out the objectives of the proposed Clause as being:

- *To discourage new gaming machines in disadvantaged areas as defined by the SEIFA index of relative disadvantage.*
- *To ensure that the location, design and operation of a gaming machine premises minimises the social and economic impacts caused by gaming machines and delivers a net community benefit.*

As the Council did not appear at the hearing, the Commission did not have the opportunity to hear evidence with respect to the Symplan Report generally, or this aspect specifically. As detailed previously, this is because the Council chose to withdraw its objection to the Application, on the basis outlined in the correspondence referred to in Paragraph 23. In such circumstances, the Commission considers it would not be appropriate to give significant weight to the possible negative social impact that approval may lead to unhappiness or discontent in the relevant community.

101. After considering the social benefits of the proposal and balanced against the disbenefits, the Commission considers that, on balance, there is likely to be a minor, but positive, social impact of the proposal.

²¹, (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.



NET ECONOMIC AND SOCIAL IMPACT

102. The no net detriment test in section 3.4.20(1)(c) of the Act 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.²²
103. After consideration of the material put forward by the Applicant, and weighted as outlined above and summarised in tabular form at Appendix One of these Reasons for Decision, the Commission has concluded that there is likely to be a minor net positive social and economic impact to the well-being of the community in the municipal district in which the Premises is located if the Application is approved.

OTHER RELEVANT CONSIDERATIONS

104. Having determined that the '*no net detriment*' test has been satisfied, there remains a discretion in the Commission to determine whether or not to approve the Application.
105. 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.
106. In circumstances where the '*no net detriment*' test has been satisfied, the Commission accepts that the exercise of an overriding discretion requires clear and compelling justification. What amounts to compelling justification will depend on the circumstances of each individual application. A feature of this Application is that the Premises are located near the boundaries of neighbouring municipalities. As was the case in *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation*,²³ where the Premises are located close to the boundary of other municipal districts, then as gaming expenditure will be transferred from some venues in those districts, and as residents of those municipalities may use any new EGMs, the Commission accepts that the impact of the Application on those municipalities is a relevant consideration in the exercise of its ultimate discretion as to whether or not to approve the Application. This is so even though the principal objection from the Council of the municipality in which the Premises are located was itself withdrawn. In this instance, the Commission were provided with correspondence from both the Hume City Council, and the Moonee Valley City

²² *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [52] per Dwyer DP.

²³ [2014] VCAT 1192, [127] per Code PM and Nelthorpe M.

Council. The Hume City Council stated, inter alia, that it was *"of the opinion that the increase of 10 electronic gaming machines at the Glenroy RSL will have a negative impact on Hume residents."* The Moonee Valley City Council stated, inter alia, that it *"supports Moreland City Council's opposition to the application."*

107. The Commission has considered the likely impact of the proposal on surrounding municipalities, having regard to the socio-economic profiles of those municipalities, and in particular for those areas closest to the Premises. Regard was also given to the accessibility of residents in those areas to existing gaming facilities that are generally more proximate than the Premises. The Commission considers, given the Premises are a club venue and the relatively low level of new expenditure anticipated as a result of this Application, that the likely impact on surrounding municipalities will be small.
108. Further, the Commission recognises that the Applicant, through its past behaviours, has demonstrated that it will allocate a proportion of its general community contributions, other than the amounts it has proposed to spend directly as a result of this Application, on groups and clubs located in surrounding municipalities, and in particular the City of Hume.
109. Having regard to these matters and on the material that has been put before it, the Commission is satisfied that it would not be appropriate to exercise its overriding discretion under the Act to refuse the Application. The Commission recognises that the Applicant is committed to reinvesting in the local community, including areas beyond the boundaries of the municipality in which it is located. Further, it considers that the Applicant understands and will continue to act in accordance with its obligations to, so far as is reasonable, take measures to prevent problem gambling. Accordingly, the Commission is satisfied that it should exercise its discretion to approve the Application, on the basis that relevant conditions are imposed as part of the approval.
110. The Commission was provided with draft conditions that the Applicant would be willing to accept should the Application be approved. In granting approval, the Commission believes it is appropriate that its approval should be subject to conditions of this nature. The conditions are as follows:

1. Community Contributions

- (a) *The Glenroy RSL agrees to contribute \$20,000 per annum (for the life of the entitlements) towards initiatives for community support and education within Moreland, as agreed in consultation with Moreland City Council.*



2. Works

- (a) *If the works proposed in application to amend planning permit MPS/2000/1057/A are not substantially completed within two years of the date on which the corresponding planning permit is granted, this approval will lapse and the number of electronic gaming machines that may be operated by the Glenroy RSL will revert to 40.*

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

Appendix One

Summary of social and economic impacts

Economic impacts

	Impact	Paragraph	Comment relevant to weight
Benefit	Increase in new expenditure (not attributable to problem gambling)	81	<ul style="list-style-type: none"> - Some part of the increased expenditure is likely to be derived from patrons who live outside Moreland, and thus benefit to municipality is diminished - Regardless, the extent of the new expenditure is not large - Low weight
	Improving the gaming and non-gaming facilities at the Premises	87-88	<ul style="list-style-type: none"> - Provides employment during both the construction phase and on an ongoing basis, and enables the Premises to be utilised by a wider cross-section of the community, which will in turn provide the Premises with the ability to maintain a significant level of community contributions to the local area - Moderate weight
	Community contributions of \$20,000 per annum (for the life of the entitlements)	89	<ul style="list-style-type: none"> - Although not large, is a benefit to the community by virtue of the services that the Applicant offers - Moderate weight
	Increase in competition in gaming in Moreland	90(a)	<ul style="list-style-type: none"> - An important factor in light of the statutory purposes of the Act and the consumer benefits that derive from competition. - Very low weight in the current Application having regard to the number of the EGMs operating in the Moreland and surrounding areas, the number of additional machines proposed for the Premises and the current usage rates of existing machines at the Premises
Disbenefit	Portion of new expenditure attributable to problem gambling	82-86	<ul style="list-style-type: none"> - Does not include transferred expenditure because such expenditure cannot exacerbate problem gambling - Low level of anticipated new expenditure is indicative of the potential increase in problem gambling being low - Demographic and socio-economic profile of Moreland generally not particularly vulnerable to problem gambling; however, considerable variation in Moreland's demographic and socio-economic profile by reference to SA1s within the municipality, which indicates somewhat greater vulnerability in areas surrounding the Premises - Low weight
	Diversion of trade from other segments of the economy	90(b)	<ul style="list-style-type: none"> - Given the small increase in EGM numbers at the venue, the estimates of new and transferred expenditure that is anticipated to result if the Application is approved, and the size of the LGA economy. - Low weight



Social impacts

	Impact	Paragraph	Comment relevant to weight
Benefit	Community contributions and impact on local community organisations	98	<ul style="list-style-type: none"> - Level of community contributions and the impact on local community organisations is a significant social benefit - High weight
	Renovate and enhance facilities at the Premises	97	<ul style="list-style-type: none"> - Increased number of EGMs will enable the Applicant to renovate and enhance facilities at the Premises whilst enabling it to maintain and expand its level of community contributions - Accepts that the improvements to the Premises will occur irrespective of the outcome of this Application, but would have a negative impact on the ability of the Applicant to continue to make a significant financial community contribution should funds be diverted to the proposed redevelopment works - Moderate weight
	Increased number of EGMs at the Premises	96	<ul style="list-style-type: none"> - Increased number of EGMs at the Premises will better serve the needs of gaming patrons through providing a wider range of EGMs from which to choose. However, given the current number of EGMs and utilisation rates at the Premises, the Commission considers this to be a negligible social benefit - Very low weight
Disbenefit	Risk of an increase of problem gambling	92-95	<ul style="list-style-type: none"> - Taking into account the marginal increase in EGM density and EGM expenditure per adult and socio-economic profile of the municipality, the Moreland does not present as particularly vulnerable to problem gambling. Given that Application involves 10 new EGMs into a club venue, the potential for an increase in problem gambling across the entire municipality is very low. However, there is also a recognition that the area in which the Premises are located is an area that is more disadvantaged than areas further south in the municipality - Low weight
	Community views	99-100	<ul style="list-style-type: none"> - While initially objecting to Application, Council chose to withdraw its objection. In such circumstances, this aspect is not given significant weight