



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 RPH Pty Ltd, for amendment of its venue operator's licence to vary the number of gaming machines at the approved premises, the Roxburgh Park Hotel, Cnr Somerton and Pascoe Vale Roads, Coolaroo, from seventy-one (71) to eighty (80) gaming machines.

Commissioners: Mr Ross Kennedy, Deputy Chairman
Miss Gail Owen, Deputy Chairman

Appearances: Mr Nick Tweedie SC with Ms Nicola Collingwood of
Counsel (instructed by Bazzani Scully Priddle Lawyers)

Mr Scott May as Counsel Assisting the Commission

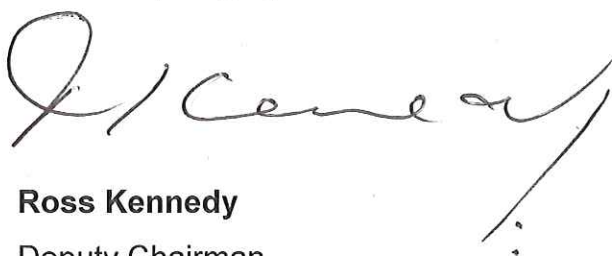
Date of Hearing: 7 October 2014

Date of Decision: 11 November 2014

Date of Reasons: 11 November 2014

Decision: That the application be granted, subject to the conditions set out in paragraph 72.

Signed:



Ross Kennedy
Deputy Chairman

REASONS FOR DECISION

INTRODUCTION

1. On 20 May 2014, RPH Pty Ltd (**the Applicant**) applied to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the Roxburgh Park Hotel (**the Hotel**), located the corner of Somerton and Pascoe Vale Roads, Coolaroo. The Applicant sought to vary the number of EGMs permitted to be operated at the Hotel from 71 to 80.
2. The relevant municipal authority is the City of Hume (**Council**). Council made a submission addressing the social and economic impact of the application (**the Council submission**) but did not appear at the hearing.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

3. A venue operator may make a request to the Commission to amend the conditions of a licence under section 3.4.18 of the *Gambling Regulation Act 2003* (**the Act**), including the number of gaming machines permitted to be operated at a venue. Section 3.4.20 of the Act lists matters to which the Commission must have regard in determining an application.
4. Relevantly, section 3.4.20(1)(c) of the Act contains the 'no net detriment test'. This test requires the Commission to weigh the likely positive economic and social impacts of an application against the likely negative economic and social impacts. The test will be satisfied if, following the weighing process, the net economic and social impact of approval on the well-being of the relevant community will be either neutral or positive.¹
5. The Act recognises that gaming on EGMs can cause harm to some communities and to some members of some communities, despite the fact that EGM gaming is a lawful recreational activity when conducted in accordance with the Act. It is for this reason that the Act includes safeguards to ensure that an appropriate balance is struck between accommodating responsible gambling and minimising the harm caused by problem gambling.²

¹ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435.

² See *Gambling Regulation Act 2003*, s 1.1(2).

THE MATERIAL BEFORE THE COMMISSION

6. The Applicant filed the following documents in support of its application:
 - 6.1. a completed application form to increase the number of EGMs at the Hotel, dated 20 May 2014;
 - 6.2. a completed application form for approval to modify a gaming machine area in an approved venue, dated 20 May 2014 and indicating the proposed layout of EGMs, if the application were approved³;
 - 6.3. a copy of an amended planning permit (P4963.02) applying to the Hotel, as amended by the Council on 10 September 2014;
 - 6.4. a social and economic impact assessment report prepared by Mr Rhys Quick, Urbis Pty Ltd, dated June 2014;
 - 6.5. an expenditure report prepared by Mr Richard Whitehouse, Progressive Venue Services Pty Ltd, dated June 2014;
 - 6.6. a witness statement by Mr Leigh Barrett, Managing Director of Leigh Barrett and Associates Pty Ltd, dated 30 May 2014;
 - 6.7. a witness statement by Mr Joseph Scerri, Director of the Applicant, dated June 2014; and
 - 6.8. a witness statement by Ms Karen Rootsy, the Hotel's Gaming Manager, dated June 2014.
7. The Commission also had before it two reports prepared by Commission officers, being:
 - 7.1. a statistical economic and social impact report dated September 2014; and
 - 7.2. a pre-hearing inspection and compliance report dated 8 September 2014.

³ The Commission notes that approval to modify a gaming machine area is the subject of a subsequent approval process.

8. Council also provided the Commission with an economic and social impact submission dated 11 September 2014.
9. The Applicant subsequently filed further material in response to the Council's submission, being:
 - 9.1. an addendum economic and social impact assessment report prepared by Mr Rhys Quick of Urbis Pty Ltd dated 1 October 2014; and
 - 9.2. an additional expenditure report by Mr Richard Whitehouse of Progressive Venue Services Pty Ltd dated September 2014.
10. The Commission also had before it copies of correspondence between the Applicant and Council which sought to clarify the precise timing of the proposed construction works.

THE CITY OF HUME

11. Based on the material before the Commission:
 - 11.1. the Hotel is located within the Local Government Area (**LGA**) of the City of Hume, a metropolitan municipality located approximately 40 kilometres north-west of Melbourne, covering an area of 504 square kilometres;
 - 11.2. the City of Hume (**the City**) comprises three statistical local areas (**SLAs**), Hume (C) – Broadmeadows (**Broadmeadows SLA**), Hume (C) – Sunbury (**Sunbury SLA**) and Hume (C) – Craigieburn (**Craigieburn SLA**). The Hotel is located in the north of the Broadmeadows SLA and borders the Craigieburn SLA;
 - 11.3. in terms of social and economic disadvantage, the City is ranked as the 12th most disadvantaged of all 79 Victorian LGAs according to its SEIFA ranking.⁴ However, the level of disadvantage varies within the City. Whilst the Broadmeadows SLA is the most disadvantaged SLA out of all 207 Victorian SLAs, the SLAs of Craigieburn and Sunbury are

⁴ The Socio-Economic Indexes for Areas (**SEIFA**) is a product developed by the Australian Bureau of Statistics which ranks areas in Australia according to their relative socio-economic advantage and disadvantage. The

comparatively less disadvantaged, being the 86th and 154th most disadvantaged, respectively;

11.4. other economic indicators suggest relative disadvantage exists within the City - equivalised household income in the City is 26.24% lower than the metropolitan average⁵, unemployment in the City is 2.93% higher than the metropolitan average⁶ and the City has a relatively high level of individuals receiving government pensions and allowances⁷; and

11.5. the City is characterised by strong population growth, growing 2.7% per annum between 2003 and 2013, and exceeding the Melbourne average (1.9%). The strongest population growth occurred in the Craigieburn SLA (5.9% per annum).⁸

GAMING EXPENDITURE IN THE CITY OF HUME

12. Within the City, 14 gaming venues operate 805 EGMs. The Hotel is situated in the City's capped area which limits the total number of EGMs permitted to no more than 435.⁹ Currently, 405 EGMs operate within this capped area.

13. The City is generally characterised by higher levels of gaming expenditure but has similar EGM density to state averages. Based on the material before the Commission:

13.1. the City has an EGM density of 5.83 machines per 1,000 adults, the 16th lowest of all 31 metropolitan municipalities. This level of EGM

ABS selects indicators such as education, employment, income, families and housing and combines them to provide an index score for each area and ranks all areas in Australia to enable comparison to be made.

⁵ The economic and social impact report prepared by Commission officers stated that the mean weekly equivalised household income (EHI) for the immediate surrounding area was \$633.32, as compared with the metropolitan mean EHI of \$858.61, based on 2011 Australian Bureau of Statistics data.

⁶ The economic and social impact report prepared by Commission officers stated that the unemployment rate in the City was 8.90%, compared with the 5.97% unemployment rate for Metropolitan Victoria (Department of Employment, Small Area Labour Markets, December Quarter 2013 data).

⁷ For example, the Broadmeadows SLA has the 3rd highest level of individuals receiving Newstart, Disability Support and Age Pension payments per 1000 adults out of 207 SLAs.

⁸ Population statistics were drawn from the Australian Bureau of Statistics Estimated Resident Population (2013)

⁹ Region 11 (Hume A) comprises the area covered by postcodes 3043, 3047, 3048, 3060 and 3061 included in the LGA of the City of Hume.

density is approximately 4.3% more than the metropolitan average but is 0.1% less than the state average;¹⁰

- 13.2. gaming expenditure in the City for the 2012/13 financial year totalled approximately \$101.82 million, an average expenditure per adult of \$243. Expenditure per adult in the City is therefore 28.3% more than the metropolitan average and 35.6% more than the state average. The City's level of average gaming expenditure per adult is the fifth highest of all metropolitan municipalities with gaming machines; and
- 13.3. trend analysis of gaming expenditure in the City indicates that gaming expenditure has decreased by 13.65% in real terms¹¹ over the past five years, which is a rate of decrease less than the metropolitan average (19.19%).

THE ROXBURGH PARK HOTEL

14. The Hotel is located at the corner of Somerton and Pascoe Vale Roads, Coolaroo. The Hotel opened in December 2004, operating 80 EGMs at that time. The Applicant purchased the Hotel in September 2005. The Hotel currently employs approximately 77 staff comprising 19 full-time and 58 casual positions.
15. The Hotel comprises a bistro (with capacity for 300 patrons) with a large children's play area, a sports bar and TAB (with capacity for 200 patrons), a lounge bar (with capacity for 50 patrons), a gaming room with 71 EGMs (with seating for 91 patrons), four outdoor courtyards (with capacity for 120 patrons in total), a drive-through bottle shop and a car park.

Council's Economic and Social Impact Submission

16. The Council submission argued (in summary) that:
 - 16.1. the City and the local area (within five kilometres of the venue) has an ease of access to EGMs and currently experiences social and economic disadvantage in comparison with metropolitan and state

¹⁰ The metropolitan average being 5.59 gaming machines per 1,000 adults, and the state average being 5.84 gaming machines per 1,000 adults.

averages. The local neighbourhood includes some of the most disadvantaged suburbs in Melbourne (Broadmeadows, Dallas and Coolaroo);

16.2. the City already has high gaming expenditure per adult and the increase in net expenditure estimated by the Applicant is likely to be underestimated, as has been the case in previous applications in the City. Council argued that, in relation to the Highlands Hotel (which opened in the City in 2012), expenditure at the time of the application was estimated to be approximately \$2 million in the first year of operation. Subsequent VCGLR gaming expenditure data shows that the Highlands Hotel's actual expenditure was higher than predicted, being \$3 million in 2012/2013 and \$5.9 million in 2013/2014;

16.3. a community survey undertaken by Council (**the survey**) shows strong community opposition to the application. Council sent the survey to a random sample of 4,000 residents within five kilometres of the Hotel and received 271 responses. When asked about the proposal to increase EGMs at the Hotel (including proposed renovation works and community contributions), 66.2% of the responses were in opposition; and

16.4. the short term benefits of the Hotel's redevelopment will be overshadowed by the immediate and longer term negative impacts resulting from gaming expenditure on the additional machines and the increased opportunity for gambling at the venue.

Evidence of likely gaming expenditure – Richard Whitehouse, PVS Australia Pty Ltd

17. The Applicant engaged Mr Whitehouse of PVS Australia to provide an estimate of the gaming expenditure expected to be generated by an additional nine EGMs at the Hotel. Mr Whitehouse is a partner of PVS Australia Pty Ltd and has both national and international experience in the gaming industry.

¹¹ i.e. adjusted to CPI

18. Mr Whitehouse provided the Commission with an original report and an addendum report designed to address the matters raised by Council in its submission. Mr Whitehouse's original report stated that he predicts, in accordance with outputs predicted by the Geotech model¹², that:
 - 18.1. an additional nine EGMs at the Hotel would increase the gross gaming expenditure at the Hotel by \$869,693.00 per annum;
 - 18.2. of this additional expenditure, 64% is expected to be expenditure transferred from surrounding venues; and
 - 18.3. after transferred expenditure is taken into account, total gaming expenditure in the City is expected to rise \$336,815 in the first year of operation (or 0.34% of the total 2012/2013 financial year gaming expenditure in the City).
19. Mr Whitehouse's addendum report rebutted the allegation by Council that predictions concerning expenditure made for the Highlands Hotel were underestimated. Mr Whitehouse stated that the initial expenditure prediction at the Highlands Hotel was approximately \$6.5 million (not \$2 million) and that Council has chosen VCGLR expenditure data which covered seven months of trade for the Hotel (and not a full year). When expenditure data at the Highlands Hotel is considered for the 2013 calendar year, the resulting total is in fact \$5.55 million per annum (less than the estimated figure) meaning that the initial expenditure prediction overestimated (rather than underestimated) expenditure at the Highlands Hotel by 14.7%. Mr Whitehouse told the Commission that Council's argument is therefore incorrect with respect to the expenditure at the Highlands Hotel.
20. Mr Whitehouse told the Commission that utilisation of EGMs at the venue is amongst the highest he has seen in his professional experience.

Evidence from the Applicant – Mr Joseph Scerri

21. Mr Scerri gave evidence about the Hotel's current operations, the community contributions the Hotel currently makes, its responsible service of gambling

¹² The Geotech Model is a geo-spatial model designed to provide predictions of gaming revenue from EGMs.

(RSG) practices and the proposed redevelopment. Mr Scerri is a director of the Applicant and is involved in the operation of two other hotels in metropolitan Melbourne. Mr Scerri has been involved in the ownership and operation of licensed premises since 1998 and has operated gaming venues since 2006. His company purchased the freehold and business at the Hotel in 2005 after the original operator struggled to generate sufficient trade. Mr Scerri told the Commission that, under the Applicant's management, the Hotel has thrived with a focus on high quality food and beverage at reasonable prices.

22. Mr Scerri described himself as a "hands-on" operator who spreads his time between the Applicant's three hotels. He estimated that he spends approximately 25-30 hours per week at the Hotel.
23. Mr Scerri explained that while the Hotel has similar features to other hotels, the largest difference is its "all you can eat" smorgasbord bistro offering which includes a variety of international cuisines. Mr Scerri told the Commission that this offering was the first of its type in the northern suburbs and has grown to now serve approximately 4,000 meals per week and conducts four to five separate sittings on popular nights.

Community Contributions

24. Mr Scerri gave evidence to the Commission that the Applicant distributed \$17,550 for the 2013/14 financial year in cash contributions to various community and sporting groups in the City. Mr Scerri also indicated that the Hotel, in 2013/14, provided in-kind donations (hotel vouchers) totalling \$4,850 to various community groups, as well as discounted senior meals. As part of the application, Mr Scerri told the Commission that the Applicant will commit to increase its level of cash contributions to the community to \$40,000 per annum for the life of the entitlements.

The Proposed Redevelopment

25. Mr Scerri told the Commission that whilst the Hotel has been the subject of some cosmetic enhancements and maintenance, it has not had a major upgrade since its construction in 2004.

26. Mr Scerri explained to the Commission that the Hotel's current layout does not allow it to offer functions or conference facilities despite regular requests by community and corporate groups to host functions. Further, the popularity of the Bistro means that it is often at capacity and that queues can stretch outside the Hotel.
27. Mr Scerri told the Commission that the Applicant has obtain planning approval for redevelopment works at the Hotel, at an estimated cost of \$2.5 million, which will enable the Hotel to host functions (with capacity for up to 150 patrons), will increase the capacity of the Bistro and allow for additional lounge areas. Mr Scerri also explained that, without the revenue associated with the additional machines, he would not be able to obtain the finance necessary to fund the proposed renovations.

Responsible Service of Gaming

28. Mr Scerri told the Commission that the Hotel has detailed policies and procedures concerning RSG. Mr Scerri explained that an incident occurred in August 2012 where four minors were detected in the gaming room. This led to charges being issued by the Commission and the Applicant pleading guilty to the charges at the Broadmeadows Magistrates' Court. Mr Scerri explained that the situation occurred when an individual ushered four young children into the gaming room, seated them at an EGM and took photographs. The Applicant subsequently received a demand for payment, in the absence of which the photograph would be provided to the Commission.
29. Mr Scerri estimated that the minors were in the gaming room for approximately four minutes and once they were noticed by staff were immediately ushered out. Mr Scerri also reported the demand for payment to police. Mr Scerri told the Commission that no similar incidents have occurred and that the Applicant has increased surveillance of the gaming room entry to prevent a reoccurrence.

Social and Economic Impact Assessment – Mr Rhys Quick, Urbis Pty Ltd

30. Mr Quick gave evidence about the expected social and economic impact the application may have on the City. Mr Quick is an economic property consultant with experience specialising in the retail and gaming sectors.
31. Mr Quick told the Commission that, as a whole, compared to metropolitan averages the City does experience a level of disadvantage, as it has below average incomes, comprises young families living in larger households and has a larger blue collar workforce with many households paying mortgages.
32. Mr Quick considered that its three SLAs comprise very distinct areas. In Mr Quick's view, the Craigieburn SLA exhibits lower levels of disadvantage as compared with the Broadmeadows SLA. Mr Quick noted that the City is experiencing strong population growth, mainly centred in the Craigieburn SLA.¹³ Mr Quick explained that, although the Hotel is located at the northern end of the Broadmeadows SLA, a gaming patron survey¹⁴ indicated that the majority of the Hotel's gaming patrons are drawn from the relatively more prosperous Craigieburn SLA (72%) as compared with a lesser number from the more disadvantaged Broadmeadows SLA (18%). This outcome was roundly replicated in a similar survey conducted of bistro patrons.
33. Mr Quick explained that the Hotel is located at the edge of the local retail centre of activity. Given this location, the Hotel is not "overly convenient" and Mr Quick believes most people would travel to the Hotel by car. Mr Quick noted the popularity of the bistro offering and described it as a family friendly venue.
34. Mr Quick told the Commission that a two week survey conducted at the Hotel showed that utilisation of the gaming room was very high. At many times the total numbers of patrons in the gaming room exceeded available EGMs. Additionally, at many times 80% to 90% of machines occupied. Mr Quick noted that the peak times for gaming machine utilisation occurred after dinner

¹³ Mr Quick pointed to DPCD data which predicts that the Craigieburn SLA's population is estimated to increase 5.2% annually between 2013-2016, as compared with 0.5% for the Broadmeadows SLA.

¹⁴ The Applicant conducted a survey of gaming patrons (by postcode) between 25 February and 10 March 2014, with 9733 patrons surveyed.

or lunch periods, meaning that, in Mr Quick's view, the gaming room is utilised in conjunction with the bistro.

35. Mr Quick noted that the venue is located within the Hume capped area which has 405 machines in operation, 30 less than the total EGMs available to be operated in the area. Mr Quick stated that there is a possibility that other venues in the capped area (generally located at the southern end of the Broadmeadows SLA) could increase the number of EGMs operating (as they have existing approvals, but are not currently operating their maximum permitted number of EGMs). Approval of this application would mean that less EGMs could be installed in other venues in the capped region and prevent "backfilling" of EGMs.
36. Mr Quick therefore concluded that the impact on problem gambling in this application would be small. Mr Quick explained that the proposal does not create a new venue, that the Hotel already offers good access to gaming machines and that gaming is only a small part of a wider range of recreational facilities at the Hotel, the Hotel is a "destination" venue, the gaming room is well lit and easily monitored by staff and the Hotel has strong RSG practices.
37. Mr Quick explained that increased expenditure in the LGA would be minimal (0.34%) and considered that increased gaming expenditure does not necessarily translate into an increase in problem gambling, particularly in an area where residents have been exposed to gaming for some time. Further, Mr Quick noted that the Hotel's catchment to the north is less disadvantaged than areas to the south.
38. Mr Quick's report summarised the potential social and economic benefits of the application as:
 - 38.1. economic and social benefits resulting from increased recreational gambling expenditure and enhanced access to gaming facilities for recreational players;
 - 38.2. economic benefits from increased cash donations to the local community to a total of \$40,000;

- 38.3. economic stimulus resulting from the development works and social benefits resulting from the improved facilities for the community (such as the enhanced bistro area and the ability for community groups to utilise the proposed conference/function areas);
 - 38.4. economic benefits stemming from increased employment (at least one full time role in the gaming room, and generally in the redeveloped hotel, with estimates of 15-25 casual and 4-6 full time positions being created); and
 - 38.5. increased taxation revenue (although conceding that, on a municipal basis, this is likely to be negligible).
39. Mr Quick considered that the predominant economic and social disbenefits resulting from the application would be the potential impacts resulting from problem gambling, in that the share of new gaming expenditure derived from problem gamblers is an economic and social disbenefit. However, Mr Quick considered that this will be low as it is unlikely to increase any existing problems, given that the application proposes to increase EGMs in an existing venue with strong RSG practices.

Addendum Report

40. Mr Quick provided the Commission with an addendum report addressing the matters raised in the Council submission. It stated (in summary) that:
- 40.1. the Council focuses on a 5 kilometre radius as the patron catchment area. Whilst correct on average, the patron surveys show that patrons are actually sourced from the northern (and less disadvantaged) areas of the LGA;
 - 40.2. Council focuses on the increase in gaming expenditure in the City in recent years, but ignores the City's population growth, that a new venue has opened and that gaming expenditure, in real terms, has declined;

- 40.3. Council's argument concerning the calculation of expenditure estimates misunderstands previous predictions for the Highlands Hotel; and
- 40.4. the survey conducted by Council involves only a modest sample size and response rate and was voluntary (capturing the most motivated in the community to respond). Mr Quick observed that the survey's results reflected a level of opposition in line with state-wide views towards gaming and that over 50% of respondents had not visited the Hotel within the last 12 months.
41. Mr Quick concluded that there would be no net detriment to the City arising from the granting of the application.

Witness Statement – Ms Karen Rootsy

42. Ms Rootsy has been the general manager of the Hotel since November 2002, having previously been employed in the gaming industry for over 20 years. She gave evidence to the Commission concerning the RSG practices and demand at the Hotel.
43. Ms Rootsy explained to the Commission that the Hotel is extremely busy during the four-hour period from 7pm most nights. In relation to the gaming room, Ms Rootsy told the Commission that, in busy times, customers often queue for particular machines, with some machines near constantly utilised.
44. Ms Rootsy told the Commission that she receives various requests from businesses and community groups to host functions at the Hotel but these requests cannot be met as the Hotel has no smaller meeting spaces away from the Bistro. Ms Rootsy believes that the Hotel could cater to a wider variety of patrons than it currently does.
45. Ms Rootsy gave evidence that, on commencement of her role as general manager, she undertook a review of RSG practices and put in place operational measures to ensure compliance, such as providing security staff with access to the Hotel's self-exclusion folder.

46. Ms Rootsy told the Commission that she maintains a strong relationship with Gambler's Help and is in contact two to three times a month on average. Ms Rootsy explained that the Hotel has taken on Gambler's Help's suggestions and amended the Hotel's website to refer to problem gambling support.
47. Ms Rootsy also explained that the proposed layout for the gaming area includes additional lounge areas which will reduce crowding around machines, as the new areas will be able to be used as entertainment areas.

Witness Statement – Mr Leigh James Barrett

48. Mr Barrett gave evidence to the Commission concerning the Hotel's regulatory compliance and responsible gambling practices. Mr Barrett is the Director of a consultancy business specialising in the provision of regulatory compliance services and staff training for Victorian gaming venues and has expertise in responsible gaming practices and procedures.
49. Mr Barrett told the Commission that, in consultation with the Applicant, he developed the Roxburgh Park Hotel Responsible Gambling Policies and Procedures Manual and has conducted quarterly audits at the Hotel since May 2010. In Mr Barrett's view, the Hotel is compliant with RSG requirements.
50. In Mr Barrett's view, frequent interactions between skilled staff and patrons is crucial where patrons display signs of distress or unacceptable behaviour, which are often indicative of problem gambling. One of the Applicant's key selection criteria when employing staff is the willingness to interact with customers. Mr Barrett's observation of Hotel staff is that there is strong customer interaction and a staff member on the gaming room floor at all times. In his observation of other local venues, this was not always the case.
51. Mr Barrett confirmed that he had spoken with Gambler's Help who regarded the Hotel as having good responsible gambling procedures and practices in place. Mr Barrett also confirmed that he has seen Mr Scerri regularly at the venue and that he has a very "hands-on" management style.

52. Mr Barrett also explained that the Hotel has a wide range of non-gambling recreational offers available to patrons and that recent studies indicate that non-gaming offers are essential to minimise patron focus on gambling as the purpose for attending a venue. Mr Barrett considers the proposed renovations will enhance the broad recreational offer and that the casual recreational spaces to be installed around the gaming area will promote breaks in play.

FINDINGS BY THE COMMISSION

53. Although Council made a submission in this matter it did not appear at the hearing. As such, the Commission necessarily can only place very little weight on the arguments advanced by Council as there was no ability for the Commission or the Applicant to question or test the methodology of the calculations or conclusions contained in the Council's submission.
54. In relation to estimated gaming expenditure which might result if this application were approved, the Council argued that the predictions made in the 2010 application concerning the Highlands Hotel were inaccurate and therefore that the predictions made in this application are likely to be similarly inaccurate. The Applicant strongly disputed the Council's assessment. The Commission considers that it is not overly helpful to focus on differences between predicted and actual expenditure in past matters, as actual expenditure will necessarily be impacted by a host of varying factors. In any event, the Commission is satisfied that Council has erred in its analysis of the predicted and actual expenditure at the Highlands Hotel and prefers the evidence of Mr Whitehouse, whose calculations show that the difference in predicted versus actual expenditure at the Highlands Hotel was relatively small.

Social Impacts

55. The primary social detriment relevant to this application is the possibility of an increase in problem gambling. The Commission accepts that increased access to EGMs can increase the risk of problem gambling in a community.
56. The Commission has closely considered the demographic statistics of the LGA and the Hotel's patron catchment. The Commission notes that the

Applicant was at pains to point out that the majority of its patrons are drawn from the Craigieburn SLA as compared with the Broadmeadows SLA. The Commission notes that the Craigieburn SLA has areas of disadvantage; the SEIFA data indicates that many of the statistical areas within the Craigieburn SLA are within the first quintile of disadvantage and the SLA has a relatively high unemployment rate (8.5%). The Commission therefore agrees with Council that the local area does show signs of relative disadvantage. The existence of lower than average incomes and higher than average unemployment cannot be ignored.

57. However, the Commission is satisfied that the Hotel has strong RSG practices and procedures in place and there is little evidence to suggest that the Hotel is a venue characterised by problem gambling. The Hotel also appears to have a strong relationship with the local Gambler's Help provider. Further, the proposed renovations expand other areas of the venue (including the bistro and adjoining lounges and entertainment areas) which will assist in reducing the focus on gaming at the Hotel and improve the amenity of the venue for patrons. These factors, collectively, reduce the risk of an increase in problem gambling at the Hotel.
58. The evidence also suggests that the Hotel has alternative and popular entertainment offerings aside from gaming. Although the Hotel is located near retail outlets, it is not located within a strip shopping centre and is unlikely to draw passing pedestrian as patrons and, therefore, "convenience" gambling. To the extent that problem gambling already exists in the City, the Commission considers that it is unlikely it will be significantly exacerbated by the addition of nine EGMs at this venue, which will increase expenditure by approximately 0.34% in the LGA.
59. The Commission also notes that the overall social and economic statics of the LGA are likely to improve over time with strong population growth forecast to continue in the Craigieburn SLA.
60. The Commission has considered the survey undertaken by Council. In the Commissions view, it does not reveal the kind of overwhelming opposition to

the proposal that has been determinative in other applications.¹⁵ Further, the Commission notes that the survey is (by no fault of Council) a relatively small sample of 271 individuals. The Commission has therefore decided to afford the evidence of community opposition found in the survey little weight.

61. The Commission considers that there are other social benefits in connection with this application. The proposed renovations will allow the Hotel to offer separate function and conference areas to community groups and enable dining facilities to be expanded at a venue which appears, on the evidence, to be at or nearing capacity.
62. The Commission does not consider there will be a significant increase in the risk of problem gambling occurring at the venue and believes there are social benefits in connection with the application which offset any such increase. The Commission considers that the social impact of approval of this application, based on the evidence before it, is neutral.

Economic Impacts

63. The Commission notes that there are economic benefits relevant to this application. The Commission accepts the venue is popular and the evidence suggests that, at peak times, patrons may find it difficult to find their machine of choice available to play. The likely increased machine choice and reduction in wait times for recreational gamblers and increased gaming expenditure resulting from recreational gambling are considered to be slightly positive economic benefits.
64. The Commission notes that the associated renovation works at an estimated cost of \$2.5 million and associated building and maintenance expenditure as well as supply contracts will provide an economic stimulus to the local economy, all of which are beneficial.
65. The Commission also recognises that the proposal will involve job creation in the local economy and accepts the predictions made by the Applicant with respect to employment. Where such positions are sourced from the local

¹⁵ See, for example, the results found in surveys conducted in *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor* (Occupation and Business Regulation) [2009] VCAT 2275 (12 November 2009)

area, which has higher than average unemployment, job creation is both welcome and economically beneficial.

66. Additionally, the proposed increase in community contributions is also an economic benefit, particularly as it represents a significant increase to, and crystallises, the Hotel's existing contributions.
67. The Commission agrees with Council's argument that gaming expenditure attributed to problem gambling may have a negative economic impact. However, the Commission considers that, for the reasons outlined above, there is not a significant risk of an increase in problem gambling if this application were granted and therefore any increased expenditure attributable to problem gambling will similarly be small.
68. The Commission is of a view that the economic impact of this application, based on the evidence before it, is slightly positive.

CONCLUSION

69. The Commission considers that the likely social impacts of this application will be neutral and the likely economic impacts of this application will be slightly positive. As such, the Commission considers that the net economic and social impact of approving this application will not be detrimental to the well-being of the community of the City.
70. Based on the material provided to the Commission prior to and at the time of the public inquiry, the Commission is satisfied that the Applicant has the authority to make the application and that the matters listed in section 3.4.20(1)(a) and (b) of the Act are also met.
71. The Commission notes that the Applicant has put forward suggested conditions should that the Commission approve the application. The Commission considers that it is desirable, in this instance, to impose the suggested conditions to ensure that the community contributions and redevelopment works, both positive and important economic and social benefits of the application, proceed.
72. Pursuant to section 3.4.20(3) of the Act, it is a condition of this approval that the Licensee complies with the following two conditions.

Condition 1 – Community Contributions

The Licensee will:

- 1.1 establish the Roxburgh Park Hotel Community Fund (**the Fund**);
- 1.2 make the cash contribution referred to in clause 1.3 from the commencement of the operation of the nine additional EGMs at the Hotel until 15 August 2022;
- 1.3 the annual cash contribution will be \$40,000 (indexed each year by CPI all groups Melbourne) (**the Contribution**); and
- 1.4 the Contribution will be paid each year to not-for-profit community and sporting organisations providing services and facilities to residents in the City of Hume.
- 1.5 The distribution of the Contribution in accordance with clause 1.4 will be determined by a committee (**the Committee**) comprising:
 - (a) two representatives nominated by the Licensee; and
 - (b) one representative of Council or, if Council is unwilling to provide a representative, a community representative nominated by the Licensee.
- 1.6 The Committee will advertise annually in a newspaper circulating in the City of Hume for submissions for assistance from not-for-profit community and sporting organisations providing services and facilities to residents within the City of Hume. The Committee will assess submissions in accordance with guidelines to be established by the Committee.

Condition 2 – Works

- 2.1 If the Works (as defined in this Condition) are not substantially completed within twelve (12) months from the date the additional EGMs commence operation at the Hotel, or such a later date as agreed to in writing by the Commission, this approval will lapse and

the maximum number of EGMs that may be operated at the premises will revert to 71.

- 2.2 The **Works** comprise all buildings and works pursuant to the plans endorsed pursuant to planning permit P4963.03 and as presented to the Commission at the hearing.
- 2.3 The Commission may, upon the request of the owner or operator of the approved premises, agree to extend the time for substantial completion of the Works. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed within twelve months of the date the additional EGMs commenced operation at the Hotel.
- 2.4 If the Licensee sells or transfers the Hotel's business to a third party after the commencement of the operation of the 9 additional EGMs at the Hotel the Licensee shall, as part of the sale or transfer, require the purchaser or transferee to assume responsibility for the obligations in these Conditions.

The preceding seventy-two (72) paragraphs are a true copy of the Reasons for Decision of Mr Ross Kennedy (Deputy Chairman) and Miss Gail Owen (Deputy Chairman).