



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 Zagame's Berwick Springs Hotel Pty Ltd to amend its venue operator's licence to vary the number of electronic gaming machines at the approved premises located at Berwick Springs Hotel, 288-296 Clyde Road, Berwick from ninety-five (95) to one hundred and five (105).

Commission:

Mr Ross Kennedy PSM, Chair
Mr Des Powell AM, Commissioner

Appearances:

Ms Sarah Porritt, Counsel for the Applicant (instructed by Bazzani Scully Priddle)

Ms Jenelle Cramer, Solicitor (Mills Oakley) for City of Casey

Mr Michael O'Connor, Counsel Assisting the Commission

Date of Hearing:

29 August 2017

Date of Decision:

2 October 2017

Date of Reasons:

2 October 2017

Decision:

The Application is granted subject to the conditions as outlined at paragraph 135.

Signed:

A handwritten signature in black ink, appearing to read 'Ross Kennedy'.

Ross Kennedy

Chair



REASONS FOR DECISION

INTRODUCTION

1. This is an application by Zagame's Berwick Springs Hotel Pty Ltd (the **Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (the **Commission**) to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the approved premises located at Berwick Springs Hotel, 288-296 Clyde Road, Berwick (the **Hotel**), from 95 to 105 (the **Application**).
2. The relevant municipal authority is the City of Casey (the **Council**). By letter to the Commission dated 31 July 2017, the Council provided the Commission with a written submission (together with supporting documents)¹ in opposition to the Application.
3. The Commission considered the Application at a public inquiry conducted on 29 August 2017 (the **Hearing**).

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gaming on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**GR Act**). The GR Act recognises that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities, and some members of some communities. For this reason the GR Act includes safeguards to ensure an appropriate balance is struck between a lawful and legitimate recreational activity for some, and a potentially harmful activity for others.
5. The objectives of the GR Act are set out at section 1.1, which provides:
...
(2) *The main objectives of this Act are—*
 - (a) *to foster responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling; and*
 - (ii) *accommodate those who gamble without harming themselves or others;*
 - (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*

¹ See paragraph 23 below.



- (b) *to ensure that gaming on gaming machines is conducted honestly;*
- (c) *to ensure that the management of gaming equipment and monitoring equipment is free from criminal influence and exploitation;*
- (d) *to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;*
- (e) *to ensure that-*
 - (i) *community and charitable gaming benefits the community or charitable organisation concerned;*
 - (ii) *practices that could undermine public confidence in community and charitable gaming are eliminated;*
 - (iii) *bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;*
- (f) *to promote tourism, employment and economic development generally in the State.*

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

- (1) *The purpose of this Chapter is to establish a system for the regulation, supervision and control of gaming equipment and monitoring equipment with the aims of—*
 - (a) *ensuring that gaming on gaming machines is conducted honestly; and*
 - (b) *ensuring that the management of gaming equipment and monitoring equipment is free from criminal influence or exploitation; and*
 - (c) *regulating the use of gaming machines in casinos and other approved venues where liquor is sold; and*
 - (d) *regulating the activities of persons in the gaming machine industry; and*
 - (e) *promoting tourism, employment and economic development generally in the State; and*
 - (f) *fostering responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling;*



- (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.*

10. Section 3.4.20 sets out matters that are required to be considered by the Commission with respect to such a proposed amendment. Relevantly, for the Application that section provides:

- (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;*

...

11. Section 3.4.20(1)(c) provides for what is now commonly described as the '*no net detriment*' test. It requires the Commission to be satisfied that there is no net detriment arising from the approval through positively and objectively establishing that the net economic and social impact will not be detrimental to the well-being of the community.²

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

- (a) the likely economic impacts of approval;

² *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [52] per Dwyer DP.



- (b) the likely social impacts of approval; and
 - (c) the net effect of those impacts on the well-being of the relevant community.³
13. As such, the ‘*no net detriment*’ test is a composite test requiring consideration of a single net impact in economic and social terms on the well-being of the community.⁴ 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.
14. 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.⁵ 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.⁶
15. 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.⁷*

This approach has been adopted in a number of VCAT decisions.⁸ To enhance the clarity of Commission decisions, and to facilitate greater consistency between the Commission and VCAT, the Commission has adopted the same approach.

³ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA.

⁴ *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.

⁵ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [57] per Dwyer DP.

⁶ 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.

⁷ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [60] per Dwyer DP.

⁸ 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.



16. If the Commission is not satisfied that the ‘*no net detriment*’ test is met, that is clearly fatal to the application before it, as given the opening words of section 3.4.20(1) of the GR Act, satisfaction of the test is a mandatory pre-condition to approval. However, although section 3.4.20(1) sets out certain mandatory considerations for the Commission, the provision is not exhaustive. If the Commission is satisfied that the ‘*no net detriment*’ test is met, it still has an ultimate discretion as to whether or not to grant the approval.⁹ The Commission must decide whether to make the proposed amendment, with or without any changes from that proposed by the applicant, even where the applicant has satisfied the minimum threshold of the ‘*no net detriment*’ test.¹⁰
17. In considering the exercise of this discretion:
 - (a) it must be exercised having regard to the purposes of the GR Act and, in particular, the specific purposes of Chapter 3 of the GR Act dealing with the regulation, supervision and control of gaming machines;¹¹ and
 - (b) it may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the GR Act as a whole.¹²
18. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹³ that, if all of the mandatory considerations under the GR Act favour the grant of an approval, one would expect that the ultimate discretion will commonly favour approval - other than in relatively rare or exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.
19. Finally, it is noted that pursuant to section 3.4.20(1)(a) of the GR Act the Commission must be satisfied that the proposed amendment does not conflict with a Ministerial direction, if any, given under section 3.2.3 of the GR Act. Additionally, pursuant to section 9(4) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR Act)*, the Commission must have regard to Ministerial guidelines issued under section 5 of the VCGLR Act when performing

⁹ See *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32] and following per Morris J; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [126] per Code PM and Nelthorpe M; see also *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [97] and following per Dwyer DP (with respect to section 3.3.7 GR Act).

¹⁰ GR Act, section 3.4.20(2).

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

¹² *Ocean Grove Bowling Club v Victorian Commission for Gaming Regulation* [2006] VCAT 1921, [32] per Morris J; *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [99] per Dwyer DP; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192, [126] per Code PM and Nelthorpe M. As to policy principles identified for consideration, see the *Romsey* case (2008) 19 VR 422, [7] per Warren CJ, Maxwell P and Osborn AJA.

¹³ [2013] VCAT 101, [98].



functions under gambling legislation.

20. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application. However, on 16 October 2013 a Ministerial guideline was published in the Victorian Government Gazette pursuant to section 5 of the VCGLR Act concerning applications for approvals of venues for EGMs and children's play areas incorporated in the venue. This guideline concerned the assessment of the suitability of a premises for gaming. As such, it appears primarily to apply to a premises applying to be a new gaming venue, rather than an increase in the number of EGMs at an existing gaming venue. While this guideline is therefore not directly applicable to this Application, the Commission's view is that it is proper for the Commission to have regard to the underlying policy intent of such a guideline (which in this instance appears to relate to the legislative objective under section 1.1(2)(ab) of the GR Act that minors are neither encouraged to gamble nor allowed to do so) when considering the Application.

MATERIAL BEFORE THE COMMISSION

21. The Applicant provided the Commission with the following material in support of the Application:
- (a) Application form – Amendment to venue operator's licence – vary gaming machines, dated 11 May 2017;
 - (b) Social and Economic Impact Assessment, prepared by Ms Colleen Peterson, (**Ms Peterson**) Director of Ratio, dated May 2017 (the **Ratio Report**);
 - (c) Expenditure Report, prepared by Mr Michael Clyne (**Mr Clyne**) of Progressive Venue Services (**PVS**), dated April 2017 (the **PVS Report**);
 - (d) Witness Statement of Mr Victor Bartholomew Zagame (**Mr Zagame**), Director of the Applicant, dated April 2017 with annexures (1) MPD Steak Kitchen photographs and (2) A3 Preliminary plans - Proposed renovations of the Hotel;
 - (e) Witness Statement of Ms Jackie Ann Margaret Booth (**Ms Booth**), Chief Operating Officer of Zagame Corporation, dated April 2017 with annexures (1) Zagame's staff presentation and (2) Proposed Plan of Community Services Booth;
 - (f) Witness Statement of Mr Christakis Christou (**Mr Christou**), Operations Manager of Zagame Corporation, dated April 2017;
 - (g) Witness Statement of Mr Leigh James Barrett (**Mr Barrett**), Director and Principal Consultant of Leigh Barrett and Associates Pty Ltd, dated April 2017;



- (h) Zagame's Corporation Responsible Gambling Policies and Procedures Manual;
 - (i) Zagame's Berwick Springs 2016 Annual Compliance Review;
 - (j) Responsible Gambling Code of Conduct Independent Evaluation 2015/16;
 - (k) Overview report from Mr Bruce Waddington of Geotech, dated 26 June 2014, entitled '*Using Retail Gravity Theory to Model Gaming Venue Expenditure and Transfer in Victoria: Model Upgrade 2013/14 – An Overview of Background, Methods and Results*' (the **Geotech Report**);
 - (l) Report from Mr Bruce Waddington of Geotech, dated 26 June 2014, entitled '*Victorian EGM Transferred Expenditure Case Studies*';
 - (m) Council Officer's Report – Item 6.24 Application for additional electronic gaming machines at Berwick Springs Hotel, dated 18 July 2017;
 - (n) the Applicant's suggested amendments of the conditions of its venue operator's licence (if the Application is granted) (**Proposed Conditions**); and
 - (o) e-mail correspondence between the Applicant and the Council between 18th and 26th July 2017.
22. In addition, the Commission received correspondence, dated 22 May 2017, in which the Applicant provided the Commission with confirmation that the Application was advertised in the Herald Sun, on 19 May 2017, in the format prescribed by the Commission.
23. In opposition to the Application, the Council provided:
- (a) a written submission, dated 31 July 2017, referred to in paragraph 2 above;
 - (b) correspondence received by the Council from individuals and organisations indicating opposition, neutrality or support with regard to the Application and/or gaming in general;
 - (c) a paper titled '*Assessing gambling-related harm in Victoria: a public health perspective*';¹⁴

¹⁴ Browne, M, Langham, E, Rawat, V, Greer, N, Li, E, Rose, J, Rockloff, M, Donaldson, P, Thorne, H, Goodwin, B, Bryden, G & Best, T 2016, *Assessing gambling-related harm in Victoria: a public health perspective*, Victorian Responsible Gambling Foundation, Melbourne. (the **VRGF**)



- (d) a paper titled '*The relationship between electronic gaming machine accessibility and police-recorded domestic violence: a spatio-temporal analysis of 654 postcodes in Victoria, Australia, 2005-2014*',¹⁵ and
 - (e) a paper titled '*Responsible gambling codes of conduct: lack of harm minimisation intervention in the context of venue self-regulation*'.¹⁶
24. The following material, prepared by Commission officers, was considered by the Commission:
- (a) Report titled *Pre-Hearing Inspection and Compliance Report*, dated August 2017 (the **Inspection Report**);
 - (b) Pre-Hearing Compliance Reports, dated August 2017, for Zagame's Edwards Lake Hotel; Zagame's Ballarat Club Hotel; Zagame's Caulfield Club Hotel and Zagame's Boronia Club Hotel (the **Compliance Reports**);
 - (c) Report titled *Economic and Social Impact Report*, dated August 2017 (Version 2) (the **VCGLR Report**); and
 - (d) Report titled *Report update on basis of available 2016 ABS census data*, dated August 2017 (the **VCGLR Updated Report**).
25. In addition, the Commission received 23 e-mails, dated 22, 23 and 28 August 2017, in opposition to the Application from residents of Casey and nearby areas as well as individuals from within Victoria, interstate and from undisclosed locations.
26. Prior to the Hearing, both Chair Kennedy and Commissioner Powell separately visited the Hotel.
27. At the Hearing, the following further material was provided to the Commission in relation to the Application by the Applicant:
- (a) table showing levels of complementary expenditure;
 - (b) budget estimate from J-Nine Constructions Pty Ltd, dated 28 August 2017;
 - (c) update to Table Six, of the PVS Report, titled 'Similar Sized Metropolitan Hotel Venues Post Installation Additional 10 EGMs';

¹⁵ Markham, F, Doran, B & Young, M 2016, 'The relationship between electronic gaming machine accessibility and police-recorded domestic violence: a spatio-temporal analysis of 654 postcodes in Victoria, Australia, 2005–2014', *Social Science & Medicine*, vol. 162, pp. 106–14.

¹⁶ Rintoul, A., Deblaquiere, J., & Thomas, A. (2017). Responsible gambling codes of conduct: lack of harm minimisation intervention in the context of venue self-regulation. *Addiction Research & Theory*, 1-11.



- (d) update to Table Seven, of the PVS Report, titled 'Table Seven – Expenditure Prediction Summary;
 - (e) addendum table to the PVS Report titled 'Expenditure to be transferred from Gaming Venues in the Trade Area and Local Network to the Berwick Springs Hotel if the Application is Approved'; and
 - (f) Compliance Audit Checklist by Leigh Barrett & Associates, dated 21 August 2017.
28. The following witnesses gave oral evidence at the Hearing:
- (a) Mr Zagame;
 - (b) Ms Booth;
 - (c) Mr Clyne;
 - (d) Mr Christou;
 - (e) Mr Barrett; and
 - (f) Ms Peterson.
29. At the conclusion of the oral evidence at the Hearing the following written submissions were provided to the Commission for the:
- (a) Applicant, prepared by Ms Porritt; and
 - (b) Council, prepared by Ms Cramer.
30. After the Hearing, the Commission was provided with:
- (a) a letter from the Applicant, dated 15 September 2017, enclosing amended suggested conditions to its venue operator's licence (if the Application is granted) (**2nd Proposed Conditions**) with attachment containing proposed plans for the screening of the gaming area from the bistro of the Hotel;
 - (b) an email from the Council, dated 26 September 2017, enclosing proposed amendments to the 2nd Proposed Conditions; and
 - (c) a letter from the Applicant, dated 29 September 2017, enclosing further amended suggested conditions to its venue operator's licence (if the Application is granted) (**3rd Proposed Conditions**).



DECISION AND REASONS FOR DECISION

Location

31. The Hotel is located in the City of Casey (**Casey**) on the north-west corner of Clyde Road and Greaves Road in Berwick, approximately 1.5 kilometres south of the Princes Freeway. The Hotel is located in a predominantly residential area with retail facilities in close proximity to the north and south west, including a group of shops across Clyde Road consisting of takeaway food and convenience retail stores. The Hotel currently comprises a bistro and a restaurant open daily for meals, a sports bar and TAB facilities, a gaming area with 95 EGMs and a drive-through bottle shop.¹⁷
32. Casey is a metropolitan local government area (**LGA**) located approximately 35 kilometres south-east of Melbourne and covers an area of 409 square kilometres. Major centres in Casey include Narre Warren, Cranbourne and Berwick. According to the VCGLR Updated Report, Casey has an estimated adult population of 299,301 which ranks it as the most populous of the 31 metropolitan municipalities. The annual rate of population growth, projected by Victoria in the Future, Department of Environment, Land, Water and Planning, for the period 2017 to 2022 is 2.90% as compared with the Victorian average of 1.80%. Projections also indicate that by 2022, 29.8% of the population will be over the age of 50.
33. Casey has an EGM density of 4 EGMs per 1,000 adults, which is 20% lower than the metropolitan average (5) and 33.3% lower than the State average (6). This gives Casey the 24th lowest EGM density per 1000 adults of the 31 metropolitan municipalities.
34. The VCGLR Report indicates that in 2016-17 Casey had an average gaming expenditure of \$555 per adult (based on projections from the 2011 census data for population), which is 1.10% lower than the metropolitan LGA average (\$561) and 2.40% higher than the State average (\$542). Applying the estimate of increased gaming expenditure, as received from the Applicant, the Application (if granted) would result in an increase in average gaming expenditure per adult of 0.9% without allowance for population changes. Gaming expenditure within Casey has decreased 4.32% in real terms (indexed to CPI) over the past 5 years to June 2017, which is a smaller decrease than the metropolitan LGA average decline of 10.03%.
35. Casey is characterised by a mixed socio-economic profile with indices both above and below metropolitan averages and is ranked 51st out of 79 LGAs in Victoria on the Socio-Economic

¹⁷ See paragraph 38 below for the relevant opening times.



Indexes for Areas (**SEIFA**) scale of disadvantage,¹⁸ indicating some disadvantage within the LGA (1st being the LGA with the greatest disadvantage).

36. In relation to the immediate surrounding area of the Hotel (i.e. within 2.5 kilometres), only 1.3% of SA1s are in the 1st quintile¹⁹ of SEIFA scores, with approximately 70% of SA1s being in the 4th or 5th quintile. This suggests that the area immediately surrounding the Hotel does not experience a significant level of disadvantage.
37. The unemployment rate in Casey is 7.2%, which is higher than the metropolitan unemployment rate of 5.9%. Unemployment in Casey decreased by 0.7% in the period June 2015 to June 2016.

Nature of the Hotel

38. In March 2014, the Applicant undertook a three-stage renovation of the Hotel. Currently, the facilities at the Hotel include –
 - (a) a bistro, with capacity for 460 patrons. Open daily between 9 am to 9:30 pm;
 - (b) a restaurant (MPD Steak Kitchen) which is open daily;
 - (c) a sports bar with large LCD screens and TAB facilities. Open daily between 9 am to 5:30 am;
 - (d) a gaming room with 95 EGMs. Open daily between 9 am to 5:30 am;
 - (e) on-site parking;
 - (f) a children's play area catering for children between the ages of 2 and 12; and
 - (g) a drive-through bottle shop, open daily between 10.00 am and 11.00 pm.

Catchment of the Hotel

39. The '*no net detriment*' test refers to 'the community of the municipal district in which the approved venue is located'. In determining the impact of an application of this nature on a municipal district, previous Commission and VCAT decisions have had particular regard to the area serviced by the

¹⁸ SEIFA is a product developed by the ABS to assist in the assessment of the welfare of Australian communities. The SEIFA Index allows the ranking of regions/areas, providing a method of determining the level of social and economic well-being in each region.

¹⁹ SEIFA index of relative disadvantage is divided into five quintiles each comprising 20% of areas (Statistical Areas Level 1 (SA1s)) ranked by socioeconomic status from the most disadvantaged (lowest / 1st quintile) to least disadvantaged (highest / 5th quintile). High disadvantage is indicated by a low SEIFA score (and low disadvantage by a high score).



relevant premises, which are generally referred to as the 'catchment areas'.²⁰ The determination of the likely catchment area in this instance is important in the Commission's consideration of the identity of those residents which will be most affected by the Application in terms of gambling-related benefits and harms.

40. In the Ratio Report, the catchment area was described primarily as a 2.5 kilometre radius around the Hotel, and secondarily as suburbs typically 2.5 - 5 kilometres from the Hotel. This was based on a gaming room patron survey conducted by the Applicant.²¹ The patron survey indicated that 75.10% of the Applicant's gaming patrons reside within the suburbs of Berwick (40.97%), Narre Warren (8.48%), Cranbourne (7.12%), Clyde (6.80%), Narre Warren South (4.60%), Pakenham (3.77%) and Clyde North (3.36%). In the Ratio Report, Ms Peterson stated that based on her previous experience she estimated that in the order of 70-80% of the Hotel's patrons would come from a 2.5 kilometre radius around the Hotel.
41. In this instance, the Commission considers that the gaming room patron survey provides a reliable indication of the likely gaming patrons for the Hotel, with the greatest proportion of those patrons residing in the suburbs of Berwick and Narre Warren. Therefore, the Commission considers that the appropriate catchment area of the Hotel consists primarily of the suburbs of Berwick and Narre Warren, together with its surrounding areas, out to a radius of up to 5 kilometres.

Issues for determination

42. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following two matters:²²
 - (a) that the relevant regional or municipal limit for EGMs applicable to Casey will not be exceeded by the making of the amendment the subject of the Application; and
 - (b) that the net social and economic impact of the increase in EGMs permitted in the Hotel will not be detrimental to the well-being of the community of Casey (the '*no net detriment*' test).

If having determined that these matters have been satisfied, the Commission is then required to exercise its discretion under section 3.4.20 to determine whether or not the Application should be granted; that is, whether or not the proposed amendment to the venue operator's licence should be made.²³

²⁰ See for example, *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor (Occupational and Business Regulation)* [2009] VCAT 2275 (12 November 2009); *Whittlesea CC v George Adams Pty Ltd* [2011] VCAT 534 (7 April 2011).

²¹ See Ratio Report para 5.1.1 to 5.1.7; Table 10.2 and Appendix D Summary of Gaming Patron Survey.

²² The Commission also considered and was satisfied as to the matters set out in section 3.4.20(1)(a) and (d) of the GR Act.

²³ See paragraph 18 above. An amendment may be made subject to any conditions the Commission thinks fit: GR Act, section 3.4.20(3).



A. *Municipal and Regional limits*

43. Casey is divided into two geographically distinct areas in terms of limits placed on the number of EGM entitlements in the municipality. The first area is subject to a regional limit²⁴ of 614 EGMs²⁵ whilst the second area is subject to a municipal limit²⁶ of 1017 EGMs. Currently, there are 13 gaming venues within the municipality with approvals to operate a total of 934 EGMs.
44. The Hotel is located within the second area subject to a municipal limit of 1017 EGM entitlements. At the time of the Application, there are 4 gaming venues within this area with approvals to operate a total of 299 EGMs. Of these, 289 EGMs are presently in operation.
45. Approval of this Application would increase the number of EGM approvals within Casey to 944, of which 309 would be located in the second area. Approval of this Application would not exceed the applicable municipal limit.
46. On that basis, the Commission is satisfied that granting the Application would not cause the relevant municipal limit for gaming machines for Casey to be exceeded, and hence considers this aspect of the statutory test set out in section 3.4.20 of the GR Act to be satisfied.

B. *'No net detriment' test*

47. The Commission is required to be satisfied that if the Application is granted the net economic and social impact of approval will not be detrimental to the well-being of the community of the municipal district in which the Hotel is located. Set out below (and summarised in tabular form at Appendix One) is the Commission's assessment of the economic and social benefits and disbenefits associated with the Application, including the weighting given to each of these impacts.

²⁴ See https://www.vcglr.vic.gov.au/sites/default/files/uploadMinisterial_direction_-_region_limits.pdf

²⁵ Under a determination made by the Commission pursuant to section 3.4A.5(3A) of the GR Act.

²⁶ Pursuant to section 3.4A.5(3A)(b) of the GR Act, the VCGLR determined, in accordance with the criteria specified in the Minister for Gaming's Order on 15 August 2012, the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each region. See https://www.vcglr.vic.gov.au/sites/default/files/uploadMinisterial_direction_-_municipal_limits.pdf



Economic Impacts

Expenditure on capital works

48. A potential economic benefit associated with the Application is the economic stimulus arising from the expenditure on the proposed renovations of the Hotel.
49. According to Mr Zagame's evidence at the Hearing, if the Application is successful, the Applicant proposes to undertake renovations at an estimated cost of approximately \$2.3 million.²⁷ According to Ms Booth's evidence at the Hearing, a builder provided a quote for the works with an estimated cost of approximately \$2.5 to 2.6 million.²⁸ The works would consist of:
- (a) an enlarged bistro to create an additional 100 seats;
 - (b) conversion of the enlarged bistro to provide for the flexible creation of function areas and conference spaces on a demand basis;
 - (c) relocation and enlargement of the children's play area;
 - (d) modification of the car park area;
 - (e) refurbishment of the bottle shop with a focus on fine wines; and
 - (f) refurbishment of the kitchen.
50. Ms Booth in her oral evidence at the Hearing stated that the Applicant also intends to install a Community Service Booth (**CSB**) in the Hotel at an estimated cost of approximately \$40,000.²⁹ The proposed purpose of the CSB is detailed in paragraphs 107 to 108 below.
51. The Commission was also provided with a range of supporting plans of the proposed renovations.³⁰ However, the Commission was not provided with any detailed costings for the renovations (other than estimates which ranged from \$2.3 to \$2.6 million) or details of the workforce to be used for the renovations.
52. When questioned as to whether the renovations would proceed if the Application is not granted, Mr Zagame in his oral evidence at the Hearing stated that, "*without the EGMs, the payback is going to be nowhere near as achievable over a period of time*".³¹ Counsel for the Applicant in

²⁷ Transcript of the Hearing, 29 August 2017, p-19.

²⁸ Transcript of the Hearing, 29 August 2017, p-28.

²⁹ Transcript of the Hearing, 29 August 2017, p-31-p33.

³⁰ See paragraph 21(d) above.

³¹ Transcript of the Hearing, 29 August 2017, p-10



closing submission in reference to the capital works associated with the Application submitted that her instructions were that they would not proceed without the gaming machines.³² This was consistent with the Ratio Report, in which it was noted that the works would not proceed should the Application not be granted. The Ratio Report stated that, *“If all necessary planning and VCGLR approvals are granted, the proposed works are expected to commence in February 2018 and be completed by September 2018.”*

53. In this instance, while the Commission notes that the proposed works would involve expenditure which would generally constitute an economic benefit, it has no persuasive evidence before it as to the extent to which the goods and services required for the works would be procured within Casey or details of the workforce to be used for the renovations. Therefore, the Commission considers, that although the works will not proceed if the Application is not granted, this expenditure is an economic benefit, however, in this application it is one that should only be given marginal weight.
54. The Commission acknowledges that it is important to avoid double counting the benefits associated with the capital works, having regard both to the estimated employment impacts of proposed renovations and the social impact that may result from the improved facilities. These aspects are considered separately, and are detailed below at paragraphs 66 to 74 and 92 to 94 respectively.

Gaming expenditure not associated with problem gambling

55. As the economic category includes consumption, then to the extent that gaming expenditure is not associated with problem gambling, it has been recognised (by, for example, the Productivity Commission in its 1999 report) that such expenditure can be treated as an economic positive.³³ As Bell J further notes, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use machines for social reasons.³⁴
56. Mr Clyne, in the PVS Report and at the Hearing, gave evidence regarding the likely increase in gaming expenditure should the Application be granted. Specifically, he gave evidence of the increased gaming expenditure at the Hotel. Mr Clyne estimated (on the basis of the Geotech model) that 75% of this will be transferred expenditure from a number of existing gaming venues

³² Transcript of the Hearing, 29 August 2017, p-102

³³ See *Romsey #2* at [351] per Bell J.

³⁴ See *Romsey #2* at [351]. Bell J notes further at [352] that the other approach is to say, as did Morris J in *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT 2606 at [79] that gaming extends ‘substantial economic and social benefits’ to gaming machine users, which treats consumption as a benefit without saying whether it is economic or social. While Bell J states both approaches are correct, for the purposes of this Application this benefit is treated as an economic benefit.



both within and outside Casey. He stated:

- (a) the Geotech model estimates how much gaming expenditure the Hotel will take from each competing venue. The amount of expenditure that is not transferred from competing venues is deemed to be new expenditure;
- (b) based on an additional 10 EGMs being attached the increase in annual gaming expenditure at the Hotel is estimated to be \$1,574,660;
- (c) adopting the estimated level of 75% transferred expenditure, new gaming expenditure (25%) is estimated to be \$7,570 (per week) and \$393,665 (per annum); and
- (d) new gaming expenditure equates to approximately 0.30% of total gaming expenditure in the LGA in 2015-2016.

57. The Commission also notes that the Council did not dispute the Geotech model as accurately predicting the overall projected rise in expenditure at the Hotel. There was no other evidence to suggest that the Geotech model did not accurately predict the overall projected rise in expenditure at the Hotel. Therefore, the Commission accepts Mr Clyne's evidence.
58. Using Mr Clyne's calculation as detailed in paragraph 56(c) above, Ms Peterson in the Ratio Report stated that the Application is expected to increase expenditure per adult in Casey from \$561.09 to \$563.14 in the first 12 months. This is an increase of \$2.05 (0.370%) per adult in the municipality.
59. In considering the likely impact of an additional 10 EGMs at the Hotel, the Commission notes that there has been a rise and fall in expenditure on EGMs at this Hotel since 2011, and further that the rise over the last two financial years of 7.10% (2014/15) and 11.60% (2015/16) represents significant growth given that the total expenditure in the LGA grew by only 5.40% (2014/15) and 4.60% (2015/16). The Commission also notes that the EGM utilisation survey conducted by the Applicant indicates that the Hotel is popular with net machine revenue (**NMR**) of \$476 compared to the hotel metropolitan average of \$371.
60. In assessing the extent of this benefit, the Commission has had regard to the evidence outlined in paragraphs 82 to 89 below with respect to the incidence of problem gambling. Various factors suggest that the extent of problem gambling at the Hotel is likely to be low including the levels of socio-economic disadvantage of the catchment area around the Hotel noting that:
- (a) it is located in an area of lower relative socio-economic disadvantage (albeit in a municipality with a higher rate of unemployment (7.20%) than the metropolitan average (5.90%)), greater



- vulnerability to financial stress than other metropolitan municipalities and one that is anticipated to experience ongoing population growth); and
- (b) the anticipated extent of the new gaming expenditure in Casey is expected to be moderate due to the 75% transfer rate predicted by Mr Clyne.³⁵

61. That said, having necessary regard to the extent of gambling expenditure associated with problem gambling as outlined in paragraphs 82 to 89 below, the Commission considers that this benefit should only be given a marginal weight.

Increased gaming competition in Casey

62. Increasing competition in gaming in Casey is a factor in light of the statutory purposes of the GR Act and the consumer benefits that derive from competition.
63. In this regard, the Commission refers to and has reliance to the evidence set out in paragraphs 80 to 81 in relation to the anticipated transfer of gaming expenditure within Casey.
64. On the basis of an estimated adult population in Casey of 299,301 for 2016, the Commission considers that this Application would (if approved):
- (a) increase the overall number of approvals for EGMs within the municipality by 10 (1.07% increase) from 934 to 944, including an increase in the number of approvals for EGMs within the municipal limit of 1017 entitlements from 299³⁶ to 309 (3.34% increase);
 - (b) the EGM utilisation survey provided by the Applicant showed utilisation rates exceeded 70% on average for 10.5 hours per week over a two week period;
 - (c) increase the EGM density of the municipality in which the Hotel is situated from 4 EGMs per 1,000 people³⁷ to 4.04 EGMs per 1,000 people (compared with the metropolitan average of 5 EGMs per 1,000 people and State average of 6 EGMs per 1,000 people); and
 - (d) result in new gaming expenditure in the municipality in the amount of approximately \$393,665 per annum which equates to approximately 0.30% of total gaming expenditure in the LGA in 2015-2016.
65. The Commission finds that granting approval of the Application will provide additional EGMs at which patrons may choose to play. However, the Application represents a relatively small

³⁵ Transcript of the Hearing, 29 August 2017, p-50

³⁶ See VCGLR Entitlements Register.

³⁷ VCGLR Current LGA population density and gaming expenditure statistics as at June 2016



proportional increase in the number of EGMs in Casey and within the area subject to the municipal limit.³⁸ Further, the utilisation rates at the Hotel do not indicate that demand for gaming is outstripping supply for significant periods of time during the survey, nor does the anticipated additional expenditure at the Hotel suggest a substantive increase in gaming competition in the municipal district. As such, for the purposes of this Application the Commission considers there is negligible benefit associated with an increase in gaming competition in Casey as a result of the addition of 10 EGMs at the Hotel, and hence gives this impact no weight.

Additional employment

66. Employment benefits associated with the Application may involve short term employment benefits associated with the renovations at the Hotel (related to but separate to the economic benefit associated with the expenditure on capital works) and longer term benefits following completion of such renovations arising from the introduction of EGMs and increased patronage of existing facilities at the Hotel.
67. In relation to short-term benefits the extent of the works is described generally in paragraph 49 above. As discussed at paragraph 53 above, it is not clear to what extent this work will be undertaken by individuals who live in the relevant municipality as the Applicant provided no persuasive evidence in relation to the short term employment benefit associated with the renovations. At the hearing, Ms Peterson gave evidence that, "*in the context of the local economy, you know, you can't guarantee that the tradespeople or companies will be local. So you've really got to discount the economic benefits attached.*"³⁹ Based on the evidence presented, the Commission concludes that it should not place any weight on this economic benefit. To the extent that it arises in relation to this Application, the Commission considers that the value of this benefit has been captured in the benefit associated with the expenditure on capital works considered in paragraphs 48 to 54 above.
68. Separate from the short term economic benefits associated with the capital works is the potential benefit associated with longer term employment arising from the Application.
69. In relation to longer term benefits, according to the Ratio Report, if the Application is granted, it is expected it would result in direct employment of up to 5 equivalent full time (**EFT**) workers. The breakdown of such employment is as follows:

³⁸ See paragraphs 43 to 46.

³⁹ Transcript of the Hearing, 29 August 2017, p-91



(a) Gaming: 1 EFT position;⁴⁰ and

(b) Non-gaming: 4 EFT positions.

70. In relation to this benefit, Ms Booth gave evidence that the Hotel currently employs 95 EFT staff.⁴¹ She stated that in addition to the requirement for an additional staff member in the gaming room, the Applicant estimated this Application would result in an increase in the Hotel's food and beverage sales of \$509,066,⁴² requiring further additional employment at the Hotel.

71. Ms Peterson stated in the Ratio Report that, "It is expected that 5 additional EFTs will be created as a result of the additional 10 EGMs and the proposed works. I understand that 1 of these EFTs will be provided in direct gaming employment." At the hearing, Ms Peterson gave evidence that, "Again, in terms of unemployment, you know, five positions, 1.6 in the gaming room, yes, there's some benefit attached to that, but in the context of the local economy and, you know, there's some 290,000 people living in the City of Casey, it's obviously a low benefit".⁴³

72. The Commission accepts the evidence given on behalf of the Applicant that if the Application is granted, this will result in the creation of the equivalent of 1 new EFT at the Hotel in respect of its gaming operations and an additional 4 EFTs in respect of its increased hospitality operations.

73. The Commission considers that the additional revenue from non-gaming expenditure would be predominantly transferred from within Casey. Therefore the additional employment would also have a corresponding diminution of employment within Casey. As such the Commission does not include this additional non-gaming employment within the Hotel as a benefit when considering the economic impact of the Application.

74. The Commission finds that the economic impact on employment arising from this Application, would be the employment of 1 EFT worker. Given the scale of this impact, the Commission considers this is a benefit to the community to which it attributes a marginal weight.

Complementary expenditure

75. Complementary expenditure is a potential benefit where it results in increased economic activity in the municipal district in which the premises that are the subject of an application are located. However, the extent of this benefit will depend upon a range of factors, including:

(a) the extent to which the expenditure is a consequence of new spending (i.e. as a result of

⁴⁰ Statement of Ms Booth, paragraph 31

⁴¹ Statement of Ms Booth, paragraph 30

⁴² Transcript of the Hearing, 29 August 2017, p-25

⁴³ Transcript of the Hearing, 29 August 2017, p-92



- additional people coming to the municipal district as tourists as compared to transferred expenditure from other venues within the municipality); and
- (b) the extent to which that complementary expenditure results in additional spending on local goods and services.
76. Ms Peterson in the Ratio Report stated that she expected complementary expenditure as a result of the Application being granted to be \$350,000 in the first year of the additional 10 EGMs being attached. Ms Booth gave evidence that she expected complementary expenditure as a result of the Application being granted to be \$509,066⁴⁴ in the first year of the additional 10 EGMs being attached. This was based on an estimated increase in the expenditure on meals in the bistro and restaurant, beverages at the sports bar and liquor sales at the bottle shop as well as new expenditure from functions at the Hotel.
77. On the information available, the Commission considers there is limited evidence on this impact, in particular as to the extent to which it may result in any increase in the number of supply contracts for food and beverage from suppliers in Casey. For these reasons, the Commission finds that any benefit associated with complementary expenditure for the municipality would be negligible and as such places marginal weight on this impact.

Diversion of trade from retail facilities

78. Ms Peterson sets out in the Ratio Report that the diversion of trade from retail facilities due to an increase in gaming expenditure is a potential economic disbenefit flowing from the grant of this Application. The diversion of trade may result in lower spending in and job losses from local businesses.
79. The Commission accepts that the maximum impact that could be imposed on local retailers would be the value of new gaming expenditure arising from this Application. The Commission also accepts that a significant proportion of the new expenditure redirected from local businesses may be lost to the municipality given the distribution of a proportion of that revenue to the State Government.⁴⁵ Despite this, the Commission agrees with the Applicant's evidence that the extent of any revenue lost by retail facilities in the local area would be difficult to determine. As such, the Commission finds that there is an economic disbenefit associated with the diversion of trade from retail facilities within Casey as a result of this Application, and so places a marginal weight on this factor.

⁴⁴ Transcript of the Hearing, 29 August 2017, p-25

⁴⁵ Transcript of the Hearing, 29 August 2017, p-29



Diversion of trade from other gaming venues

80. Mr Clyne gave evidence that the introduction of EGMs at the Hotel would cause a diversion of trade from other gaming venues within the municipality.⁴⁶ Ms Peterson stated in the Ratio Report that this impact should be given low weight as the transfer of gaming expenditure was not expected to significantly impact other venues.
81. The Commission refers to and relies on its findings at paragraphs 62 to 65 regarding the likely allocation of anticipated diversion of trade from other venues. As such, the Commission finds that approximately 75% of anticipated transferred expenditure would be derived from other venues. The Commission notes that increases in expenditure at the Hotel may also be driven in part by the higher than average increase in population in the municipality and the limited competition amongst venues given the limited number of gaming venues with the catchment area of the Hotel. Therefore, the Commission considers that there is the potential that the diversion of trade will have a detrimental economic impact on other venue operators (in particular, the operator of the Berwick Inn Taverner).⁴⁷ Having regard to these factors, the Commission assigns marginal weight to this impact.

Gaming expenditure associated with problem gambling

82. To the extent that a portion of the new gaming expenditure is attributable to problem gambling, this represents an economic disbenefit.⁴⁸ In assessing this impact (and other effects of problem gambling), the Commission recognises that harms associated with problem gambling may be experienced directly and indirectly as a consequence of gaming undertaken by those who may be defined as 'problem gamblers', as well as those who may be otherwise regarded as 'low-risk' or 'moderate-risk' gamblers.
83. The extent to which new gaming expenditure will be associated with problem gambling, and hence may be regarded as a disbenefit associated with the Application, will be influenced by the socio-economic status and vulnerability of the community of Casey, and particularly those living in the immediate area within 2.5 kilometres of the Hotel. This is because communities characterised by socio-economic disadvantage and greater vulnerability are considered to be more susceptible to

⁴⁶ Transcript of the Hearing, 29 August 2017, p-48 to p-51

⁴⁷ See Addendum table titled for the PVS Report 'Expenditure to be transferred from Gaming Venues in the Trade Area and Local Network to the Berwick Springs Hotel if the Application is Approved'.

⁴⁸ The Commission recognises that, on review, the key likely disbenefit of 'problem gambling' has, for convenience, been treated under the heading of 'social impacts' in various instances: see *Mount Dandenong Tourist Hotel Pty v Greater Shepparton CC* [2012] VCAT 1899, [121] and following; *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130, [47] per Martin PM and Naylor M. However, this is not an approach that has been uniformly adopted; see, for example, *Mount Alexander Shire Council* [2013] VCAT 101 at [178] and following per Dwyer DP. For completeness, the Commission considers both the economic and social impacts of problem gambling in assessing this Application.



the harms arising from problem gambling.

84. Relevantly, the Commission notes the evidence of Ms Peterson, in which she stated at the Hearing that in the primary catchment area around the Hotel the population has few signs of disadvantage.⁴⁹ The Commission notes that whilst the Southern Metro region (within which Casey sits) recorded a prevalence of 1.08% of adults surveyed being problem gamblers with the rate of problem gambling in Victoria sitting at 0.8%, various factors suggest that there is lower risk of increased incidence and economic impact of problem gambling in the relevant catchment area of the Hotel should this Application be granted on the basis that:
- (a) the suburb in which the Hotel is located shows few signs of disadvantage with Berwick having a SEIFA score of 1066, sitting in the 9th decile and 82nd percentile;
 - (b) the wider area is also of lower relative socio-economic disadvantage;
 - (c) the equivalised household income for Casey is 5.67% higher than that of metropolitan Melbourne;
 - (d) the homelessness rate of Casey is 12th out of 16 for the metropolitan statistical subdivisions (1st being the highest rate of homelessness); and
 - (e) the EGM expenditure for Casey, based on 2011 census data, is less than the metropolitan LGA average.
85. For completeness, it is noted that the VCGLR Report indicates that in relation to the area immediately surrounding the Hotel (i.e. within 2.5 kilometres), approximately 70% of Statistical Area Level 1 (SA1s)⁵⁰ areas are in the 4th and 5th quintile of the SEIFA index of relative disadvantage (indicating low relative disadvantage). The remaining SA1s in the area immediately surrounding the Hotel are in the 2nd (17.1%) and 3rd (17.1%) quintiles. Only 1.3% of SA1s within a 2.5 kilometre radius of the Hotel are in the 1st quintile, which are relatively disadvantaged.
86. Taking into account all of the material before it, the Commission finds that the Application will result in estimated new expenditure being generated of at least \$393,665 in the first 12 months of the additional 10 EGMs being attached. It accepts that a proportion of this expenditure will be associated with problem gambling. However, the Commission finds that the catchment area of the Hotel exhibits low levels of socio-economic disadvantage and generally lower vulnerability to the risks of problem gambling.

⁴⁹ Transcript of the Hearing, 29 August 2017, p-99

⁵⁰ SA1s have been designed by the ABS as the smallest unit for the release of Census data, and generally have a population of 200 to 800 persons, with an average of 400 persons.



87. In considering the extent to which new gaming expenditure may give rise to an increased risk of problem gambling, the manner in which gaming is to be conducted at the Hotel is also a relevant consideration. Specifically, in relation to the Hotel's Responsible Service of Gaming (**RSG**) practices, the Commission notes that the Applicant proposes to implement a number of measures in relation to RSG which primarily include:
- (a) shielding the gaming room from direct view of children from the entry to the bistro;⁵¹
 - (b) creation of a "Community Service Booth" to improve RSG and problem gambling awareness; and⁵²
 - (c) employment of further staff and, relevantly, 1 EFT member of staff in the gaming room.⁵³
88. While the Commission accepts the facilities at the Hotel would be, at least, improved, it considers the impact of such foregoing measures would be limited. The venue is a large one, with a relatively high number of EGMs and extensive operating hours. Importantly, there are other facilities which are generally open when the gaming room is operational including a sports bar and large family oriented bistro. Whilst a larger gaming room is more attractive for problem gamblers any increase in anonymity is likely to be off-set by the provision of one additional staff member within the gaming room. The Commission considers there is a lack of information before the Commission to consider that the addition of 1 EFT staff member, as referred to in paragraph 87(c) above, would do more than address a potential increase in demand for staff services (relevantly gaming room surveillance) caused by the additional 10 EGMs.
89. Overall, the Commission considers with respect to the Application that the potential expenditure associated with problem gambling is a negative economic impact upon which it should place a marginal to low weight. Issues relating to the negative social impacts associated with problem gambling are considered further in paragraphs 109 to 119 below.

Conclusion on Economic Impacts

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

⁵¹ See paragraphs 30(a) and 127 to 129.

⁵² See paragraphs 107 to 108.

⁵³ See paragraphs 66 to 74.



Social Impacts

91. The materials before the Commission and the evidence adduced at the Hearing detailed a range of social benefits and disbenefits associated with the Application.

Improved facilities enabling greater range of services

92. Ancillary to the capital works expenditure that will occur if this Application is granted,⁵⁴ the renovations will result in improved facilities being available to be patronised by the community. Access to such improved facilities is an outcome which the Commission⁵⁵ and VCAT⁵⁶ have regularly determined is a positive social impact associated with applications of this nature. The nature of these improved facilities has been described in detail in paragraph 49. According to Ms Peterson in the Ratio Report, the proposed renovations, “*will improve the layout and functionality of the venue including the provision of additional facilities including an expanded children’s playroom, increased bistro area with 100 additional seats and the adaptable function/conference space, a refurbished kitchen and new outdoor dining area.*” Ms Peterson also stated in her evidence that, “*In terms of social benefits, yes, I do think that there are benefits attached to what I considered to be, sort of, positive changes to the layout and improvements and expansion of existing facilities. But, again, because it’s such an impressive venue, the overall benefit attached to that is still relatively modest, so I’ve attached a low benefit to that.*”⁵⁷

93. The Commission refers to its findings in paragraph 53 above that the works will not proceed if the Application is not granted and it is therefore appropriate to consider the social benefits arising from the community’s access to and use of the improved facilities as benefits of this Application. As such, the Commission finds that the additional 10 EGMs at the Hotel will enable the Applicant to improve facilities at the Hotel and, enable a greater range of services. The Commission, whilst noting the renovations generally represent an expansion and improvement of facilities rather than the introduction of new facilities, regards access to such improved and expanded facilities as a positive social impact, upon which it places a marginal to low weight.

94. The Commission acknowledges that it is important to avoid double counting the benefits associated with the renovations to the Hotel, having regard to the economic benefits that may result from expenditure on capital works. This aspect is considered separately, and detailed at paragraphs 48 to 54 above.

⁵⁴ See paragraphs 48 to 54 above.

⁵⁵ See, for example, *Glenroy RSL Sub-branch Inc at Glenroy RSL premises* [2015] VCGLR 40 (22 October 2015).

⁵⁶ See, for example, *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.

⁵⁷ Transcript of the Hearing, 29 August 2017, p-91



Increased gaming opportunities for those who enjoy gaming

95. This is a positive impact if the Application will better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs. The Applicant submits that the proposed addition of 10 EGMs would improve game choice of current patrons in machines during peak periods. The Commission notes that utilisation rates exceeded 70% on average for 10.5 hours per week over the two-week survey period from 17 February to 2 March 2017 and the NMR is \$476 compared to the hotel metropolitan average of \$371, as discussed in paragraph 59 above.
96. The Commission acknowledges that there is a benefit in increasing machine choice for recreational players and catering for (non problem gambling) demand. However, given there are already 95 EGMs at the Hotel, the EGM utilisation survey provided by the Applicant showed utilisation rates exceeded 70% for limited periods and there are 12 other venues in Casey where EGMs operate, with 903 EGMs currently being in operation in the municipality, the Commission considers there is already an ease of access and high levels of consumer choice for anyone choosing to play EGMs. Therefore, the Commission considers this to be a negligible social benefit to the community in Casey itself, and hence one on which it places no weight.

Social benefit derived from increased community contributions

97. In determining the net economic and social impact of applications of this nature, both the Commission⁵⁸ and VCAT⁵⁹ have regularly treated community contributions as a positive benefit. However, for such contributions to be regarded as a benefit associated with the Application, it is necessary that they are properly regarded as community contributions and that they will result as a consequence of the Application.
98. At the Hearing, the Applicant proposed an additional annual cash contribution of \$25,000 (bringing the Applicant's overall community contributions to \$100,000) of which \$21,429.60 per annum is proposed to be donated to the Salvation Army for the employment of a Part-Time Gambling Support Worker in the Berwick Salvation Army's START program for a period of 3 years with the balance to be donated to various not-for-profit community and sporting organisations providing services and facilities to residents in Casey whilst and so long as any of the additional 10 EGMs operate at the Hotel up to 15 August 2022 (**Proposed Community Contributions**).
99. According to Ms Peterson, the Applicant has donated over \$218,000 to charitable causes within

⁵⁸ See, for example, *Application by Richmond Football Club* [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

⁵⁹ See, for example, *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.



Casey over the past 3 years.

100. The Council submitted that the Proposed Community Contributions amounted to only 1.3% of the total gaming revenue expected to be received by the Applicant per annum from the 10 additional EGMs at the Hotel. The Council submitted this level of additional community contributions represented an unfavourable outcome to Casey. The Council submitted that, notwithstanding its opposition to the grant of the Application, an additional \$75,000 in community contributions is more appropriate (bringing the overall contribution to \$150,000). The Council also submitted that the Proposed Community Contributions should contain a condition directing the contributions to assisting with problem gambling.
101. After the Hearing, the Applicant amended the Proposed Community Contributions to include the indexation of the additional annual cash contribution of \$25,000 (**2nd Proposed Community Contributions**). The Applicant further amended the proposed community contributions to extend the period of contribution up to 15 August 2032 and included a condition that the operation of the 10 EGMs must cease if the additional community contributions remain outstanding (**3rd Proposed Community Contributions**).⁶⁰
102. While aware of the need to treat community contributions carefully in the assessment of gaming applications under the GR Act, the Commission does not consider it of assistance to assess the level of such contributions against the expected gaming revenue at the Hotel in determining whether the community contributions provides a social benefit to the community. The significance of any such contributions is assessed on the effect had on the community, rather than the proportion of revenues or profits realised by a venue operator that they represent.
103. The Commission accepts that the 3rd Proposed Community Contributions will have a positive social impact. The Commission is further satisfied that the contributions will only occur if the Application is granted. Having regard to the increase in the community contributions that will occur, and that these contributions will be made to a range of community and sporting groups operating in Casey including some services for residents who are located within 2.5 kilometres of the Hotel (in accordance with conditions of any approval of this Application), the Commission considers these contributions to be a positive benefit to which it accords a marginal weight.

⁶⁰ See paragraph 30 above.



Social benefit derived from additional employment

104. Related to the economic impact associated with additional employment, such contributions can also have a positive social impact by improving the social fabric of the community in which they are made.
105. The Commission acknowledges that it is important to avoid double counting the social benefits associated with the additional employment to the Hotel, having regard to the economic benefits that may result from the additional employment. This aspect has been considered separately, and is detailed above at paragraphs 66 to 74.
106. Therefore, the Commission considers this to be a negligible social benefit to the community in Casey itself, and hence one on which it places no weight.

Social benefit derived from the creation of a Community Service Booth

107. The proposed renovations to the Hotel include the construction of a CSB at an estimated cost of \$40,000. The CSB was described at the Hearing as a multipurpose space situated near the entrance to the gaming room. The purpose of the CSB is to provide patrons with an attractive and accessible environment containing a variety of community resources including:
- (a) information regarding gambling (responsible gambling pamphlets and self-exclusion) and alcohol;
 - (b) internet and telephone access; and
 - (c) general community service information.
108. In response to questioning from Commissioner Powell as to whether the CSB was tied to the Application, Ms Booth stated that, "*we would probably go ahead with it regardless.*"⁶¹ Based on the evidence presented, the Commission concludes that it should not place any weight on this social benefit as it is not contingent on the grant of the Application. To the extent that it arises in relation to this Application, the Commission considers that the value of this benefit has been captured in the benefit associated with the expenditure on capital works considered in paragraphs 48 to 54 above and the steps taken to address gaming expenditure associated with problem gambling considered in paragraphs 82 to 89 above.

⁶¹ Transcript of the Hearing, 29 August 2017, p-33



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

109. Wherever accessibility to EGMs is increased there is always a risk of an increase in problem gambling, which leads to other costs such as adverse health outcomes, relationship breakdowns, emotional harms and other social costs. Accordingly, the Commission accepts there is potential for negative social costs through possible increased problem gambling expenditure. The Commission also accepts that to the extent that approval of this Application would result in an increase to gambling-related crime and other social disturbances (including family violence) it would constitute a social disbenefit of this Application.
110. The Commission refers to and relies upon the evidence set out in paragraphs 82 to 89 above with respect to the economic impact of problem gambling on the community, which equally apply to the social impact of problem gambling.
111. The Commission during the Hearing raised concerns as to the visibility of the gaming room from the entry to the bistro. The Commission notes that the planned improvements to the layout of the Hotel which will better separate the gaming area from other parts of the Hotel.⁶² This not only ameliorates the potential impact of problem gambling arising from new EGMs, it reduces the risk of such problems from existing machines.
112. In relation to gambling-related harms, Ms Cramer, made reference in her closing submission to a study by the VRGF which applied a public health approach to measure the impact of gambling on quality of life.⁶³ This study involved calculating a burden of gambling-related harm in comparison with other common health conditions by reference to a taxonomy of harms and Victorian prevalence statistics for each of the problem gambling severity index (**PGSI**) risk categories. The report concluded that:
- (a) the overall burden of harm experienced by Victorians equates to approximately two-thirds the harm caused by major depressive disorders and alcohol misuse and dependency;
 - (b) the burden of harm is primarily due to damage to relationships, emotional/psychological distress, health and financial impacts; and
 - (c) a majority of the harm from gambling is attributable to 'low-risk' gamblers (50.2%), as compared with 'moderate-risk' gamblers (34.5%) and 'problem gamblers' (15.2%).

⁶² See paragraph 30(a) above and paragraphs 127 and 129 below.

⁶³ See paragraph 23(c) above.



113. The Commission acknowledges this study and notes that, although the burden of harm approach has been used extensively to inform health policy, its application in the gambling context is relatively new. The Commission also notes the functional definition of gambling-related harm used as part of the study is broad and may, to some extent, be inconsistent with the accepted legitimacy of EGM gambling as a lawful recreational activity and the objects of the GR Act (set out in paragraph 5 above). As a consequence, the Commission considers that “burden of harm” research in the gambling context is in its infancy and as this body of research develops it could well be of assistance to the Commission. Despite this and in any event, the Commission accepts that harms associated with the incidence of problem gambling are wide-ranging and attributable to all PGSI categories of gamblers (‘low-risk’, ‘moderate-risk’ and ‘problem gamblers’) and across the community more broadly. Overall, the Commission finds that this Application, to vary the number of EGMs at an approved premises from 95 to 105, is estimated to be associated with new expenditure of approximately \$393,665 per annum. It accepts that a proportion of this new expenditure will be associated with problem gambling. Further, the Commission finds that the area surrounding the Hotel is generally an area of lower relative socio-economic disadvantage. The Commission is therefore satisfied that the potential for an increase in problem gambling is low.
114. In relation to the issue of family violence, Ms Cramer, in her closing submission, submitted that Casey currently exhibits the highest rate of family violence in Victoria. Specifically in relation to gambling on EGMs, Ms Cramer referred to recent research indicating a correlation between EGM density at the postcode level and incidents of family violence. The research found that that postcodes with no EGMs were associated with 20% fewer family incidents per 10,000 (54 compared with 68 incidents) and 30% fewer domestic violence assaults per 10,000 (11 compared with 18 domestic assaults), when compared with postcodes with 75 EGMs per 10,000 persons.⁶⁴ However, Ms Cramer acknowledged that while the research may indicate a *correlation* between EGM density and family violence, this does not provide evidence of any causal link between EGM density and family violence. Ms Cramer acknowledged that any link “*may be a consequence of a separate underlying cause, including unemployment for example*”.⁶⁵
115. The Applicant submitted that the association identified in the research⁶⁶ is not reflected in Casey, as although it has high levels of reported family violence, the EGM density statistics for Casey (4

⁶⁴ Markham, Doran and Young (2016) ‘The relationship between electronic gaming machine accessibility and police-recorded domestic violence: A spatio-temporal analysis of 654 postcodes in Victoria, Australia, 2005-2014.’ *Social Science & Medicine*, vol 162, 106-114.

⁶⁵ Council’s submission page 10 paragraph 30

⁶⁶ Referred to in paragraph 114 above.



EGMs per 1,000 adults) is in fact below the metropolitan and State averages (5 and 6 EGMs per 1,000 adults respectively).⁶⁷

116. The Commission notes the high number of recorded incidents of family violence in Casey, and the significant increase in recorded family violence incidents in recent years. The Council in its closing submission, whilst drawing attention to the high relative number of recorded incidents of family violence in Casey in comparison to other municipalities, did not provide the Commission with details of the recorded incidents of family violence on a per capita basis to permit comparison between municipalities taking into accounting changes in population. In terms of this trend, the Commission also notes the above average population growth being experienced in Casey and, in light of its findings paragraph 117 below, considers that this population growth is likely to be a contributing factor to the overall increase in the number of family violence incidents recorded in Casey.
117. The Commission acknowledges the general body of research regarding the links between problem gambling and family violence and notes recent research which establishes a correlation at the postcode level between EGM density and incidents of police-recorded domestic violence. While it acknowledges this emerging research and supports further work in this area, the Commission is not satisfied that the available evidence establishes a causal link between EGMs and family violence such as would support a finding that an impact of this Application would be an increase on existing levels of family violence.
118. The Commission is satisfied that the potential for an increase in problem gambling at this particular Hotel is low, on the basis of the expected increase in new gambling expenditure, the existing level of gaming available at the Hotel, the additional screening to be installed in the Hotel to better reduce the visibility of the gaming room from the entry to the bistro and a cash contribution from the Applicant for addiction support counselling services in the local community.⁶⁸
119. As such, while finding that the social disbenefit associated with problem gambling as a result of this Application is a low risk, the Commission accepts that it is a negative social impact upon which it places a marginal to low weight in this Application.

⁶⁷ Transcript of the Hearing, 29 August 2017, p-118

⁶⁸ See paragraph 98 above.



Community attitude

120. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,⁶⁹ the Commission recognises that while community apprehension is not an over-riding factor (in the sense that the Application is not a referendum on gaming), it is certainly a relevant factor in the consideration of particular social impact of an application as part of the ‘no net detriment’ test.
121. In determining this impact, the Commission recognises that the Council’s role, as the representative body of the relevant community and charged with statutory duties under various pieces of legislation, includes representing the community interest. As a result of undertaking an assessment of the social and economic impact of the Application, Council officers recommended that the Council advise the Commission that it had no objection to the Application.⁷⁰ Notwithstanding this recommendation, the Council determined that the proposal would have a negative impact on the wellbeing of the municipality and, therefore, elected to make a submission in support of its objection to the Commission and appear at the public hearing of the Application.⁷¹
122. Evidence before the Commission indicated that:
- (a) community organisations and neighbouring municipal councils provided submissions to the Council in response to a community survey undertaken by the Council. Two of these submissions indicated concerns at the high number of EMGs in the municipality and impacts on gambling-related harms; and
 - (b) there were around 61 separate submissions from individuals⁷² in response to a community survey undertaken by the Council (in both templated and non-templated form) including a petition organised by the Alliance for Gambling Reform (containing around 274 names) indicating opposition to additional EGMs in Berwick.⁷³ The majority of the submissions indicated either opposition to the Application or to gaming in general with a small proportion either neutral or expressing support for the Application. The submissions were from individuals within the municipality, Victoria, interstate or from undisclosed locations.
123. The Commission has taken into account the submissions which can be summarised as follows:

⁶⁹ (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.

⁷⁰ See Council Officer’s report, dated 18 July 2017.

⁷¹ Council’s closing submission draw attention to the fact that the Council is legislatively required to balance the interests of the local community in its decision making and representative functions. See also *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT 2606 at [42]; *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey #2)* [2009] VCAT 2275 at [249] and [288]-[321].

⁷² See paragraphs 23(b) and 25 above.

⁷³ Transcript of the Hearing, 29 August 2017, p-109



- (a) Berwick is already well serviced by EGMs and does not need any more;
- (b) gambling contributes to poverty, mental and physical harm, homelessness, family breakdowns, crime and problem gambling;
- (c) Casey is a disadvantaged area; and
- (d) EGM venues take money away from other local businesses and employ fewer people than other hospitality businesses.

124. Ms Peterson in her evidence stated that the submissions, “*come from people much further away than the City of Casey including a number from interstate*”⁷⁴ and that the responses to the community survey undertaken by the Council, “*reflect broader community concerns about the harms that come from problem gambling, and it’s understandable that those concerns are raised and – and brought to the attention of the – the Commission.*”⁷⁵

125. The Commission notes that:

- (a) the responses to the survey undertaken by the Council were mixed, with the majority of those responding indicating opposition to the Application or to gaming in general;
- (b) a large proportion to the submissions were from individuals who did not appear to reside within the catchment area of the Hotel or within Casey;
- (c) a significant number of the submissions did not directly address the Application;
- (d) the overall response rate to the Council’s survey was low; and
- (e) the Council’s survey did not outline the proposed benefits flowing from the Application.

126. In conclusion, the Commission does not consider the potential impact on community well-being, in this instance, to be in the same sense as was discussed in the *Romsey* case. This is because the Application relates to an increase in the number of EGMs, rather than the establishment of a new venue or circumstances where there were no existing gaming venues in the local community. The Commission notes the relatively low response rate to the Council’s survey, the high proportion of those expressing opposition to gambling in general rather than the Application and the high proportion of responses to the survey who did not disclose a connection with the catchment area of the Hotel or the municipality. Therefore, the Commission considers it

⁷⁴ Transcript of the Hearing, 29 August 2017, p-94

⁷⁵ Transcript of the Hearing, 29 August 2017, p-92



appropriate to attribute a nil to marginal weight to this negative social impact of the Application.

Increased exposure of children to gambling activity

127. A further, yet distinct, impact that the Application will have on the community of Casey is in relation to the potential for increased exposure of children to gambling activity. In evidence, Mr Christou stated that whilst the Applicant has signage and security staff at the sports bar entrance, the gaming room is clearly visible to parents with children entering the Hotel through that entrance.⁷⁶ Mr Barrett gave evidence that better practice suggests that children do not get exposed to the sights and the sounds of gaming machines and that best practice is for further screening to occur in the Hotel.⁷⁷ After the Hearing, the Applicant proposed changes to screen the visibility of EGMs from the entry to the bistro area.⁷⁸
128. In general, the Commission considers that the Ministerial Guidelines recognise the ability of venues with children's play areas to be suitable for gaming, subject to meeting the requirements outlined in those guidelines. However, there is also clearly an identification of the risks associated with the exposure of children to gaming.
129. The Commission notes that the Ministerial Guidelines relate primarily to applications for new premises to be permitted to operate EGMs, which is not the case here. Further, in relation to this Application, there are no changes intended that will result in increased exposure by children in the Hotel or to sights and/or sounds of EGMs in the gaming room and the proposed changes, referred in paragraph 87(a) above, in fact may reduce exposure of EGMs to children. Existing entrances and the location of the gaming room are not proposed to change as a result of the proposed renovations, and so the Application does not have a greater impact on children. As such, this is not a factor upon which any weight should be given for the purposes of the '*no net detriment*' test. Nevertheless, the Commission considers the policy underpinning this Ministerial Guideline is a factor which it may have regard to in considering what, if any, conditions should be applied with respect to any determination to grant this Application. In this instance, the Commission considers that for it to conclude that it would be appropriate to grant the Application, it would be necessary that any such approval would be conditional on an appropriate barrier or screen being placed in the Hotel that better reduces the visibility of the gaming room from the entry to the bistro from which children are likely to view the gaming area.

⁷⁶ Transcript of the Hearing, 29 August 2017, p-64

⁷⁷ Transcript of the Hearing, 29 August 2017, p-75-76

⁷⁸ See paragraph 30(a) above.



Conclusion on social impacts

130. After considering the social benefits of the Application and balanced against the disbenefits, the Commission considers that, on balance, there is likely to be a small positive social impact of the Application.

Net economic and social impact

131. The '*no net detriment*' test in section 3.4.20(c) of the GR Act requires the Commission to weigh the likely positive social and economic impacts of an application against the likely negative social and economic impacts. This test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impact of approval on the well-being of a relevant community will be either neutral or positive.⁷⁹

132. After consideration of the material before it, including the evidence provided at the Hearing (and weighted as outlined above and summarised in tabular form at Appendix 1 of these Reasons for Decision), the Commission is satisfied that the social and economic impact to the well-being of the community of the municipal district in which the Hotel is located if the Application is approved will be slightly positive.

Determination of Application

133. On the material that has been put before it, the Commission has determined that the '*no net detriment*' test has been satisfied and that the total number of EGMs will be under the relevant municipal limit. The Commission notes that there remains a discretion to determine whether or not to grant the Application.

134. The Commission is satisfied that the Applicant recognises the need to act in accordance with its obligations to take measures to prevent problem gambling and proposes to implement a number of measures in relation to RSG. The Commission notes that additional steps will be taken by the Applicant to limit the visibility of the gaming room from the entry to the bistro of the Hotel. Accordingly, the Commission is satisfied that it should exercise its discretion to approve the Application and make the proposed amendment to the Venue Operator's licence to vary the number of EGMs permitted in the Hotel from ninety-five (95) to one hundred and five (105) subject to conditions which for the purposes of clarity are contained in paragraph 135 below.

135. The conditions are as follows:

⁷⁹ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



1. Community Contributions

(a) The operator of the premises (**the Venue Operator**) has previously established the Berwick Springs Hotel Community fund (**the Fund**).

(b) The Venue Operator undertakes to do the following:

- (i) Make the cash contribution referred to in Condition 1(b)(ii) whilst and so long as any of the additional ten (10) electronic gaming machines (**Additional EGMs**) operate at the Hotel up to 15 August 2032.
- (ii) The additional annual cash contribution will be in the sum of \$25,000.00 (indexed each year by CPI All Groups Melbourne) (**the Additional Contribution**) whilst and so long as any of the ten (10) Additional EGMs operate at the Hotel up to 15 August 2032.
- (iii) The Additional Contribution will be allocated each year to not-for-profit community and sporting organisations providing services and facilities to residents in the City of Casey.

(c) The distribution of the Additional Contribution in accordance with condition 1(b) is to be determined by the Committee that has been established and currently administers the Fund.

(d) If the Additional Contribution is not allocated in full each year by the Committee as required in Condition 1(b)(iii) the operation of the Additional EGMs must cease immediately as long as the Additional Contribution (or part thereof) remains outstanding.

(e) The Venue Operator will also continue to pay each year \$75,000.00 per annum (indexed each year by CPI All Groups Melbourne) (**the Existing Contribution**) into the Fund up to 15 August 2022.

2. Works

(a) The Works at the Hotel (as defined in condition 2(b) below) must be substantially completed to the satisfaction of the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) by the date that is two (2) years after the commencement of the operation of any of the Additional EGMs.



(b) For the purpose of this clause, “**the Works**” comprise the Works referred to on page 15 of the Social and Economic Impact Statement dated May 2017 prepared by Ratio Consultants Pty Ltd.

(c) If the Works referred to in condition 2(b) are not substantially completed to the satisfaction of the Commission by the date that is two (2) years after the commencement of the operation of any of the Additional EGMs, then the approval to operate the Additional EGM’s at the Hotel will lapse.

(d) The Commission may, on the request of the Venue Operator agree to extend the time for completion of the Works referred to in 2(b). Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.

3. Screening

(a) Prior to the installation of the Additional EGMs at the Hotel, the Applicant must install screening in accordance with the screening shown on the plans dated 11 September 2017 prepared by Lukas Partners provided to the Commission by Bazzani Scully Priddle in correspondence dated 15 September 2017.

The preceding 135 paragraphs are a true copy of the Reasons for Decision of Mr Ross Kennedy, Chair, and Mr Des Powell, Commissioner.

Appendix One

Summary of economic and social impacts

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

Economic impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
Benefits	Expenditure on capital works	48 to 54	The Applicant proposes to undertake renovations at an estimated cost of \$2.3 to 2.6 million. There is uncertainty as to the extent to which labour, material, goods and services will be procured in the relevant municipal district in which the Hotel is located. Also, as there are both employment impacts and social impacts associated with the amount which has been assessed, care must be taken to ensure benefits relating to such works are not double counted.	marginal
	Gaming expenditure not associated with problem gambling	55 to 61	The portion of new expenditure not attributable to problem gambling is an economic benefit. While Mr Clyne's evidence of an anticipated transfer rate of 75% is accepted, the evidence with respect to the gaming expenditure associated with problem gambling has also been considered. The Hotel is located in an area of lower relative socio-economic disadvantage (albeit with some vulnerability to financial stress). As a result of the anticipated transfer rate of 75%, the extent of new expenditure at the Hotel is expected to be moderate.	marginal
	Increased gaming competition in Casey	62 to 65	The Application will increase gaming competition in Casey by providing additional EGMs at which patrons may choose to play and improved facilities at the Hotel. Limited benefit in light of additional number of EGMs to be operated at the Hotel (10), the current number of EGMs (95) in the Hotel and within municipality (903) and the number (12) and location of other gaming venues in Casey.	no weight



Economic impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
Disbenefit	Additional employment	66 to 74	<p>In relation to the short term employment benefits associated with renovation activities, there is no evidence before the Commission as to the benefit to the municipality. Also considered separately under 'Expenditure on capital works' above no weight to this benefit.</p> <p>In relation to the longer term benefits following completion of the renovations, while the employment of the equivalent of 5 EFT positions is a positive economic impact, taking account of the transfer of employment from within the municipality the net impact is insignificant on the municipality at large.</p>	<p>no weight</p> <p>marginal</p>
	Complementary expenditure	75 to 77	Based on an estimated increase in expenditure including on meals in the bistro and restaurant as well as beverages in the sports bar, the Applicant expects complementary expenditure to be \$509,066 in the first year of the additional 10 EGMs being attached. Limited evidence provided to the Commission on this impact, particularly in relation to the extent to which it may result in any increase in the number of supply contracts for food and beverage from suppliers in Casey.	marginal
	Diversion of trade from retail facilities	78 to 79	Maximum impact equal to new expenditure in municipality which is estimated to be \$393,665 per annum. Any diversion of trade is likely to be dispersed to such an extent that it is unlikely to significantly impact any one retailer.	marginal
	Diversion of trade from other gaming venues	80 to 81	The anticipated transfer rate of 75% is expected to be spread across a number of existing gaming venues both within and outside Casey. Any diversion of trade is likely to be dispersed to such an extent that it is unlikely to significantly impact any one gaming venue.	marginal



Economic impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
	Gaming expenditure associated with problem gambling	82 to 89	The portion of new gaming expenditure attributable to problem gambling is an economic disbenefit. Residents in Casey have a low level of relative disadvantage and financial vulnerability that would make them less susceptible to gambling-related harms. The catchment area of the Hotel exhibits a low level of disadvantage. The Applicant proposes to implement a number of measures in relation to RSG.	marginal to low



Social impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
Benefits	Improved facilities enabling greater range of services	92 to 94	The expansion of the service offer would be small in comparison to the service offer already present and would, in any event, be limited by the trading hours of the sports bar, bistro and restaurant. Other than the addition of the function facilities, the renovations provides an improvement to the existing hospitality facilities at the Hotel, rather than adding new facilities. Overall, the Commission considers that there is no substantial change to the range of entertainment on offer.	marginal to low
	Increased gaming opportunities for those who enjoy gaming	95 to 96	The Application will increase gaming opportunities by providing an additional 10 EGMs at which patrons may choose to play. Negligible benefit in light of the current number of EGMs (95) in the Hotel and within municipality (903) and the number (12) and location of other gaming venues in Casey.	no weight
	Social benefit derived from increased community contributions	97 to 103	The Applicant proposed additional donation to a range of community and sporting groups in Casey of \$25,000 per annum (for 10 years) as additional community contributions. These contributions (distributed in accordance with conditions of any approval of this Application) will have a positive social impact on community groups operating in Casey and across the municipality.	marginal
	Social benefit derived from additional employment	104 to 106	Considered under Additional employment at paragraphs 66 to 74 of the decision. As there are economic impacts care must be taken to ensure that benefits are not double counted.	no weight



Social impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
	Social benefit derived from the creation of a Community Service Booth	107 to 108	Considered under Expenditure on capital works and Gaming expenditure associated with problem gambling at paragraphs 82 to 89 of the decision. As there are both social and economic impacts care must be taken to ensure that benefits are not double counted.	no weight
Disbenefits	Possibility of increased incidence and the potential impact of problem gambling on the community (including family violence)	109 to 119	<p>A proportion of total gaming expenditure at the Hotel will be associated with problem gambling contributed by a small proportion of total gaming patrons at the Hotel. Adverse impacts include health, jobs, finances, emotional states and relationships. Public health approach to problem gambling, including “burden of harm” research in the gambling context, is in its infancy. The catchment area of the Hotel exhibits lower levels of socio-economic disadvantage as compared with the municipality as a whole. Venue-specific factors will play a limited role in reducing the risk of problem gambling.</p> <p>New research indicating correlation between EGM density and family violence. Lack of evidence of causality of family violence due to EGM density. Casey has high family violence statistics, and significant increase in family violence incidents in recent years. Above average population growth likely to be contributing factor in overall increase in family violence incidents.</p> <p>The social disbenefit associated with problem gambling as a result of this Application is a low risk.</p>	marginal to low



Social impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
	Community attitude	120 to 126	<p>The Commission has taken into account:</p> <ol style="list-style-type: none">1. the Council's intended role in which it represents the community interest; and2. submissions from people in the community. <p>The Commission does not consider the potential impact on community well-being to be in the same sense as was discussed in the Romsey case and other cases, but nevertheless has had regard to the submissions by members of the public opposing the Application.</p>	nil to marginal
	Increased exposure of children to gambling activity	127 to 129	<p>The Hotel is (and will continue to be) marketed as family-friendly venue. One of the entrances to the Hotel permits families to pass in close proximity to the entrance to the gaming room and sight line from the bistro may result in the exposure of children to sights and/or sounds of EGMs in the gaming room. Entrances and the location of the gaming room are not proposed to change in the proposed renovations, and so the Application does not have an impact on children for the purposes of the 'no net detriment' test. As such, no weight is given to this impact (although the Commission has regard to this issue in imposing the conditions on which the Application is granted).</p>	no weight