



**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 Dandenong Cranbourne RSL Sub-Branch Inc to amend its venue operator's licence to vary the number of electronic gaming machines at the approved premises, Dandenong RSL, located at 44-50 Clow Street, Dandenong from sixty-three (63) to seventy-four (74).

**Commission:** Ms Deirdre O'Donnell, Deputy Chair  
Dr Dina McMillan, Commissioner

**Appearances:** Mr Nick Tweedie of Senior Counsel and Mr Rupert Watters of Counsel for the Applicant (instructed by BSP Lawyers)  
Mr Ian Munt of Counsel for the Council  
Ms Caitlin McAlister, Counsel Assisting the Commission

**Date of Hearing:** 6 and 10 September 2018

**Date of Decision:** 24 September 2018

**Date of Reasons:** 22 October 2018

**Decision:** The application is refused.

**Signed:**

A handwritten signature in black ink, appearing to read 'Deirdre O'Donnell'.

**Deirdre O'Donnell**  
Deputy Chair



## REASONS FOR DECISION

### INTRODUCTION

1. This is an application by the Dandenong Cranbourne RSL Sub-Branch Inc (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**) permitted in Dandenong RSL, located at 44-50 Clow Street, Dandenong (the **Premises**), from sixty-three (63) to seventy-four (74) (the **Application**).
2. The relevant municipal authority is the City of Greater Dandenong (the **Council**). By correspondence dated 21 June 2018 to the Commission, the Council stated that it intended to make an economic and social impact submission in relation to the Application, and did so on 26 July 2018.
3. The Commission considered the Application by way of a public inquiry.<sup>1</sup> To this end, a public hearing was conducted over two days, namely 6 and 10 September 2018 (the **Hearing**). The Applicant was represented by Mr Nick Tweedie of Senior Counsel and Mr Rupert Watters of Counsel, instructed by BSP Lawyers. The Council was represented by Mr Ian Munt of Counsel.

### 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-*

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<sup>1</sup> A public inquiry is required to be conducted by the Commission in relation to the Application pursuant to section 28(g)(iii) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (**VCGLR Act**). As to the manner in which the Commission is to conduct an inquiry, see generally Pt 3 Div 2 VCGLR Act (Inquiries), see also Pt 2 Div 3 VCGLR Act (Performance and exercise of the Commission's functions, powers and duties).



- (i) *minimise harm caused by problem gambling; and*
  - (ii) *accommodate those who gamble without harming themselves or others;*
- (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*
- (b) *to ensure that gaming on gaming machines is conducted honestly;*
- (c) *to ensure that the management of gaming equipment and monitoring equipment is free from criminal influence and exploitation;*
- (d) *to ensure that other forms of gambling permitted under this or any other Act are conducted honestly and that their management is free from criminal influence and exploitation;*
- (e) *to ensure that-*
  - (i) *community and charitable gaming benefits the community or charitable organisation concerned;*
  - (ii) *practices that could undermine public confidence in community and charitable gaming are eliminated;*
  - (iii) *bingo centre operators do not act unfairly in providing commercial services to community or charitable organisations;*
- (f) *to promote tourism, employment and economic development generally in the State.*

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;*
  - (ii) *accommodate those who gamble without harming themselves or others.*

(2) *The purpose of this Chapter is also to—*

- (a) *provide for the allocation of gaming machine entitlements in order to maximise the financial and social benefits to the Victorian community within the regulatory framework applying to the allocation of entitlements;*
- (b) *promote a competitive gaming industry with the aim of providing financial and social benefits to the Victorian community.*

7. The relevant provision concerning the Application is in section 3.4.17(1)(b) of the GR Act, which states that variation of the number of EGMs permitted in an approved venue may be amended in accordance with Division 2, Part 4 of Chapter 3 of the GR Act.

8. Sections 3.4.18 to 3.4.19 of the GR Act provide for the manner in which requests for amendments under section 3.4.17(1)(b) are to be made. Relevantly for the Application, section 3.4.18 provides, inter alia, that:

(1) *A request by a venue operator for an amendment of licence conditions—*

...

- (c) *in the case of ... an amendment to increase the number of gaming machines permitted in an approved venue, must be accompanied by a submission—*
  - (i) *on the net economic and social benefit that will accrue to the community of the municipal district in which the approved venue is located as a result of the proposed amendment; and*
  - (ii) *taking into account the impact of the proposed amendment on surrounding municipal districts—*



*in the form approved by the Commission and including the information specified in the form.*

9. Section 3.4.18(2) provides that if the request is for an amendment to increase the number of gaming machines permitted in an approved venue, the venue operator must give the relevant municipal council a copy of the proposed request before submitting the request to the Commission.<sup>2</sup>

10. Further, section 3.4.19(1) of the GR Act provides:

*(1) Subject to this section, after receiving a copy of a request for an amendment referred to in section 3.4.18(2), a municipal council may make a submission to the Commission—*

*(a) addressing the economic and social impact of the proposed amendment on the well-being of the community of the municipal district in which the approved venue is located; and*

*(b) taking into account the impact of the proposed amendment on surrounding municipal districts.*

...

11. Section 3.4.20 sets out matters that are required to be considered by the Commission with respect to such a proposed amendment. Relevantly for this 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—*

*(a) the Commission is satisfied that the amendment of the licence does not conflict with a direction, if any, given under section 3.2.3; and*

*(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*

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<sup>2</sup> The Applicant provided the Commission with a proof of delivery form dated 18 May 2018, which the Commission regarded as sufficient evidence for the purposes of s 3.4.18(2) of the GR Act.



- (c) *if the proposed amendment will result in an increase in the number of gaming machines permitted in an approved venue, the Commission is satisfied that the net economic and social impact of the amendment will not be detrimental to the well-being of the community of the municipal district in which the approved venue is located;*

...

12. 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.<sup>3</sup>
13. The GR Act does not specify the matters that 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;
  - (b) the likely social impacts of approval; and
  - (c) the net effect of those impacts on the well-being of the relevant community.<sup>4</sup>
14. As such, the ‘*no net detriment*’ test is a composite test requiring consideration of a single net impact in economic and social terms on the well-being of the community.<sup>5</sup> 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.
15. The Commission recognises that the task of identifying likely benefits and disbenefits will not always be straightforward given the overlap of socio-economic issues, and the quality and availability of relevant data and cogent evidence. Some economic outcomes may have social consequences, and vice versa.<sup>6</sup> 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

<sup>3</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [52] per Dwyer DP.

<sup>4</sup> *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA (**‘the Romsey case’**).

<sup>5</sup> *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey No. 2)* [2009] VCAT 2275, [332], [348] per Bell J (**‘Romsey No. 2’**) cited in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [58] per Dwyer DP.

<sup>6</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors* [2013] VCAT 101, [57] per Dwyer DP.



economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.<sup>7</sup> The Commission has adopted the same approach as VCAT in setting out a table of likely economic and social benefits both to enhance clarity of Commission decisions and facilitate greater consistency between the Commission and VCAT.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>
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;<sup>11</sup> 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.<sup>12</sup>
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*<sup>13</sup> 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

<sup>7</sup> See *Romsey No. 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.

<sup>8</sup> See e.g., *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [60] per Dwyer DP.

<sup>9</sup> 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 of the GR Act).

<sup>10</sup> GR Act, section 3.4.20(2).

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

<sup>12</sup> *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.

<sup>13</sup> [2013] VCAT 101, [98].



exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.

19. Finally, 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 functions under gambling legislation.
20. 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 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 the 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. Before the Hearing, the Applicant provided the Commission with the following material in support of its Application:
  - (a) application form – amendment to venue operator licence – vary gaming machines received by the Commission on 21 May 2018 (the **Application Form**);
  - (b) social and economic impact statement prepared Mr Rhys Quick, director of Urbis (**Urbis**) dated 18 May 2018 (the **First Urbis Report**) and the second Urbis Report prepared by Mr Quick, dated 31 August 2018 (the **Second Urbis Report**);
  - (c) report of Mr Michael Clyne, consultant for PVS, dated May 2018 (the **PVS Report**), including report of Mr Andrew Jeynes, responsible gambling manager for PVS (the **PVS RSG Management Report**), dated April 2017;
  - (d) witness statement of Mr John Wells, president of the Applicant, dated February 2018;
  - (e) witness statement of Mr Gregory Betros, general manager of the Applicant, dated February 2018;
  - (f) witness statement of Mr Vladimir Nagorny, welfare advocate and coordinator for the Applicant, dated February 2018;



- (g) witness statement of Mr Darren Lawrence, operations manager for the Applicant, dated February 2018;
  - (h) a copy of the proof of delivery form, dated 18 May 2018 (described at footnote 2 above);
  - (i) a copy of the public notice appearing in the Herald Sun newspaper dated 22 May 2018;
  - (j) letters of support, dated between 14 August 2018 and 3 September 2018, from some of the Applicant's members as well as some of the Premises' patrons; and
  - (k) proposed conditions to attach to approval of the Application, were the Commission to approve the Application.
22. On 26 July 2018, the Council provided the Commission and the Applicant with an economic and social impact submission in respect of the Application, which included a Social and Economic Impact Assessment prepared by Mr Hayden Brown, advocacy officer for the Council (the **Council Report**). In the economic and social impact submission form, the Council noted that the City of Casey raised concern in respect to the Application given the socio-economic disadvantage in Doveton and Eumemmerring, both of which are located in Casey's capped region.<sup>14</sup>
23. The following material, prepared by Commission staff, was provided to the Applicant and the Council and considered by the Commission:
- (a) a report titled *Economic and Social Impact Report* dated August 2018 (the **VCGLR Report**);
  - (b) a report titled *Pre-Hearing Inspection and Compliance Report* dated 10 August 2018 (the **Pre-Hearing Report**); and
  - (c) a report titled *Update to Homelessness Data* dated August 2018 (**Homelessness Data Report**).
24. In addition, the Commission received correspondence, dated between 29 June 2018 and 30 August 2018, in opposition to the Application from the following local community organisations:
- (a) Springvale Monash Legal Service;
  - (b) Uniting, Victoria;
  - (c) Cambodian Association of Victoria;
  - (d) Wellsprings for Women of Dandenong; and

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<sup>14</sup> In a letter dated 19 July 2018, the City of Casey submitted that careful consideration should be given by the Commission to the current socio-economic state of the surrounding communities before supporting any application for an increase in gaming machines.



- (e) Salvation Army of Dandenong.
25. The Commission also received letters, dated between 25 July 2018 and 31 August 2018, from a local resident and persons residing in neighbouring local government areas (**LGAs**).
26. On the first day of the Hearing, the Applicant provided the following further material to the Commission in relation to the Application:
- (a) photographs from the ANZAC Day march of 2018 commencing at the Premises;
  - (b) current menu for the members' bar and TAB lounge;
  - (c) current menu for the bar and bistro;
  - (d) existing floorplan;
  - (e) proposed floorplan; and
  - (f) drawings of gaming room entry and proposed screen.
27. On the second day of the Hearing, the following material was provided to the Commission in relation to the Application:
- (a) research report from the Victorian Responsible Gambling Foundation (the **Foundation**) entitled 'The social cost of gambling to Victoria', dated November 2017;
  - (b) research report from the Foundation entitled, 'Behavioural indicators of responsible gambling consumption dated October 2016';
  - (c) data used for developing the formula and test of formula against actual losses per adult in 2016/17 in metropolitan municipalities;
  - (d) report from the Foundation entitled, 'The Victorian Gambling Study: a longitudinal study of gambling and health in Victoria 2008-2012 – technical report two';
  - (e) updated proposed conditions to attach to approval of the Application, were the Commission to approve the Application;
  - (f) written submissions from the Applicant; and
  - (g) written submission from the Council.
28. The following witnesses gave oral evidence at the Hearing:
- (a) Mr John Wells, President of the Applicant;



- (b) Mr Gregory Betros, General Manager of the Applicant;
  - (c) Mr Vladimir Nagorny, Welfare Advocate and Coordinator for the Applicant;
  - (d) Mr Darren Lawrence, Operations Manager of the Applicant;
  - (e) Mr Rhys Quick, director of Urbis;
  - (f) Mr Andrew Jeynes, responsible gambling manager for PVS;
  - (g) Mr Michael Clyne, consultant for PVS; and
  - (h) Mr Hayden Brown, advocacy officer for the Council.
29. The Commission also heard oral submissions from Ms Ashleigh Newnham, Manager of Strategic and Community Development for Springvale Monash Legal Service, who prepared written submissions as mentioned in paragraph 24(a) above.
30. After the Hearing, the Applicant provided the Commission and the Council with a letter prepared by Mr Quick of Urbis, dated 18 September 2018, regarding new gaming spending estimates (the **Urbis Letter**).
31. Prior to the determination of this matter, both of the Commissioners visited the Premises.

## DECISION AND REASONS FOR DECISION

### Background

#### *Location*

32. The Premises are located on the corner of Clow Street and Dandenong Valley Highway in Dandenong in the City of Greater Dandenong<sup>15</sup>. They are situated towards the edge of the Dandenong Metropolitan Activity Centre. To the west of the Premises is Dandenong Plaza (a major local shopping precinct), and to the north, across Clow Street, is a row of shops. To the east of the Premises, across Stud Road, is housing. Although the venue has its own separate car park for members, the main entry is accessible from the shopping centre car park. The Premises are also located in close proximity to the Dandenong Market.
33. The City of Greater Dandenong is a metropolitan LGA located 30km south-east of Melbourne and

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<sup>15</sup> Where reference is made in these reasons to the City of Greater Dandenong, this is a reference to the local government area (**LGA**).



covers an area of 130 square kilometres. Major centres in the City of Greater Dandenong include Dandenong, Springvale and Noble Park. According to the VCGLR Report, the City of Greater Dandenong has an estimated adult population of 125,768, which ranks it 14<sup>th</sup> out of the 31 metropolitan statistical subdivisions with regard to population size. The annual rate of population growth projected by Victoria in Future (VIF) is 1.6% as compared with the Victorian average of 1.8%.

34. The unemployment rate in the City of Greater Dandenong as at the end of 2017 (10.4%) was the highest level in Victoria and well above the metropolitan rate (6%). The homelessness rate in Greater Dandenong is ranked second by metropolitan LGAs. Many residents in Greater Dandenong are welfare recipients and the area was ranked second for pensions and allowances per 1,000 adults by metropolitan LGAs. The crime rate in Greater Dandenong is the third highest of metropolitan LGAs. Housing stress in Greater Dandenong is ranked the fourth highest by metropolitan LGAs.
35. A regional cap of the permissible number of gaming entitlements made under a Ministerial Order pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act applies to the City of Greater Dandenong.<sup>16</sup> The maximum permissible number of gaming machine entitlements in the area covered by the local government area of the City of Greater Dandenong is 989. Currently, there are 15 gaming venues operating within the City of Greater Dandenong with approvals to operate a total of 981 EGMs (but with 958 attached entitlements).
36. The VCGLR Report notes that the City of Greater Dandenong has an EGM density of 7.6 EGMs per 1000 adults, which is 49.6% more than the metropolitan LGA average (5.1) and 40.7% more than the State average (5.4). This ranks the City of Greater Dandenong as the 2<sup>nd</sup> of 31 metropolitan LGAs in terms of EGM density per 1000 adults. Also, as stated in the VCGLR Report, in the 2017-18 financial year, the City of Greater Dandenong had an average gaming expenditure of \$965 per adult (based on the 2016 population estimate), which is 69.8% more than the metropolitan LGA average (\$558) and 75.5% more than the State average (\$550). Applying the estimate of increased gaming expenditure as received from the Applicant in the first year of operation of the additional 11 EGMs, approval of this Application would result in an increase in average gaming expenditure per adult of an estimated 1%. In the 2017/2018 financial year, the expenditure on gaming for the City of Greater Dandenong was \$121,420,072.78. Of that amount, the Applicant's 63 EGMs at the Premises had generated \$7,656,714.90.

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<sup>16</sup> Victorian Government Gazette S318, 20 September 2017.



### *Nature of Premises*

37. The Premises itself currently comprises:

- (a) a bistro and bar: Oskar's Bistro & Bar, with a seating capacity of 180 people;<sup>17</sup>
- (b) a members' bar;<sup>18</sup>
- (c) three lounges;
- (d) a TAB area;
- (e) a function room with a seating capacity of 140 people;
- (f) a Vietnam War Memorial;
- (g) a boardroom;
- (h) a private car park; and
- (i) a gaming room with 63 EGMs.<sup>19</sup>

38. The Commission notes that since 2009 the Cranbourne RSL has been a sub-branch of the Applicant. The Cranbourne RSL is located in the neighbouring LGA of the City of Casey, and is licensed to operate 50 EGMs.

### *Catchment area of the Premises*

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 relevant premises, which is generally referred to as the 'catchment area'.<sup>20</sup> 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. The Applicant, under Urbis' guidance, conducted hourly gaming patron surveys at the Premises during three weeks between 1 November 2017 and 22 November 2017 (inclusive). From analysis of these gaming room surveys, Mr Quick submitted that 55% of the gaming room patrons come

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<sup>17</sup> Oskar's is open daily between 12pm to 2:30pm and 6:00pm to 8:30pm Sunday to Thursday; and 12pm to 3pm and 6pm to 9pm Friday to Saturday. First Urbis Report, p6.

<sup>18</sup> The members' bar opens daily from 10:30am.

<sup>19</sup> The gaming room is open daily between 9am to midnight (Monday to Wednesday), 9am to 1am Thursday and Friday, 10am to 1am (Saturday), and 10am to midnight (Sunday).

<sup>20</sup> See for example, *Romsey No. 2* [2009] VCAT 2275; *Whittlesea CC v George Adams Pty Ltd* [2011] VCAT 534 (7 April 2011).



from within the LGA. The patron surveys also indicated that 48% of the gaming patrons reside in Dandenong. Given the location characteristics of the Premises and the results of the gaming room patron surveys, Mr Quick indicated that 56% of the gaming room patrons reside within the immediate 2.5km radius of the Premises (i.e. Dandenong and Doveton). Mr Quick also indicated that patrons come from suburbs located within the 5km radius of the Premises, being Noble Park, Endeavour Hills and Hallam, as well as beyond the 5km radius.

41. In the Council Report, while accepting that the gaming room patrons come from areas within both 2.5kms and 5km of the Premises and beyond, the Council was concerned not to lose focus on the area within 2.5km of the venue. Given that this area is of the highest gaming room patron density (56%), the Council submitted it was an area of more relevance to the Application than a broader geographic area.
42. In this instance, the Commission considers that the gaming room patron survey provides a reliable indication of the likely gaming patrons for the Premises, with the greatest proportion of those patrons residing in the suburb of Dandenong (almost half). Having regard to the material and evidence put forward by the Applicant and the Council, and noting the VCGLR Report analysing the surrounding area as a radius of 5km around the Premises, the Commission considers that the appropriate catchment area of the Premises consists primarily of the suburb of Dandenong together with its surrounding area out to a radius of 5km.

### Issues for determination

43. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following four matters:<sup>21</sup>
  - (a) that the amendment of the venue operator's licence does not conflict with a direction given under section 3.2.3 of the GR Act;
  - (b) that the relevant municipal limit for EGMs applicable to the City of Greater Dandenong will not be exceeded by the making of the amendment the subject of the Application;
  - (c) that the net social and economic impact of the increase in EGMs permitted in the Premises will not be detrimental to the well-being of the community of the City of Greater Dandenong (the '*no net detriment*' test); and
  - (d) if premises are proposed to be added to the Applicant's licence as an approved venue and the Applicant (or an associate of the Applicant) operates an approved venue within 100

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<sup>21</sup> 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.



metres of the Premises, that the management and operation of the Premises and other approved venues are genuinely independent of each other.

44. 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.<sup>22</sup>

**A. Directions given under section 3.2.3**

45. 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. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application.
46. On this basis, the Commission is satisfied that granting the Application would not conflict with a direction given under section 3.2.3 of the GR Act, and therefore considers that the mandatory pre-condition set out in section 3.4.20(1)(a) of the GR Act is satisfied.

**B. Regional cap**

47. As noted in paragraph 35 above, the City of Greater Dandenong is subject to a regional cap on the number of EGMs under a Ministerial Order under sections 3.3.4 and 3.4A.5 of the GR Act. The maximum permissible number of gaming machine entitlements in the area covered by the LGA is 989.
48. It is the position of the Commission that an approval to increase the maximum permissible EGMs at a venue will not result in a regional cap or municipal limit being exceeded. This is due to the difference between 'Licensed EGM' numbers and 'Attached EGM' numbers:
- (a) 'Licensed EGMs' are the maximum permissible EGM within an approved venue (i.e. the premises has been considered suitable and approved to install up to this number); and
  - (b) 'Attached EGMs' are the number of EGMs (together with a corresponding entitlement) attached and operating at an approved venue.
49. While the total number of 'Licensed EGM' number may exceed the cap, this means that not all approved venues can 'attach' the maximum EGMs at the same time, as this would result in more than the capped number of EGMs operating within the relevant area. As outlined on page 7 of the

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<sup>22</sup> An amendment may be made subject to any conditions the Commission thinks fit: GR Act, section 3.4.20(3).



VCGLR Report, there are already 981 licensed EGMs over 15 gaming venues within the capped region, but only 958 attached EGMs. As such, while any approval of this Application would result in the licensed EGM number increasing to 992, the attached EGM number would remain at 958.

50. Since the introduction of the entitlements regime, the enforcement of capped numbers is managed through applications made under that regime (i.e. where a venue operator applies to the Commission to attach relevant EGM entitlements to an approved venue). At this time, the Commission (via a delegate) determines whether that attachment of EGM entitlements is permissible, taking into account the total current attached EGMs in a particular capped region or municipality and assessed against the relevant cap number.
51. In summary, it is the Commission's position that no application pursuant to section 3.4.17 to increase the permitted EGMs at a venue will result in a cap being exceeded. As such, the Commission does not need to rely on the exemption provided for under section 3.4.20(3A) of the GR Act.
52. Overall, the Commission is satisfied that granting the Application would not cause the relevant regional cap for gaming machines for the City of Greater Dandenong to be exceeded, and therefore considers that mandatory pre-condition set out in section 3.4.20(1)(b) of the GR Act is satisfied.

**C. 'No net detriment' test**

53. The Commission must be satisfied that if this 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 Premises are 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 this Application, including the weighting given to each of these impacts.

**Economic Impacts**

54. The materials before the Commission and the evidence adduced at the Hearing provided the evidentiary basis for a range of economic benefits and disbenefits associated with this Application.

*Expenditure on capital works*

55. The Applicant submits that a potential economic benefit associated with this Application comes from the expenditure on the proposed renovations of the Premises and the associated economic stimulus in the LGA.



56. In relation to the proposed renovations of the Premises, the Applicant submitted that the additional EGMs would allow it to:
- (a) refurbish the members' lounge and sports bar area;
  - (b) relocate the TAB area into the members' lounge and sports bar;
  - (c) relocate the snooker tables from the members' lounge into an adjacent lounge space;
  - (d) convert the existing TAB area into an alfresco area;
  - (e) refurbish the café area between the gaming room and the sports bar;
  - (f) refurbish the bar servery catering to the bistro;
  - (g) increase the available seating at the Premises from 160 seats to 280; and
  - (h) reconfigure the back-of-house and kitchen areas.
57. The proposed renovations to the Premises are expected by the Applicant to cost \$2.7 million. The Applicant asserted that without approval of the Application, it would not be in a position to implement the proposed renovations. The Applicant indicated (in its proposed conditions, if the Application is granted) that the works for renovating the Premises would take approximately two years. The Applicant stated that it would still need to apply for a planning permit first.
58. The Applicant submitted that the proposed renovations to the Premises will generate short-term employment associated with construction sub-contractors, but that not all jobs will be filled by locals. The Applicant said that any increase in employment in an area of high unemployment is important and gave this impact medium weight.
59. The Council Report addressed the economic impact of the capital works in a minor way by stating that the temporary employment during refurbishments would be funded in large by gambling revenue, and that a rise in employment may be balanced by a decline in employment elsewhere as increased gaming expenditure is matched by a fall in expenditure on other goods or services. The Council gave it neutral weight.
60. While the Commission accepts that the Applicant's expected expenditure is not inconsequential, it has no evidence before it as to the extent to which the goods and services required for the works would in fact be procured within the City of Greater Dandenong. Therefore, the Commission considers this expenditure is an economic benefit but, in the circumstances, one that should be given no to marginal weight. Further, the Commission is careful to ensure that benefits associated



with the renovation expenditure are not double counted, having regard to the social impact that may result from the improved facilities. This aspect is considered further below at paragraphs 127 to 131.

Additional employment

61. According to the Applicant, employment benefits associated with this Application may involve short term employment benefits in the LGA associated with the proposed renovations at the Premises and would involve longer term benefits in the LGA following the introduction of the 11 EGMs at the Premises.
62. The Commission notes that there is a lack of evidence in relation to the expected short term employment benefits for the LGA associated with the proposed renovations at the Premises (related to, but separate from, the economic benefit for the LGA associated with the expenditure on capital works considered above). Given that the expenditure associated with the proposed renovations at the Premises has already been separately counted, and because of the lack of detail as to additional short term employment created by the proposed renovations at the Premises, the Commission accords this particular benefit no weight.
63. In relation to the long term employment benefits, the Applicant estimated that the operation of an additional 11 EGMs at the Premises would result in five additional equivalent full time (**EFT**) positions at the Premises as follows:
  - (a) an additional 2 EFT positions in the kitchen as chefs;
  - (b) an additional 2 EFT positions as food and beverage attendants; and
  - (c) an additional 1 EFT in the gaming room.
64. Further, the Applicant's proposed conditions (were this Application to be granted), included hiring a second full-time welfare officer to assist the existing welfare officer who has an office in both the Premises and the Cranbourne RSL where he arranges meetings to assist and support people attending those venues.
65. The Council Report addressed the economic impact of the additional employment by stating that any rise in employment must be balanced by a decline in employment elsewhere as increased gaming expenditure is matched by a fall in expenditure on other goods and services.
66. Overall, the Commission regards the evidence about additional employment as a positive impact; however, given the scale of this impact on the municipality at large with an adult population of



125,768, and an unemployment rate that is the worst in the State,<sup>23</sup> the Commission considers it is an economic benefit to the community to which it should attribute no to marginal weight. Further, the Commission is mindful that the benefits associated with the proposed second welfare officer should not be double counted, having regard to both the economic impact and the social impact of community contributions regarding that welfare officer (as discussed in paragraph 70 to 80 and paragraphs 136 to 137 below).

### Community contributions

67. In determining the net economic and social impact of applications of this nature, both the Commission<sup>24</sup> and VCAT<sup>25</sup> have regularly treated community contributions proposed by an Applicant 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 being granted. In assessing the weight to be placed on such a benefit, it is important that the Commission does not conflate this benefit with the social benefit associated with such contributions.
68. The Applicant's proposed conditions, if the Application is granted, include a condition to maintain its existing level of cash contributions in the amount of \$35,800 per annum.
69. As the Applicant's proposed condition in relation to the cash community contributions does not include an increase in quantum from the existing contributions, and such contributions could be made regardless of the outcome of this Application, the Commission accords this particular benefit no weight.
70. The Applicant also proposed hiring a second full-time welfare officer on a salary of approximately \$65,000 per annum as a form of expenditure on community contributions. The Applicant submitted that this could only occur if the Application is granted.
71. Mr Betros gave evidence that the proposed second welfare officer would support the existing full-time welfare officer, Mr Nagorny, who is very keen to initiate a number of welfare programs.
72. Mr Quick considered that the proposed expenditure for a second welfare officer is significant and gave it high weight.

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<sup>23</sup> Adult population for 2017/18.

<sup>24</sup> See e.g., *Application by Richmond Football Club* [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

<sup>25</sup> See e.g., *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.



73. In contrast, the Council submitted that the Applicant's evidence as to expenditure on the salary of the second welfare officer lacked sufficient detail as to how many people would be served from within the City of Greater Dandenong, who would be served from within the LGA, and what services Greater Dandenong would actually receive from the proposed second welfare officer. Specifically, the Council made reference to Mr Nagorny's evidence about serving portions of his time in the community of the City of Casey, being outside the community of the municipality of the Premises. Further, Mr Nagorny said that he has an office in both the Premises and the Cranbourne RSL where he arranges meetings to assist and support people attending each of those venues.
74. In addition to the salary for a second welfare officer, the Applicant also stated that it would contribute not less than \$50,000 per annum for the purposes of establishing and funding a Veteran and Community Wellness Program (the **Program**) as another form of expenditure on community contributions.
75. Mr Betros gave evidence that this Program would be provided two days a week at the Premises for the veterans and others in the community suffering with mental health issues, PTSD, alcohol and drug abuse and domestic violence issues. The Program would be facilitated by a professional counsellor with support from Mr Nagorny (and, the proposed second welfare officer would support Mr Nagorny as requested). He said the Applicant's contribution of not less than \$50,000 per annum would cover the cost of the professional counsellors at the rate of \$200 per hour for approximately five hours each week.
76. Mr Quick considered that the proposed expenditure for the Program is significant and gave it high weight.
77. In contrast, the Council submitted that the Applicant's evidence as to expenditure on the Program lacked sufficient detail as to whether the counselling would be provided from persons within the City of Greater Dandenong and how many people from the LGA would receive that counselling. In combination, the Council submitted that there was a lack of sufficient detail as to:
- (a) whether the Program would actually involve new services to the community of the LGA, as opposed to merely being new services for the Premises;
  - (b) why the Program was to be provided at the Premises, thereby potentially exposing vulnerable persons to EGMs, and not at the offices of other service-providers within the LGA; and



(c) why the Applicant would be establishing this Program, rather than contributing to the work of existing service-providers in the LGA.

78. The Council asserted that, at best, the Program appeared to be still in the early stages of conception.
79. Overall, the Commission is concerned about the extent of detail provided in respect to both the contribution towards the salary of the proposed second welfare officer and the contribution towards the Program. Specifically, in relation to the proposed second welfare officer, the Commission is concerned about the extent of the services of that role within the City of Greater Dandenong and the fact that benefits from this proposal may also accrue to the City of Casey, diluting potential benefits to residents of Greater Dandenong. Further, in relation to the Program, the Commission is concerned about a lack of sufficient detail regarding the contribution towards the Program for the reasons detailed in paragraph 77 above.
80. Accordingly, while the Commission considers that the Applicant's expenditure on the abovementioned proposed forms of community contributions would be a positive economic benefit, it considers it appropriate from the evidence before it to attribute to this impact no to marginal weight. Further the Commission is careful to ensure that positive economic benefits associated with the proposed second welfare officer and the Program are not double counted with the positive social benefits as discussed in paragraphs 136 to 137 below, or the economic benefit associated with additional employment as discussed above in paragraphs 63 to 66.

*Increased gaming competition in the City of Greater Dandenong*

81. Increasing competition in gaming in the City of Greater Dandenong is a factor to be considered by the Commission in light of the statutory purposes of the Act<sup>26</sup> and the consumer benefits that derive from competition.
82. In the PVS Report, Mr Clyne indicated that the Premises have five gaming competitors within a 2.5km radius. These venues are the Players Hotel with 25 EGMs, The Jim Dandy Hotel with 30 EGMs, the Albion Hotel with 24 EGMs, the Dandenong Workers Social Club with 77 EGMs and the Dandenong Club with 103 EGMs.
83. Mr Clyne gave evidence regarding his estimation of the likely increase in gaming expenditure for the Premises should the Application be granted.
84. His figures for EGM expenditure in the City of Greater Dandenong, based on spending in the

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<sup>26</sup> See GR Act, s 3.1.1(2).



2016/2017 financial year of \$118,190,093, is different to the figures in the VCGLR Report (which is based on the EGM expenditure in the City of Greater Dandenong in the 2017/2018 financial year of \$121,420,072.78).

85. Mr Clyne expected that if the Application was granted the gaming expenditure over the first year of the additional EGMs' operation at the Premises would increase by approximately \$868,984 per annum.<sup>27</sup>
86. Taking into account the Premises' gaming competitors, the Premises being an existing venue, and the understanding that higher rates of transferred expenditure occur where there is greater concentration of competitors, Mr Clyne estimated that the transfer rate within the City of Greater Dandenong would be approximately 83%. In other words, \$724,993 of the \$868,984 per annum would be transferred expenditure from other venues in the LGA.
87. Having regard to the estimated adult population of 125,768 in the City of Greater Dandenong for 2017/18, the Commission notes that this Application, if approved, would:
  - (a) increase the total number of attached licensed EGMs in the municipality by 11, to 969;
  - (b) increase EGM density in the municipality from 7.6 to 7.7 per 1,000 adults, as compared with the metropolitan average of 5.1 and the State average of 5.4 EGMs per 1,000 adults; and
  - (c) on the basis of Mr Clyne's figures, would result in an estimated increase of approximately \$143,991 of new expenditure to the LGA in the first year of operation.
88. Mr Quick believed that granting the Application would increase choice of EGMs, and that this impact carries some weight, but gave it a low benefit.
89. In response, Mr Brown stated that the Premises have six gaming competitors within a 2.5km radius, being the five detailed in paragraph 82 above and the Prince Mark Hotel in Doveton (with 79 EGMs). To this end, he said there are 401 EGMs situated within a 2.5km radius of the Premises (including the existing 63 at the Premises).<sup>28</sup> Mr Brown said the density of EGMs within 2.5kms of the Premises is nearly twice the metropolitan level. As such, he gave this impact neutral weight.
90. Considering the matters discussed above, while this impact would be a positive economic benefit, the Commission considers that the number of additional EGMs, 11, is small compared to the

<sup>27</sup> Mr Clyne used the 'Geotech model', which predicts the future revenue performance of an increase in EGMs and the proportion of the venue that is being transferred from other venues based on factors such as venue attractiveness, facilities and distance from other venues.

<sup>28</sup> Mr Quick in the First Urbis Report also referred to 401 EGMs over seven venues in the immediate 2.5km area (including the Premises).



overall market in the City of Greater Dandenong, being 958 EGMS over 15 venues. In addition, the Commission acknowledges that the EGM density in the LGA stands almost 50% higher than the metropolitan level (the second highest in Melbourne).

91. Accordingly, the Commission considers it appropriate to attribute no to marginal weight to this economic benefit.

Gaming expenditure not associated with problem gambling

92. To the extent that gaming expenditure is not associated with problem gambling, it has been recognised that such expenditure can be treated as an economic positive.<sup>29</sup> As Bell J notes in *Romsey No. 2*, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use EGMs for social reasons.<sup>30</sup>
93. The Commission notes from the VCGLR Report that the average net EGM expenditure per adult in the City of Greater Dandenong, (based on spending in the 2017/8 financial year), (\$965), is significantly more than the average for the State (\$550).<sup>31</sup>
94. Mr Clyne submitted that based on the Applicant's ongoing EGM utilisation records, the Premises' gaming room is at full utilisation on numerous occasions each week throughout the year. He said that while the number of hours of peak utilisation does vary, there are sufficient peak hours to indicate a need for additional EGMs.
95. Mr Clyne estimated that the additional EGMs would derive additional gross gaming expenditure at the Premises of \$868,984 in the first 12 months after installation.<sup>32</sup>
96. Of the gross gaming expenditure derived from the additional 11 EGMs at the Premises, Mr Clyne estimated that 83% would be transferred expenditure from other venues within the City of Greater Dandenong, and that approximately \$143,991 in the first year of the additional EGMs' operation would be new expenditure.
97. The Council Report did not lead any contrary evidence to Mr Clyne's gross gaming expenditure figures for the Premises from the additional 11 EGMs. Mr Brown indicated that were the Application to be granted, the potential net increase in total EGM expenditure and EGM

<sup>29</sup> See *Romsey No. 2* [2009] VCAT 2275 [351] per Bell J.

<sup>30</sup> *Ibid.* Bell J further notes at [352] that the other approach is to say (as Morris J did in *Branbeau Pty Ltd v Victorian Commission for Gambling and Liquor 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.

<sup>31</sup> See paragraph 36 above.

<sup>32</sup> Mr Clyne used the 'Geotech model'.



expenditure per adult in the City of Greater Dandenong would remain significantly above the averages for metropolitan municipalities and Victoria.

98. While noting that no alternative evidence to Mr Clyne's gross gaming expenditure figures for the Premises from the additional 11 EGMs was provided, the Commission accepts Mr Clyne's analysis.
99. In assessing the extent of the benefit associated with this increased gaming expenditure, the Commission has had regard to the evidence outlined in paragraphs 101 to 117 below with respect to gambling expenditure associated with problem gambling. In particular, the Commission notes the following in respect to the Premises:
  - (a) within the immediate 2.5km area from the Premises there are already 401 EGMs over seven venues (including the existing 63 accessible at the Premises);
  - (b) the gaming room operates between 14 to 16 hours every day;
  - (c) 65% of the Premises' gaming room patrons as surveyed reside in the lowest decile of the SEIFA index, and 48% of that amount reside in Dandenong;
  - (d) the median weekly household income for residents living within the immediate 2.5km radius of the Premises sits well below the metropolitan average. Income levels are lower in proximity to the Premises relative to the rest of the City of Greater Dandenong;
  - (e) housing stress in the City of Greater Dandenong is ranked fourth highest by metropolitan LGAs;
  - (f) the City of Greater Dandenong is ranked second highest by metropolitan LGAs for pensions and allowances per 1,000 adults;
  - (g) in the 2017-18 financial year, the City of Greater Dandenong had an average gaming expenditure which is 69.8% more than the metropolitan LGA average and 75.5% more than the State average; and
  - (h) approximately 93% of residents within the 2.5km radius from the Premises and 65% of residents within the 5km radius from the Premises are in the lowest two State SEIFA deciles.
100. Generally, the Commission considers that the portion of new expenditure not attributable to problem gambling is an economic benefit. Having regard to the matters discussed in paragraphs 93 to 99 above regarding the Premises and in the section below related to problem gambling, the Commission considers that portions of new expenditure at these Premises would likely be



associated with problem gambling. Accordingly, the Commission attributes this benefit no to marginal weight.

*Gambling expenditure associated with problem gambling*

101. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.<sup>33</sup> 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 gambling 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.

102. In assessing the extent of this disbenefit, the Commission has regard to the expenditure evidence set out in paragraphs 93 to 99 above. In doing so, the Commission recognises that in considering this aspect of the ‘*no net detriment*’ test it does not include consideration of transferred expenditure because such expenditure cannot be said to exacerbate problem gambling.<sup>34</sup>

*The potential vulnerability of the City of Greater Dandenong to gambling-related harms*

103. The extent to which it can be considered that new expenditure will be associated with problem gambling, and hence may be regarded as a disbenefit associated with this Application, will be influenced by the socio-economic status and vulnerability of the community of the City of Greater Dandenong, and particularly those living in the catchment area surrounding the Premises. This is because communities characterised by socio-economic disadvantage and greater vulnerability are considered to be more susceptible to the harms arising from problem gambling.<sup>35</sup>

104. In relation to the Premises, the Applicant accepted that overall the catchment area surrounding the Premises exhibits signs of very high disadvantage and that the indices scores of the socio-economic index for areas (**SEIFA**) indicate that the catchment area is highly disadvantaged in socio-economic terms on the basis that (in summary):

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<sup>33</sup> 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.

<sup>34</sup> See *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192 at [11] per Code PM and Nelthorpe M; *Kilsyth and Mountain District Basketball Association Inc v Victorian Commission for Gambling Regulation* [2007] VCAT 2, [40] per Morris J.

<sup>35</sup> This approach accords with the VCAT’s treatment of this issue in *Molwin Pty Ltd v Mornington Peninsula SC* [2015] VCAT 1982 (23 December 2015), [68].



- (a) the LGA is ranked the second most disadvantaged municipality in the State. Approximately 93% of residents within the 2.5km radius from the Premises and 65% of residents within the 5km radius from the Premises are in the lowest two State SEIFA deciles;
- (b) the equivalised household income for residents within the 2.5km radius of the Premises is 35% lower than that of metropolitan Melbourne;
- (c) the unemployment rate in the City of Greater Dandenong as at the end of 2017 (10.4%) was the highest level in Victoria and well above the metropolitan rate (6%); and
- (d) housing stress in the City of Greater Dandenong is ranked fourth highest by metropolitan LGAs.

105. In his reports, Mr Quick submitted that various factors suggest that it is unlikely the risk of problem gambling at the Premises would increase should this Application be granted, including that:

- (a) the City of Greater Dandenong is expected to experience a population growth between 2021 and 2026. Based on the VIF 2016 population growth projection, the LGA's population is forecast to reach around 181,300 by 2026. Mr Quick expected that the growth in the LGA will likely be faster than previously forecasted by VIF because their forecast for 2016 was well below the Census figure for the 2016 population;
- (b) while the general indicators of social and economic status showed a more highly disadvantaged socio-economic profile of the catchment area than the metropolitan average, there has been positive change in the LGA over recent years, particularly given it is no longer the most disadvantaged as it was in 2011 (rather it is now the second most disadvantaged);
- (c) there are a range of other entertainment options for patrons at these Premises besides gaming including bars, a bistro and lounge areas;
- (d) the reception is always staffed requiring patron sign-in, therefore making the Premises not the sort of venue that problem gamblers favour; and
- (e) the Premises are located within an area where access to EGMs is high and gaming is already present at the Premises.

106. In contrast, the Council argued that the social and economic factors in paragraph 104 above would suggest that the risk of increased incidence in problem gambling at the Premises would likely be increased should this Application be granted. The Council also made reference to:



- (a) the Premises being conveniently located in relation to the Dandenong Plaza shopping complex, which is a major shopping centre within central Dandenong; and
- (b) the total EGM expenditure and EGM expenditure per adult in the City of Greater Dandenong being significantly above the averages for metropolitan municipalities and Victoria.

107. The Council further submitted that the Premises are already well presented, and the proposed renovations would have the potential of increasing the attractiveness of the venue for all categories of gamblers (including problem gamblers). The Applicant, however, did not accept this on the basis that (in summary):

- (a) unlike Noble Park Football Social Club where the gaming room is open until 5am Monday to Friday, until 3am on Saturday and until 11:30pm on Sunday, the Premises' gaming room closes at midnight except for Thursday to Saturday when it closes at 1am;
- (b) the Applicant offers non gambling related activities at the Premises;
- (c) there is no evidence that the layout of the Premises would likely facilitate anonymous gambling or an increased incidence in other harmful gaming activity;
- (d) the increased number of EGMs at the Premises, if the Application is granted, would still be lower than the Dandenong Club with 103 EGMs, Greyhounds Entertainment with 93 EGMs, Highways Sandown with 90 EGMs and Keysborough Hotel with 89 EGMs; and
- (e) as part of the proposed renovations, the gaming room would be screened from external view.

108. The Commission was informed by the Council that:

- (a) despite the Applicant's goal to shield the gaming room from outside view, the gaming room's presence would still remain evident to patrons, particularly as its location will stay at the entrance to the Premises;
- (b) irrespective of the Applicant's offer of non-gambling related activities at the Premises, its dominant focus is usage of EGMs at the venue, particularly given the gaming room is open for longer hours than the Premises' Oskar's Bistro & Bar<sup>36</sup> and it is centrally located within the layout of the venue;
- (c) EGM sound is heard beyond the gaming room;

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<sup>36</sup> See footnote 17 above.



- (d) while less than Noble Park Football Social Club, the closing hours of the Premises' gaming room being midnight (Sunday to Wednesday) and 1am (Thursday to Saturday) are still late for EGM operations;
- (e) the Applicant's proposed employment of an additional staff person in the gaming room would do little more than serve increased demand for the gaming room rather than increase passive surveillance over that space; and
- (f) because of the LGA's substantial social and economic disadvantage, its community would be least able to bear the costs of additional gambling-related harm.

*RSG practices*

109. In considering the extent to which any new expenditure may give rise to an increased risk of problem gambling, the manner in which gaming is to be conducted at the Premises is also a relevant consideration. Specifically, in relation to the Applicant's Responsible Service of Gaming (**RSG**) practices:

- (a) Mr Quick was of the view that the Applicant's staff in the gaming room are experienced in identifying any potential risk in gambling behaviour, and undertake training on a regular basis. He submitted that while there are some risks for problem gambling with this Application (i.e. disadvantaged population, high existing density and expenditure on gaming, and proximity to a shopping centre), there are various features of the venue which act to reduce the risk, including staff experienced in RSG;
- (b) Mr Betros gave evidence that he, along with the board of the Applicant, have completed RSG training;
- (c) Mr Lawrence stated that RSG training is given to all staff involved with gaming; and
- (d) Mr Jaynes stated that, having conducted a review of the Applicant's current RSG processes and staff training programs, he found that the Applicant has sound RSG practices in place.

110. The Commission also notes that the Pre-Hearing Report detected no known issues at the Premises from a gaming and liquor inspection on 19 July 2018 and that apart from a breach identified on 13 April 2017 under section 3.5.27(2) of the GR Act (in respect to gaming machine related signage) no issues have been recorded in previous inspections conducted at the Premises.<sup>37</sup>

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<sup>37</sup> No enforcement action was taken by the VCGLR against the Applicant for the breach detected on 13 April 2017.



111. Notwithstanding the above, the Council in response to the evidence regarding RSG practices stated that, while it had no cause to challenge the Applicant's implementation of RSG practices, there was no scientific research base in the materials before the Commission that in any way suggested the Applicant's RSG practices, either individually or taken together, have any material impact upon the incidence or severity of gambling-related harm.

*Other factors*

112. There are other factors applicable to this Application that the Commission considers relevant in assessing the potential risks associated with problem gambling, including:

- (a) the visibility of the gaming room at the Premises from the entrance of the venue was part of the evidence at the Hearing. The Applicant indicated that separately from the proposed renovations, the Applicant was proposing to install screening prior to installation of the additional EGMs designed to eliminate views into the gaming room from the entrance of the venue. The Applicant submitted that this would occur regardless of whether the Application is granted or not. While the Commission recognises that the screening would be a measure to assist in mitigating some of the risk from a potential increase in the incidence of problem gambling that could be caused by the granting of the Application (including exposure of minors to the gaming room), such screening would not prevent EGM sound being heard beyond the gaming room. Also, the Commission acknowledges that this installation would not be dependent on the outcome of this Application;
- (b) while EGM noise beyond the gaming room with the existing 63 EGMs is not disputed by the Applicant, there is a lack of available information as to how the proposed renovations after installation of the additional 11 EGMs would in fact effectively reduce the EGM noise filtering into other parts of the Premises; and
- (c) the Commission notes the submissions received from local community organisations and individual local residents mentioned in paragraph 21(j) and paragraphs 24 to 25 in relation to this Application. This factor is further considered below at paragraphs 143 to 148.

*The Commission's view*

113. Having regard to all of the evidence and circumstances, should this Application be granted, the Commission considers that there is a risk of increased problem gambling expenditure associated with this Application. That increased expenditure would come from the new expenditure the additional 11 EGMs would generate of approximately \$143,991 in the first 12 months of operation. Further, the Commission considers from the evidence before it that the proposed renovations at



these Premises would have the potential of increasing the attractiveness of the venue for all categories of gamblers (including problem gamblers).

114. The Commission also finds that the SEIFA indices indicate that the majority of the Premises' gaming room patrons as surveyed have a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms. Specifically, 65% of the Premises' gaming room patrons as surveyed reside in the lowest decile of the SEIFA index.
115. Further, in relation to the potential risk of an increased incidence in problem gambling to the community of the City of Greater Dandenong were the Application to be granted, the Commission is not entirely persuaded on the available information that the impact would be sufficiently lessened by factors raised by the Applicant, such as those listed in paragraphs 105 and 107 above.
116. Accordingly, and having regard to all the circumstances and factors, the Commission considers with respect to this Application that the potential expenditure associated with problem gambling is a negative economic impact upon which it should place a low weight.
117. Issues relating to the negative social impacts associated with problem gambling regarding the Premises are considered further in paragraphs 138 to 148 below.

*Diversion of trade from non-gaming businesses*

118. Mr Quick noted that a potential disbenefit as a result of granting the Application might be less expenditure on trade from retail facilities, or other businesses. This was also indicated by the Council.
119. The Commission, while being careful not to double count this impact with the impact of gaming expenditure associated with problem gambling, acknowledges that Mr Quick considered this impact to not be sufficient to impact on the operations of any one business.
120. In his report, Mr Brown submitted that increased gaming expenditure is matched by a fall in expenditure on other goods or services.
121. The Commission recognises that the impact that could be felt by local non-gaming businesses is the value of the new expenditure from this Application, being approximately \$143,991 in the first year of operation. However, the Commission notes that it is difficult to determine whether that expenditure would necessarily have been spent elsewhere in the LGA. The Commission finds that there is an economic disbenefit associated with any diversion of trade from retail facilities or other businesses in the City of Greater Dandenong as a result of this Application, and considers

it appropriate to attribute no to marginal weight on this impact.

Conclusion on economic impacts

122. After considering the economic benefits of the Application and balanced against the disbenefits, the Commission considers that, on balance, the Application is likely to have a neutral economic impact if granted.

**Social Impacts**

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

Increased gaming opportunities for those who enjoy gaming

124. Increased gaming opportunities 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. Mr Clyne submitted that based on the Applicant's ongoing EGM utilisation records, the Premises' gaming room is at full utilisation on numerous occasions each week throughout the year. He said that while the number of hours of peak utilisation does vary, there are sufficient peak hours to indicate a need for additional EGMs.

125. The Council Report addressed this impact in a minor way by stating that the benefit would be minimised by the fact that some patrons would experience gambling-related harm.

126. In this matter, while the Commission accepts that granting approval of the Application would likely better serve the needs of gaming patrons through providing additional EGMs, given the current number of EGMs in the City of Greater Dandenong of 958 over 15 venues, (which the Applicant agrees is significant), the Commission considers it appropriate to attribute no to marginal weight to this social benefit. Specifically, the Commission notes that within the 2.5km area from the Premises, there are already 401 EGMs over seven venues (including the existing 63 at the Premises). Further, the Commission notes that the City of Greater Dandenong is ranked 2<sup>nd</sup> of 31 metropolitan LGAs in terms of EGM density per 1000 adults.

Improved facilities enabling greater range of services

127. Separate from the economic benefit that may be associated with expenditure involved in capital works at the Premises, there are also potential social benefits to the community that may arise having regard to the nature of the renovations that are intended to take place.



128. As noted at paragraph 56 above, the proposed renovations to the Premises include refurbishing the members' lounge and sports bar area, relocating the TAB area into the members' lounge and sports bar, relocating the snooker tables from the members' lounge into an adjacent lounge space, converting the existing TAB area into an alfresco area, refurbishing the café area between the gaming room and the sports bar, refurbishing the bar serverly catering to the bistro, increasing the available seating at the Premises from 160 seats to 280, and reconfiguring the back-of-house and kitchen areas. Accordingly, the Applicant submits that the proposed renovations to the Premises are not solely associated with gaming.
129. Mr Quick gave medium-positive weight to the proposed renovations to the Premises. He explained that the proposed renovations would improve the overall offer at the Premises to the wider community.
130. In contrast, Mr Brown, while accepting that the proposed renovations at the Premises were a social benefit, was of the opinion this was a "neutral benefit" given that the proposed renovations would not provide facilities that are not currently available in the City of Greater Dandenong. In summary, the Council submitted that there is no suggestion of any shortage of food, beverage or gaming opportunities in the municipality.
131. The Commission considers the community's access to and use of the proposed improved facilities at the Premises resulting from the granting of this Application will provide a social benefit to the community of the City of Greater Dandenong for the purposes of the '*no detriment*' test. However, the Commission recognises that the proposed renovations largely only improve existing facilities at the Premises as opposed to creating new facilities. Also, the Commission accepts, on the evidence available, that the refurbished Premises would not provide facilities that are not currently available in the municipality. Therefore, the Commission considers it is appropriate to attribute no to marginal weight to this factor.

### Backfilling

132. As discussed in paragraph 35 and paragraphs 47 to 52 above, of the 981 EGMs approved to operate in the municipality, 958 EGMs are currently in operation. Mr Quick noted that 23 more EGMs could be attached in the municipality to either the Sandown Park Hotel or the Waltzing Matilda Hotel without requiring approval. That is, the Waltzing Matilda Hotel is licensed to operate 9 more EGMs (without requiring approval) and the Sandown Park Hotel is licensed to operate 14 more EGMs (without requiring approval). Both of those venues are operated by the ALH Group (ALH).



133. Mr Quick submitted that since the removal by Doxa Social Club Inc (**Doxa**) of its entitlements that were previously attached to the City of Greater Dandenong, if this Application is not granted, it would open the possibility for Sandown Park Hotel or Waltzing Matilda Hotel seeking to obtain the 11 entitlements as sought to be utilised by the Applicant because there would be a gap from under the regional cap.<sup>38</sup> Specifically, the Applicant said it would be an obvious commercial advantage for ALH which operates their venues for profit, unlike the Applicant which is a not for profit organisation. The Applicant also said that the gaming expenditure per machine in the Waltzing Matilda (\$156,560) and the Sandown Park Hotel (\$136,234) was higher than that for the Premises (\$110,842) in the year ending in June 2017.<sup>39</sup>
134. In response, the Council submitted that there is no evidence before the Commission, beyond mere conjecture, as to whether any venue would seek to utilise some or all of the 11 EGM entitlements sought by the Applicant were the Application to be refused. In combination, the Council requested the Commission to take into account the fact that the 11 entitlements sought by the Applicant have not been utilised for a considerable period, and there has been no identified prospect, by way of evidence, that they would be utilised elsewhere.
135. Having regard to the information available, the Commission accepts the Council's view and assigns no weight to this impact.

*Social benefit derived from increased community contributions*

136. Related to the economic impact associated with increased community contributions, such contributions can also have a positive social impact by improving the social fabric of the community in which they are made. In assessing the weight to be placed on such a benefit, it is important that the Commission does not conflate this benefit with the economic benefit associated with such contributions.
137. For the reasons discussed in respect to community contributions as set out in paragraphs 67 to 80, while the Commission considers this impact to be a social benefit, the Commission assigns it no to marginal weight.

*Possibility of increased incidence and potential impact of problem gambling on the community*

138. Wherever accessibility to EGMs is increased, there is a risk of an increase in problem gambling, which leads to other costs such as adverse health outcomes, family breakdowns and other social

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<sup>38</sup> See paragraphs 47 to 52 above.

<sup>39</sup> The VCGLR Report indicates that the gaming expenditure per machine in the Premises in 2017/18 was \$121,535.16.



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

139. The Commission refers to and relies upon the evidence set out in paragraphs 101 to 117 with respect to the economic impact of problem gambling on the community, which equally apply to the social impact of problem gambling. As is concluded there, the Commission considers that there is potential for increased risk in gambling related harms as a result of this Application. This gives rise to a negative social impact. The Commission accepts (as outlined in paragraph 101 above) that harms associated with gambling are wide-ranging and attributable to all categories of gamblers ('low-risk', 'moderate-risk' and 'problem gamblers') and across the community more broadly.
140. Mr Quick gave evidence that if the Application was granted he considered the risk of adverse impacts associated with problem gambling is unlikely. His reasons included the fact that there was a range of other entertainment options for patrons besides gaming including bars, a bistro and lounge areas, as well as the gaming room being screened from external view, and staff in the gaming room being experienced in RSG.<sup>40</sup>
141. In the Council Report, the Council set out a number of adverse physical and mental health and wellbeing issues (including family violence and financial hardship) within the City of Greater Dandenong. However, the Council otherwise provided no evidence as to how such impacts will result from or be exacerbated by this Application.
142. Having regard to all of the evidence and circumstances, for the reasons discussed in relation to the economic impact of problem gambling at paragraphs 101 to 117 above, particularly given both the location of the Premises within the City of Greater Dandenong and the patronage of the gaming room being predominately locals (specifically from Dandenong), the Commission considers it appropriate to attribute low weight to this negative social impact.

### Community attitude

143. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,<sup>41</sup> the Commission recognises that while community apprehension is not an over-riding factor (in the

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<sup>40</sup> See paragraph 105 above.

<sup>41</sup> The *Romsey* case (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.



sense that the Application is not a referendum on gaming), it is certainly a relevant factor in the consideration of the particular social impact within, and as part of, the '*no net detriment*' test.

144. The evidence before the Commission with respect to community attitude is found in the submissions as detailed in paragraph 21(j) and paragraphs 24 to 25. In summary, the submissions referred in paragraph 21 are supportive of the Application, whereas the submissions referred to in paragraph 24 to 25 are against the granting of the Application.
145. Summarised, the supportive submissions largely indicate the Applicant as being supportive of the community and were favourable in respect to the Premises and the Application. In contrast, the submissions against the granting of the Application seem directed towards the impact of gambling in the community at large and the concern that this Application might increase the risk of problem gambling and a range of gambling related harms. As indicated in paragraph 29 above, the Commission also heard oral submissions from Ms Newnham of Springvale Monash Legal Service, who prepared written submissions as mentioned in paragraph 24(a) above. She said Dandenong is home to some of the State's most vulnerable people and, in her opinion, would therefore be vulnerable to gambling-related harm.
146. Neither the Applicant nor the Council responded to the content of the submissions referred to in paragraph 21(j) and paragraphs 24 to 25 above.
147. Overall, the Commission is satisfied that the submissions referred to in paragraph 21(j) and paragraphs 24 to 25 above suggest that, while there are some portions of the community in support of the Application, there is a negative attitude in other portions of the City of Greater Dandenong to this Application. In determining this impact, the Commission also recognises that the Council, as the representative body of the relevant community is charged with statutory duties under various pieces of legislation, has objected to the Application, and provided evidence in support of its objection.<sup>42</sup>
148. In all of these circumstances, and taking into account the Council's position and evidence in relation to the Application, the Commission considers it appropriate to attribute no to marginal weight to this negative social impact.

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<sup>42</sup> See *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT at 2606 at [42]; *Romsey No. 2* [2009] VCAT 2275 at [249] and [288]-[321].



Conclusion on social impacts

149. 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 marginal negative social impact if the Application were granted.

**Net economic and social impact**

150. 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.<sup>43</sup>

151. 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 not satisfied that the social and economic impact to the well-being of the community of the municipal district in which the Premises are located will not be detrimental to the well-being of the community of the City of Greater Dandenong. Accordingly, the pre-condition set out in section 3.4.20(1) of the GR Act is not satisfied and, the Commission must not amend the venue operator's licence.

**D. Independence from other gaming venues**

152. Section 3.4.20(1)(d) of the GR Act required the Commission to be satisfied that, if the Premises are proposed to be added to the Applicant's licence as an approved venue and the Applicant (or an associate of the Applicant) operated an approved venue within 100 metres of the Premises, that the management and operation of the Premise and other approved venues are genuinely independent of each other.

153. The Commission finds that the Application is not proposing to add the Premises to the Applicant's venue operator's licence (as it already exists on the licence), nor does the Applicant (or an associate) operate an approved venue within 100 metres of the Premises.

154. On this basis, the Commission considers that the mandatory pre-condition set out in section 3.4.20(1)(d) is not applicable to this Application.

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<sup>43</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101 at [52] per Dwyer DP.



## CONCLUSION

155. On the material that has been put before it, the Commission has determined that the 'no net detriment' test has not been satisfied<sup>44</sup> and, pursuant to section 3.4.20(1) of the GR Act, the Commission must not grant the Application. Accordingly, the Commission cannot go on to consider the general discretion referred to in paragraph 16 above.

156. The Application is therefore refused.

***The preceding 156 paragraphs and the following Appendix are a true copy of the Reasons for Decision of Ms Deirdre O'Donnell, Deputy Chair, and Dr Dina McMillan, Commissioner.***

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<sup>44</sup> See paragraphs above.



## 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**

	<b>Impact</b>	<b>Paragraph numbers</b>	<b>Comment relevant to weight</b>
<b>Benefits</b>	Expenditure on capital works	55 to 60	<p>The Applicant proposes to undertake renovations at the Premises at an estimated cost of \$2,700,000. The Application lacks sufficient detail as to what proportion of the renovation expenditure would occur within the City of Greater Dandenong. The amount of the renovation expenditure is not inconsequential. The Commission is also mindful not to double count the benefits associated with the renovation expenditure in relation to the social impact that may result from the proposed renovations of the Premises.</p> <p>Positive impact, no to marginal weight.</p>
	Additional employment	61 to 66	<p>In relation to the short term benefits associated with renovation activities, there is a lack of evidence in relation to the short term employment benefit associated with the proposed renovations at the Premises. In relation to the longer term benefits following the introduction of the proposed 11 EGMS, while the employment of an additional 5 EFT positions at the Premises and the proposed second full-time welfare officer is a positive impact, the scale of this impact on the municipality at large is relatively insignificant.</p> <p>Positive impact, no to marginal weight.</p>



	<b>Impact</b>	<b>Paragraph numbers</b>	<b>Comment relevant to weight</b>
	Community contributions	67 to 80	<p>In relation to the cash contributions, there is no proposed increase to the Applicant's existing cash contributions as a result of this Application.</p> <p>In relation to the expenditure on the salary of the second welfare officer and the Program, having regard to the evidence and submissions made with respect to those proposed forms of community contributions, while they can have a positive economic impact, there is a lack of sufficient detail (see paragraph 79 above).</p> <p>Positive impact, no to marginal weight.</p>
	Increased gaming competition in the City of Greater Dandenong	81 to 91	<p>The small number of additional EGMs compared to the overall market in the City of Greater Dandenong would not likely result in a substantive increase in gaming competition in the municipal district.</p> <p>Positive impact, no to marginal weight.</p>
	Gaming expenditure not associated with problem gambling	92 to 100	<p>The portion of new expenditure not attributable to problem gambling is an economic benefit. The Commission accepts Mr Clyne's analysis.</p> <p>Having regard to the evidence with respect to the gambling expenditure associated with problem gambling and the factors outlined therein, the Commission considers that it is likely that portions of the new expenditure will be associated with problem gambling.</p> <p>Positive impact, no to marginal weight.</p>



	<b>Impact</b>	<b>Paragraph numbers</b>	<b>Comment relevant to weight</b>
<b>Disbenefits</b>	Gambling expenditure associated with problem gambling	101 to 117	<p>SEIFA indices indicate a very highly disadvantaged socio-economic profile of the catchment area, including residents having a level of socio-economic disadvantage and financial vulnerability that would make them more susceptible to gambling-related harms. In relation to the risk of an increased incidence in problem gambling to the local community were the Application to be granted, the Commission is not persuaded on the available information that the impact would be sufficiently lessened by the factors raised by the Applicant.</p> <p>Negative impact, low weight.</p>



	<b>Impact</b>	<b>Paragraph numbers</b>	<b>Comment relevant to weight</b>
	Diversion of trade from non-gaming businesses	118 to 121	<p>The impact that could be felt by local non-gaming businesses is the value of the new expenditure from this Application, which is approximately \$143,991 in the first year of operation of the additional EGMs. The amount diverted from non-gaming businesses is difficult to determine.</p> <p>Negative impact, no to marginal weight.</p>



**Social impacts**

	<b>Impact</b>	<b>Paragraph numbers</b>	<b>Comment relevant to weight</b>
<b>Benefits</b>	Increased gaming opportunities for those who enjoy gaming	124 to 126	Granting the Application will better serve the needs of gaming patrons through providing additional opportunities and choice for those who choose to play EGMs. Given the current number of EGMs in the City of Greater Dandenong, the Commission considers this to be a negligible positive social impact to the City of Greater Dandenong.  Positive impact, no to marginal weight.
	Improved facilities enabling greater range of services	127 to 131	There are social benefits arising from the community's access to and use of improved facilities resulting from granting the Application, but the Commission accepts that the refurbished Premises would not provide facilities that are not currently available in the municipality.  Positive impact, no to marginal weight.
	Backfilling	132 to 135	Having regard to the evidence and submissions made in respect to backfilling, the Commission accepts there is no evidence as to this impact.  Positive impact, no weight.
	Social benefit derived from increased community contributions	136 to 137	The positive social impact of community contributions is by improving the social fabric of the community in which they are made. The Commission refers to and relies on its findings in relation to the economic impact of the proposed community contributions.  Positive impact, no to marginal weight.



	<b>Impact</b>	<b>Paragraph numbers</b>	<b>Comment relevant to weight</b>
<b>Disbenefits</b>	Possibility of an increased incidence and potential impact of problem gambling on the community (including family violence)	138 to 142	<p>The Commission refers to and relies on its findings in relation to the economic impact of gambling expenditure associated with problem gambling.</p> <p>Negative impact, low weight.</p>
	Community attitude	143 to 148	<p>Overall, the Commission is satisfied that the submissions received by the Commission suggest that, while some portions of the community are in support of the Application, there is a negative attitude in other portions of the City of Greater Dandenong to this Application. In determining this impact, the Commission also recognises that the Council, as the representative body of the relevant community is charged with statutory duties under various pieces of legislation, has objected to the Application, and provided evidence in support of its objection.</p> <p>Negative impact, no to marginal weight.</p>