



## Victorian Commission for Gambling and Liquor Regulation

### Gaming information sheet

# Key factors in deciding gaming machine applications

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) is the independent statutory authority that regulates Victoria's gambling and liquor industries.

Gaming machine applications are usually decided by at least two of the VCGLR's Commissioners. When acting as a decision maker, Commissioners are often referred to as 'the Commission'.

## The Commission's role

Under the *Gambling Regulation Act 2003* (the Act), the Commission must decide applications to:

- approve a premises as suitable for gaming (including the number of gaming machines permitted); and
- vary (by increasing) the number of gaming machines at a premises.

These are known as 'gaming machine applications'. The process begins when the VCGLR receives an application. The local Council is then given the opportunity to make a submission to the Commission. Surrounding councils and other interested parties (businesses, community groups, individuals, etc) may also make a submission to the Commission about the application, either through the local Council or directly to the VCGLR.

## The 'no net detriment' test

Under the Act, the Commission cannot approve an application unless it is satisfied that 'the net economic and social impact of the proposal will not be detrimental to the wellbeing of the community of the municipal district'. This means that if the Commission decides an application would have a negative impact on the community, it cannot be approved. This is known as the 'no net detriment' test.

If the application is to approve a premises as suitable for gaming, the Commission must also be satisfied that the premises are, or on completion of building works will be, 'suitable for the management and operation of gaming machines'.

## Factors relevant to the 'no net detriment' test

Previous decisions of the Commission and VCAT indicate that the factors below tend to be relevant when assessing the impact of a proposal. However, not all of these factors will be relevant to every decision, and the list below is not exhaustive.

### 1. Location and surroundings

The location and surroundings of the premises will likely influence the impact a proposal would have on the community. The accessibility of the premises to the community and what other facilities are nearby are often relevant. Nearby sensitive uses are particularly relevant. The term sensitive uses refers to places where people who may be more vulnerable to gambling-related harm can be found.

### 2. Non-problem gambling expenditure

Gambling is considered a legitimate, lawful activity. Therefore, new gaming expenditure that does not cause harm is usually considered beneficial. This factor is closely related to diversion of trade, as in most cases only new gaming expenditure in the municipal district can be considered a benefit.

### 3. Supply contracts

Supply contracts means any contract between the premises and its suppliers that would occur as a result of the proposal, regardless of whether the contract relates to gaming machines. The applicant may provide an estimate of the supply contracts it would enter into if their application is approved. These contracts are generally considered a benefit to the community, especially if the applicant can demonstrate they would be with suppliers from the municipal district.

### 4. Complementary expenditure

Complementary expenditure is the increased economic activity in the municipal district that would occur if the application were approved. Complementary expenditure doesn't include spending on gaming machines or staff.

Complementary expenditure can be inside the venue, or it can be outside the venue but within the municipal district. For example, if a proposal includes building a new bistro, the spending that would occur on meals is internal complementary expenditure. Outside complementary expenditure is usually difficult to estimate, but is more likely to occur if, for example, more people would visit the municipal district as a result of the proposal.

#### 5. Increased gaming competition

An increase in gaming competition may be considered a benefit, as increased gaming choice and opportunities can promote a competitive gaming industry. This may occur in circumstances where demand currently outstrips supply, or where the proposal would provide new types of gaming machines that are not currently available in the area.

#### 6. Expenditure on capital works

Many proposals include building or construction work. This could simply be the works required to create a space for the EGMs, or it may include other changes to the building that would only be possible if the application is approved, such as broader renovations or construction of new facilities.

Although the benefits associated with capital works are usually short-term, capital works are generally considered a benefit to the community, especially if the applicant can demonstrate that the work would be done by people from the municipal district.

#### 7. Additional services and facilities

Some proposals include the creation of new services or facilities, such as a function room, sports grounds, or bistro. While new services or facilities are considered a potential benefit to the community, this will depend on the specific circumstances. For example, a new swimming pool would probably not be considered to have much benefit to the local community if there is already a public swimming pool nearby.

If the proposal includes a playground, whether it complies with the Guidelines for children's play areas will also be considered.

#### 8. Ongoing employment

Some proposals will result in additional staff being employed at the venue. These extra staff might work in the gaming room, or they might work somewhere else at the premises. The introduction of new jobs is generally considered a benefit to the community, especially if the applicant can demonstrate that those jobs would be filled by people from the municipal district.

#### 9. Problem gambling and gambling-related harm

Every application comes with a risk of increased gaming expenditure from people who are experiencing gambling-related harm. This type of spending is considered a negative impact. Gambling-related harm may be experienced by all categories of gamblers, not just those identified as 'problem gamblers'.

It is recognised that communities characterised by socio-economic disadvantage are more vulnerable to problem gambling and the negative impacts of gambling, and so the level of vulnerability that exists in the community is relevant. The applicant's responsible gambling practices are also considered.

#### 10. Community wellbeing

The impact the proposal would have on the community's wellbeing includes the community's attitude toward the proposal. Submissions and surveys can be used as evidence of the community's attitude.

However, as each application is considered individually, submissions should address the specific application. Additionally, submissions from those who cannot reasonably be considered a member of the community where the premises are located are likely to have less weight. While judgment is applied in each case to decide what 'community' is relevant, generally the term refers to those who live or work in the municipal district.

#### 11. Diversion of trade

Diversion of trade refers to the decrease in spending within the community that would occur as a result of the proposal. It is often difficult to precisely estimate the amount of spending that will be diverted. There are two types of diverted trade.

##### Gaming expenditure

Although a proposal would usually result in more gaming expenditure at the premises, some of this spending may be diverted from other premises nearby. This transferred expenditure is usually not given any weight.

##### Non-gaming expenditure

The proposal could also divert non-gaming expenditure in the community. For example, if the proposal would result in additional or improved facilities or services, that could lead to a decrease in spending at nearby businesses offering similar facilities or services.

## 12. Community contributions

An applicant's proposal may include community contributions. A community contribution is something given or done to benefit to the community where the premises are located. Community contributions are generally regarded as a benefit to the community, but only if they are genuinely dependent on the application being approved. Similarly, existing community contributions are not relevant unless their continuation depends on the success of the application.

Community contributions are usually a specified monetary amount, although some types of in-kind good and/or services may also be considered. The weight given to a contribution will depend on the impact it would have on the community, and not just the amount (either in absolute terms or relative to revenue). The Commission does not impose or solicit community contributions, as they are a matter for applicants.

### Conditions

Applications may be approved subject to conditions. Conditions can relate to any matter the Commission thinks fit, but often relate to specific parts of the proposal such as community contributions, capital works, or in some cases, employment. Sometimes an approval does not take effect until a condition is met. If the applicant does not comply with the conditions, an approval may be automatically revoked.

Conditions are relevant to a decision as they can help ensure that the expected benefits will occur if the application is approved, and are usually proposed by the applicant or local Council.

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