



# Victorian Commission for Gambling and Liquor Regulation

## DECISION AND REASONS FOR DECISION

In the matter of an application under section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* by Collingwood Football Club Limited for amendment of its venue operator's licence to vary the number of electronic gaming machines permitted in the approved premises, the Coach and Horses, located at 33-37 Maroondah Highway, Ringwood from eighty (80) to ninety (90).

**Commission:**

Dr Bruce Cohen, Chair  
Ms Deirdre O'Donnell, Commissioner

**Appearances:**

Mr John Larkins of Counsel for the Applicant  
(instructed by Bazzani Scully Priddle)

Mr Ian Munt of Counsel for Maroondah City Council  
(instructed by Maddocks)

Mr Justin Ghattas as Counsel Assisting the Commission

**Date of Hearing:**

10 October 2016

**Date of Decision:**

9 November 2016

**Date of Reasons:**

9 November 2016

**Decision:**

The application is granted subject to the conditions outlined at paragraph 146 of these Reasons for Decision.

**Signed:**

**Bruce Cohen**  
Chair



## REASONS FOR DECISION

### INTRODUCTION

1. On 3 June 2016, an application was made by the Collingwood Football Club Limited (**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 the Coach and Horses, located at 33-37 Maroondah Highway, Ringwood (**the Premises**) from eighty (80) to ninety (90) (**the Application**).
2. The relevant municipal authority is the Maroondah City Council (**the Council**). By a letter dated 25 July 2016 to the Commission, the Council stated that it intended to make a social and economic submission in relation to the Application.
3. The Commission considered the Application by way of a public inquiry.<sup>1</sup> To this end, a public hearing was conducted on 10 October 2016 (**the Hearing**). The Applicant was represented by Mr John Larkins of Counsel, and the Council were represented by Mr Ian Munt of Counsel.

### THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gambling on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**the 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, *inter alia*:

...

(2) *The main objectives of this Act are—*

- (a) *to foster responsible gambling in order to-*
  - (i) *minimise harm caused by problem gambling; and*
  - (ii) *accommodate those who gamble without harming themselves or others;*
- (ab) *to ensure that minors are neither encouraged to gamble nor allowed to do so;*
- (b) *to ensure that gaming on gaming machines is conducted honestly;*
- (c) *to ensure that the management of gaming equipment and monitoring equipment*

<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).



*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 GR Act outlines the process by which a venue operator can make application to the Commission to amend the conditions of their licence.<sup>2</sup> In addition to providing such application to the Commission in an approved form, with the required fee, and with a submission in relation to the net social and economic impact on the municipality in which the approved venue is located (and surrounding municipal districts), an applicant must also give notice to the municipal council of the municipal district in which the approved venue is located (before submitting their application to the Commission).
8. After receiving notice of a proposed amendment, a municipal council may make a submission to the Commission within 60 days of receiving such notice. These submissions may address the social and economic impact of the proposed amendment on the municipal district in which the approved venue is located, as well as the impact on surrounding municipal districts.<sup>3</sup>
9. The relevant provision concerning this Application is found at s. 3.4.17(1)(b) of the GR Act, which provides for the amendment of the venue operator's licence to vary the numbers of EGMs permitted in an approved venue in accordance with Division 2, Part 4 of Chapter 3 of the GR Act. 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 this section provides, inter alia:

- (1) *Without limiting the matters which the Commission may consider in deciding whether to make a proposed amendment the Commission must not amend a venue operator's licence unless—*

...

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

<sup>2</sup> GR Act, section 3.4.18.

<sup>3</sup> GR Act, section 3.4.19.





...

10. 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>4</sup>
11. The GR Act does not specify the matters which the Commission must consider in deciding whether the '*no net detriment*' test is satisfied. However, the statutory signposts are provided by the test itself. The Commission must consider:
  - (a) the likely economic impacts of approval;
  - (b) the likely social impacts of approval; and
  - (c) the net effect of those impacts on the well-being of the relevant community.<sup>5</sup>
12. 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>6</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.
13. 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>7</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 economic side, or the social side, or both, so long as it is included and not double-counted in the ultimate composite test.<sup>8</sup>
14. The Commission also notes that, on review, it has been indicated by VCAT that:

*A table of likely economic and social benefits and disbenefits, and with some*

<sup>4</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [52] per Dwyer DP.

<sup>5</sup> *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA.

<sup>6</sup> *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (Romsey No 2)* [2009] VCAT 2275, [332], [348] per Bell J cited in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [58] per Dwyer DP.

<sup>7</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101, [57] per Dwyer DP.

<sup>8</sup> See *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation (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.



*comments relevant to the relative weight to be given to particular factors ... is a useful way of transparently dealing with the 'no net detriment' test, and might perhaps be considered for wider application.<sup>9</sup>*

This approach has been adopted in a number of VCAT decisions.<sup>10</sup> To enhance the clarity of Commission decisions, and to facilitate greater consistency between the Commission and VCAT, the Commission has adopted the same approach.

15. If the Commission is not satisfied that the '*no net detriment*' test is met, that is clearly fatal to the application before it, given the opening words of section 3.4.20(1) of the GR Act. 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 cast in exhaustive terms. If the Commission is satisfied that the '*no net detriment*' test is met, it still has an ultimate discretion as to whether or not to grant the approval.<sup>11</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>12</sup>
16. 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>13</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>14</sup>
17. 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>15</sup> that, if all of the mandatory considerations under the GR Act favour the grant of an approval, one would expect

<sup>9</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [60] per Dwyer DP.

<sup>10</sup> See, for example: *Darebin CC v Victorian Commission for Gambling and Liquor Regulation & Anor* [2013] VCAT 1389; *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Monash CC v L'Unico Pty Ltd* [2013] VCAT 1545; *Bakers Arms Hotel Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2014] VCAT 1192.

<sup>11</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).

<sup>12</sup> GR Act, section 3.4.20(2).

<sup>13</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*. [2013] VCAT 101, [98] per Dwyer DP.

<sup>14</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 *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [7] per Warren CJ, Maxwell P and Osborn AJA.

<sup>15</sup> [2013] VCAT 101, [98].





that the ultimate discretion will commonly favour approval - other than in relatively rare or exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.

18. Finally, it is noted that pursuant to section 3.4.20(1)(a) of the GR Act the Commission must be satisfied that the proposed amendment does not conflict with a Ministerial direction, if any, given under section 3.2.3 of the GR Act. Additionally, pursuant to section 9(4) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR Act)* the Commission must have regard to Ministerial guidelines issued under section 5 of the VCGLR Act when performing functions under gambling legislation.
19. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application. However, on 16 October 2013 a Ministerial guideline was published in the Victorian Government Gazette pursuant to section 5 of the VCGLR Act concerning applications for approvals of venues for EGMs and children's play areas incorporated in the venue. This guideline concerned the assessment of the suitability of a premises for gaming. As such, it appears strictly to apply to a premises applying to be a new gaming venue, rather than an increase in the number of EGMs at an existing gaming venue. While this guideline is therefore not directly applicable to this Application, the Commission's view is that it is proper for the Commission to have regard to the underlying policy intent of such a guideline (which in this instance appears to relate to the legislative objective under section 1.1(2)(ab) of the GR Act that minors are neither encouraged to gamble nor allowed to do so) when considering this Application, given that it involves the renovation of the Premises and this renovation relates, albeit only in small part, to changes to the existing children's play areas at the Premises.

#### MATERIAL BEFORE THE COMMISSION

20. The Applicant provided the Commission with the following material in support of the Application:
  - (a) Social and Economic Impact Statement (**SEIS**) prepared by Ratio Consultants Pty Ltd (**Ratio**), dated 17 May 2016 (**the Ratio Report**) and Addendum Social and Economic Impact Assessment prepared by Ratio, dated October 2016 (**the Ratio Addendum**);
  - (b) Expenditure Report, prepared by PVS Australia Pty Ltd (**PVS**), dated March 2016 (**the PVS Report**);
  - (c) Witness Statement of Thomas Benjamin Streater, a director of Dickson Wohlsen Victoria Pty Ltd trading as DWS Hospitality Specialists (**DWS**), dated June 2016;
  - (d) Witness Statement of Danielle Burston, General Manager of Gaming Venues for the Applicant;





- (e) Witness Statement of Kate Patricia May McNamara, Duty Manager at the Premises;
  - (f) Application for approval of modification to a gaming machine area in an approved venue, dated 3 June 2016; and
  - (g) a copy of the public notice as appearing in the Herald Sun newspaper, dated 28 June 2016.
21. Following receipt of correspondence from the Council on 25 July 2016 indicating that it would make a submission in relation to the Application, the Commission received a request, by way of email correspondence dated 31 August 2016, to extend the time by which the Council could make a submission from 12 September 2016 to 23 September 2016. The Applicant consented to such an extension and, subsequently, the Commission granted an extension to the Council to permit additional time to make a submission in relation to the Application.
22. The Council provided the Commission with the following material with respect to the Application:
- (a) Economic and social impact submission with the following attachments:
    - (i) Report titled "*SEIA For Coaches [sic] and Horses EGM expansion application*" prepared by MGN Consultancy (**MGN**), September 2016 (**the MGN Report**);
    - (ii) Correspondence from the City of Whitehorse, dated 25 July 2016, in opposition to the Application; and
    - (iii) Correspondence from Eastern Access Community Health (**EACH**), dated 13 September 2016, in opposition to the Application.
23. The Commission also received additional information in relation to the Application, being:
- (a) correspondence and a submission from Women's Health East (**WHE**), dated 23 September 2016, in opposition to the Application; and
  - (b) correspondence from Knox City Council, dated 4 August 2016, in which it notified the Commission that it did not intend to make any comment or submission in relation to the Application.
24. The following reports, prepared by Commission officers, were provided to the Applicant and the Council, and were considered by the Commission in relation to the Application:
- (a) Economic and Social Impact Report, dated October 2016 (**the VCGLR Report**); and
  - (b) Pre-Hearing Inspection and Compliance Report, dated 28 September 2016 (**the Pre-Hearing Report**).



25. At the Hearing, the following witnesses gave evidence:<sup>16</sup>
- (a) from the Applicant:
    - (i) Ms Colleen Peterson, a director of Ratio;
    - (ii) Mr Michael Clyne, an independent gaming consultant working with PVS;
    - (iii) Mr Streater, a director of DWS; and
    - (iv) Ms Burston, General Manager of Gaming Venues for the Applicant; and
  - (b) from the Council:
    - (i) Ms Jan McGannon, Projects Director of MGN.
26. The Commission was also provided with the following additional materials at the Hearing:
- (a) from the Applicant:
    - (i) correspondence from Ms Peterson of Ratio responding to evidence presented at the Hearing, dated 10 October 2016 (**the Ratio Reply**);
    - (ii) correspondence from Bazzani Scully Priddle in relation to previous Commission and VCAT decisions, dated 11 October 2016;
    - (iii) Responsible Gambling Charter in place at the Premises, signed by Gary Pert (CEO of the Applicant), dated 7 May 2014 (**the RSG Charter**);
    - (iv) data provided by Mr Clyne in relation to the percentage impact on expenditure at various premises located near to the Premises, undated, provided to the Commission on 10 October 2016;
    - (v) suggested conditions to attach to the approval (if the Application is granted), undated, provided to the Commission on 10 October 2016 (**Proposed Conditions**); and
    - (vi) a proposed floor plan of Premises if the Application is granted, dated November 2015; and
  - (b) from the Council:
    - (i) an extract of the Victorian Responsible Gambling Foundation (**VRGF**) report titled "*Study of Gambling and Health in Victoria: Findings from the Victorian Prevalence Study 2014*", pages 69-73, dated November 2015 (**the Prevalence Study**);
    - (ii) an extract of the VRGF report titled "*Background Paper: Risk Factors for Problem Gambling: Environmental, Geographic, Social, Cultural, Demographic, Socio-*

<sup>16</sup> While a witness statement of Ms McNamara had been provided to the Commission, she was unavailable to attend the Hearing to give oral evidence.





*economic, Family and Household*", pages 3-10, dated May 2015 (**the Risk Factors Study**); and

(iii) a written outline of submissions on behalf of the Council.

27. Prior to the Hearing, the Commissioners separately visited the Premises. Commissioner O'Donnell also visited surrounding venues following the Hearing.

## DECISION AND REASONS FOR DECISION

### Background

28. The Premises is located at 33-37 Maroondah Highway in the City of Maroondah (**Maroondah**). Maroondah is a metropolitan Local Government Area (**LGA**) which is located approximately 30 kilometres east of the Melbourne CBD and covers an area of 61 square kilometres. Major centres in Maroondah include Ringwood, Croydon and Heathmont. Maroondah had an estimated adult population of 89,259 as at 30 June 2016 and the annual rate of population growth was projected by the then Victorian Department of Transport, Planning and Local Infrastructure to be 1.0% per annum for the period 2017-2022, as compared with the projected Victorian average of 1.7% per annum over the same period.
29. Maroondah is subject to a municipal limit of 806 EGMs.<sup>17</sup> There are ten gaming venues within the municipality with approvals to operate 780 EGMs; however, only 746 EGMs are currently operational within venues in Maroondah.
30. Maroondah has an EGM density of 8.4 EGMs per 1,000 adults, which is 58.6% higher than the metropolitan average (5.3) and 49.2% higher than the State average (5.6). This ranks Maroondah as the highest municipality in terms of EGM density per 1,000 adults. If the Application was approved, the EGM density per 1,000 adults would rise by 1.3% to 8.5.
31. In 2015-16, Maroondah had an average gaming expenditure of \$730 per adult, which was 27% higher than the metropolitan average (\$575) and 32% more than the State average (\$553). Applying the estimate of increased gaming expenditure as received from the Applicant, approval of the Application would result in an increase in average gaming expenditure per adult of 0.4%. Overall gaming expenditure in Maroondah has decreased by 19.7% in real terms over the past six years to June 2016, which is a lower decrease than the metropolitan average of 21.7% over the same period.

<sup>17</sup> Pursuant to section 3.4A.5(3A)(b) of the GR Act, the Commission determined, in accordance with the criteria specified in the Minister for Gaming's Order on 15 August 2012, the maximum permissible number of gaming machine entitlements under which gaming may be conducted in each municipal district or region.





32. In relation to the area immediately surrounding the Premises, approximately 24.1% of Statistical Area Level 1 (SA1s)<sup>18</sup> areas within 2.5 kilometres of the Premises are in the two most disadvantaged quintiles of the Socio-Economic Indexes for Areas (SEIFA)<sup>19</sup> Index of Relative Socio-economic Disadvantage (indicating high relative disadvantage). Of the remaining SA1s within 2.5 kilometres of the Premises, approximately 55.1% are in the fourth or fifth quintiles (indicating low relative disadvantage), while the remaining 20.7% fall within the third quintile, indicating neither low nor high relative disadvantage.
33. As at 30 June 2016, the unemployment rate in Maroondah was 5.3%, which is below both the metropolitan unemployment rate of 5.9%, and the State unemployment rate of 5.9%,
34. The Premises is situated immediately east of the Eastlink off-ramp in Ringwood. It is located at the western edge of the Ringwood Major Activity Centre, approximately one kilometre west of the nominated 'town centre' near Eastland Shopping Centre. It is within, and surrounded by, commercial zones to the east and south. To the north of the Premises land is zoned as part of a Residential Growth Zone.
35. The Premises currently comprises:
- (a) a bistro with seating for 296 patrons in two separate areas, including 40 alfresco seats;
  - (b) a lounge/sports bar with pool table, large-screen televisions, outdoor smoking area, TAB facilities and jukebox;
  - (c) an indoor children's play area associated with the sports bar area, providing play equipment and three play stations to children under the age of ten;
  - (d) a beer garden;
  - (e) an upstairs function room with capacity for up to 280 patrons (cocktail style) or 200 patrons (banquet style), secondary kitchen/bar areas, and conference facilities;
  - (f) an upstairs meeting/storage room and associated offices; and
  - (g) a gaming room with 80 EGMs.

### Issues for determination

36. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it

<sup>18</sup> SA1s have been designed by the Australian Bureau of Statistics (ABS) as the smallest unit for the release of Census data.

<sup>19</sup> SEIFA is a product developed by the ABS that ranks areas in Australia according to relative socio-economic advantage and disadvantage. It consists of four different indexes, including the Index of Relative Socio-economic Disadvantage.



is satisfied of the following two matters:<sup>20</sup>

- (a) that the regional or municipal limit for EGMs in Maroondah will not be exceeded by the making of the amendment the subject of the Application; and
- (b) that the net social and economic impact of the increase in EGMs will not be detrimental to the well-being of the community of Maroondah (the '*no net detriment*' test).

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

#### **A. Municipal limit**

37. A municipal limit of 806 EGMs applies for Maroondah.<sup>21</sup> At the time of determining the Application, the Commission notes that, besides the Premises, there are nine other operational gaming venues in Maroondah – four hotel venues licensed to operate 380 EGMs, and five club venues licensed to operate 320 EGMs, exclusive of the EGMs operated by the Applicant. Approval of the Application will cause the total number of EGMs licensed to operate in Maroondah to increase from 780 to 790.
38. On that basis, the Commission is satisfied that granting the Application would not cause the municipal limit for the number of EGMs in Maroondah to be exceeded and hence considers this aspect of the statutory test under section 3.4.20 of the GR Act to be met.

#### **B. '*No net detriment*' test**

39. The Commission is required to 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.

<sup>20</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.

<sup>21</sup> While the number of entitlements operating within a particular region or municipality is capped (see Footnote 17), the Commission notes that there is nothing to preclude the aggregate number of EGMs for which approved venues may be licensed from exceeding that cap.





## Economic Impacts

### Expenditure on capital works

40. A potential economic benefit associated with this Application is that which arises from the expenditure on the proposed refurbishment of the Premises.
41. According to Ms Peterson and Ms Burston, the Applicant proposes to undertake renovations at an estimated cost of around \$3.8 million if the Application is successful. Further details as to the nature of these renovations are set out in paragraph 109 below. It was Ms Burston's evidence that while these renovations will not proceed if the Application is not successful, a more modest \$1.2 million refurbishment will occur. The nature of this more modest refurbishment is set out in paragraph 110 below.
42. As was noted in *Branbeau*,<sup>22</sup> in assessing benefits associated with an application of this nature, regard must be given to the marginal impact arising from the proposed increase in EGMs. As such, in assessing the nature of the benefit associated with capital expenditure, the relevant amount to be assessed is the difference between the expenditure that would occur if the Application is granted (\$3.8m) and the expenditure if it is not granted (\$1.2m), being expenditure of \$2.6 million.
43. While the Commission recognises that expenditure of this amount – which is substantial – would generally constitute an economic benefit, as Ms McGannon noted, in this instance only limited evidence was provided as to the extent to which the goods and services required for these renovations would be procured from within Maroondah. Given the limited nature of the evidence before it, together with the fact that Maroondah is located within metropolitan Melbourne and the Premises are located in very close proximity to major transport infrastructure (which make it possible for goods and services to be brought in from outside of Maroondah), the Commission considers this expenditure is an economic benefit but one that should only be given a marginal weight.
44. In making this assessment, the Commission notes it is important that the benefits associated with the renovation are not double counted, having regard to the social impact that may result from the improved facilities and services that result from any renovation. This aspect has been considered separately, and is detailed below at paragraphs 108 to 121.

<sup>22</sup> *Branbeau Pty Ltd v Victorian Commission for Gambling and Liquor Regulation* [2005] VCAT 2606 at [47].





Employment creation

45. Employment benefits associated with the Application may involve short term employment benefits associated with renovation activities, and longer term benefits following the completion of the renovations and the introduction of additional EGMs.
46. No information was provided as to the direct short term impact of the renovation on employment in Maroondah, and as such this aspect is given no weight by the Commission.
47. Over the longer term, the Ratio Report indicated that, should the Application be granted, the Applicant would require an additional three (3) full-time equivalent (**FTE**) positions to service the increased patronage at the Premises, which includes one position in the gaming room.
48. Further, according to Ms Peterson, these three FTE positions “are the difference between the \$1.2 million renovation and the \$3.8 million” – that is, there is a net increase as a consequence of the Application being granted, as compared to the employment situation if only the more limited refurbishment of the Premises were to occur. This was supported by the evidence of Ms Burston, who also stated that the three FTE positions to be created would be a cook, a gaming supervisor and a receptionist.
49. In her evidence, Ms McGannon questioned the robustness of the estimated employment effect, arguing that it was not based on a ‘trigger’ that would justify the level of additional employment proposed to occur. Ms McGannon considered that the data available, particularly in relation to the low rates of EGM utilisation, did not support the proposition that genuine, sustainable employment would result if the Application was granted. Ms McGannon considered there was a lack of clarity surrounding this information and, on that basis, the Commission ought be cautious in relying on the evidence of Ms Peterson in relation to the proposed creation of additional employment at the Premises.
50. The Commission accepts the evidence of Ms Peterson and Ms Burston that, if the Application was granted, an increase in the level of employment at the Premises will likely result. However, the Commission is also mindful that the additional employment that occurs at the Premises is likely to be, in large part, the result of transferred gaming and non-gaming expenditure (the nature of which is addressed further below).
51. Having regard to Ms McGannon's evidence, in these circumstances the Commission considers that there is only likely to be a very small net increase in employment in the municipal district in which the Premises are located if the Application was to be granted. Further, the evidence available to quantify this benefit is limited. As such, while the Commission considers that the grant of the Application would result in some additional employment which is an economic benefit, in



the circumstances it a benefit to which it assigns only a marginal weight for the purposes of the 'no net detriment' test.

Gaming expenditure not associated with problem gambling

52. 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>23</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>24</sup>
53. The Commission was provided with written evidence from Mr Michael Lupton Clyne, an independent gaming consultant working with PVS. Mr Clyne has approximately 20 years' experience in the gaming industry and has advised a broad cross-section of industries including gaming and hospitality.
54. In summary, Mr Clyne gave evidence that:
- (a) based on the outputs of the Geotech model (which utilises measures of venue attractiveness in assessing likely future gaming expenditure) and analysis of recent trends in gaming expenditure, the estimated additional gross gaming expenditure generated from an increase of ten EGMs at the Premises would be \$569,806 in the first 12 months following installation of the additional EGMs;
  - (b) of the additional expenditure predicted to result if the Application was granted, the level of expenditure transferred from other existing venues would be approximately 87% (\$492,597), based on the stable population, the number of nearby gaming venues and the proximity of those venues to the Premises. However, if there were to be an increase in gaming expenditure in Maroondah, this estimate would be revised down to 80%;
  - (c) in light of the transferred expenditure coming in part from venues located outside Maroondah, the increase in expenditure in Maroondah in the first 12 month was estimated to be \$271,908. Of this, the amount of expenditure that would be new expenditure on gaming was estimated to be \$77,209;
  - (d) based upon the adult population published by the Commission for 2015-16, the average net amount of gaming expenditure per adult in Maroondah if the Application is granted will be \$733, which is an increase of three dollars, or 0.4%, per adult. This remains greater

<sup>23</sup> *Romsey No. 2* at [351] per Bell J.

<sup>24</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.





than the State average of \$553 per adult;

- (e) the EGM density in Maroondah is currently 8.4 EGMs per 1,000 adults, which is approximately 49.2% higher than the State average of 5.6 EGMs per 1,000 adults. If the Application was granted, the EGM density would increase to 8.5 EGMs per 1,000 adults in Maroondah; and
- (f) considering these factors in combination, Maroondah is not a concerning municipality in terms of gaming statistics or profile, and it does not exhibit signs or adverse trends that are cause for concern for the Commission.

55. Mr Clyne also provided the Commission with estimates of the level of expenditure that individual gaming venues within the trade area in which the Premises operates would transfer to the Premises if the Commission granted the Application. This included, to some extent, venues located outside of Maroondah. This evidence was broadly consistent with evidence provided by Ms Peterson which stated that based on a patron survey, the proportion of the Premises' clientele who lived outside the area immediately surrounding the Premises was higher than average – an outcome she attributed to the proximity of Eastlink, which on the one hand created a physical barrier for all those living west of it from attending the Premises, while at the same time making access easier for others living further away.
56. In response to questions from the Council, Mr Clyne indicated that the assessment of the attractiveness of the Premises, should the Application be granted, was based on the assumption that the works to be undertaken were in the amount of \$3.8 million. Further, Mr Clyne conceded that no assessment was undertaken of the Premises if the Application was refused and the Applicant nonetheless undertook the 'cosmetic' renovation in the amount of \$1.2 million. Rather, in undertaking his assessment of the anticipated changes in gaming expenditure that would occur if the additional EGMs were to be permitted, Mr Clyne utilised attractiveness scores for the Premises in its current state.
57. As such, it appears to the Commission that for the purposes of this Application, Mr Clyne's estimates with respect to changes in gaming expenditure are likely to be overstated. This is because if the ten new EGMs are not permitted at the Premises, the Applicant has committed to undertake the \$1.2 million 'cosmetic' renovation. It is anticipated that this would enhance the attractiveness of the Premises relative to its current state, and hence result in greater gaming expenditure at the Premises than would otherwise be the case.
58. This conclusion is supported by the evidence of Ms Burston who indicated that if the Applicant were not to proceed with either the redevelopment or the 'cosmetic' renovation, the Premises would probably lose between 5-10% of revenue per annum, across both gaming and non-gaming





areas. Ms Burston thought, at a minimum, the Applicant must undertake some level of improvement at the Premises – even if it is only the ‘cosmetic’ renovation – to ensure that the Premises remain commercially viable, competitive, and maintain the current level of patronage and expenditure. Relatedly, Ms Peterson stated she expected there would be some uplift in patron numbers if the ‘cosmetic’ renovation were undertaken, although she did not know what the extent of this change would be.

59. In providing her evidence as a witness of the Council, Ms McGannon disputed how some of the evidence on behalf of the Applicant was presented to the Commission. Specifically she noted that she was uncertain that the level of transferred expenditure estimated was an accurate reflection of what would occur if the Application was granted, as she considered that patrons were moving to the Premises temporarily to engage in gaming whilst another gaming venue in Maroondah underwent a refurbishment.
60. In the view of Ms McGannon, the evidence given on behalf of the Applicant failed to consider this and, to some extent, the Ratio Report did not provide enough supporting material to assess the veracity of the PVS Report which, in the view of Ms McGannon, overstated the level of transferred expenditure likely to result if the Application was granted. In this regard, Ms McGannon also highlighted that Maroondah has the highest level of EGM expenditure of all adjoining municipalities and, further, that gaming expenditure at the Premises had increased by over \$120,000 in 2015-16, or approximately 2.6%, while in Maroondah gaming expenditure had risen by just under \$3.5 million, or 5.7%, over the same period.
61. The Commission considers generally that the portion of new expenditure not attributable to problem gambling is an economic benefit. In assessing the extent of the benefit associated with increased gaming expenditure in this Application, the Commission notes that it has also had regard to the evidence outlined in paragraphs 83 to 107 below regarding problem gambling.
62. The Commission is mindful that Mr Clyne did not provide an assessment in relation to the extent of any difference in expenditure that will result at the Premises following the proposed \$1.2 million ‘cosmetic’ renovation, as compared to the \$3.8 million renovation. Given that this ‘cosmetic’ renovation will occur if the Application is not granted, the Commission considers the estimates of additional gross gaming expenditure that have been provided by Mr Clyne to be overstated.
63. While the level of additional gross gaming expenditure is uncertain, the Commission does, however, consider that it is able to find that the majority of any new expenditure will be transferred expenditure, and that the proportions are likely to be in the order estimated by Mr Clyne.
64. As such, the Commission considers it can be satisfied that there will be some increased gaming



expenditure that is not associated with problem gambling, which it should regard as a positive economic impact. However, having regard to the basis upon which the estimates of additional gaming expenditure have been calculated, and noting also that these estimates did not take into account 2015-16 expenditure data, it also considers that the evidence upon which it is required to assess the weight to place upon this benefit is not as robust as could be. In light of both this uncertainty and the low levels of estimated new expenditure in any event, the Commission attributes this benefit only marginal weight.

Complementary expenditure

65. Complementary expenditure is a potential benefit where it results in increased economic activity in the municipal district in which the premises the subject of an application are located. However, the extent of this benefit will likely depend upon a range of factors, including the extent to which the expenditure is a consequence of new spending, for example, as a result of additional people coming to the municipal district for entertainment purposes as compared to transferred expenditure from other venues within the municipality, as well as the extent to which that complementary expenditure results in additional spending on local goods and services.
66. In the Ratio Report, Ms Peterson stated that, as a result of the Application being granted, there would be approximately \$260,000 in complementary expenditure, which would result in an additional \$87,000 in food and beverage supply costs. According to Ms McGannon in the MGN Report, there was no clear evidence as to the extent that this might constitute new expenditure in the municipality in which the Premises are located, nor the extent to which this expenditure would result in the greater supply of goods or services from businesses within Maroondah. Related evidence suggests that there will be some level of net additional complementary expenditure in Maroondah, though this is likely to be low. In this, the Commission has regard to the evidence of Mr Clyne which indicated that the majority of additional expenditure arising from the introduction of ten new EGMs at the Premises was likely to be transferred expenditure – some of which comes from venues outside of Maroondah (see above), and that of Ms Burston, who in support of the Application highlighted the competitiveness of the gaming and entertainment market in Maroondah, and stated that without substantial expenditure on the proposed renovations and the additional EGMs, it was anticipated that the Premises would probably lose between 5-10% of revenue per annum, across both its gaming and non-gaming activities.
67. Having regard to the circumstances relating to this Application, the Commission considers that whilst complementary expenditure is often an economic benefit in an application of this nature, and that it is likely to arise as a result of a grant of this Application, in the current circumstances





the evidence to support the conclusion that there will be net complementary expenditure as a result of the grant of this Application is limited. Therefore, it is a positive economic impact which the Commission considers should be given only marginal weight.

Increased community contributions

68. In determining the net economic and social impact of applications of this nature, both the Commission<sup>25</sup> and VCAT<sup>26</sup> have regularly treated community contributions as a positive benefit.
69. In the Ratio Report, Ms Peterson stated that if the Application is granted, the Applicant would commit \$50,000 per annum in community contributions, specifically targeted towards sporting and wellbeing organisations within Maroondah. This commitment is approximately \$20,000 per annum greater than the current level of contributions made by the Applicant to the local community. In her oral evidence, Ms Peterson confirmed that this would be in addition to the Applicant maintaining the level of contributions that are made currently to community organisations outside Maroondah. The nature and extent of the proposed community contributions were also supported by Ms Burston, who stated further that the Applicant intended to make a contribution of up to \$10,000 per annum to EACH. In addition, the Applicant provided the Commission with a draft condition outlining the intended manner in which the community contribution would be distributed.
70. Ms Peterson also outlined the in-kind contributions currently made by the Applicant, such as food and drink vouchers and free or discounted use of the function space at the Premises. Ms Peterson estimated these in-kind contributions amounted to approximately \$4,490 per annum, of which \$2,550 was donated to groups located outside of Maroondah. It was not proposed that, should the Application be granted, these in-kind contributions would depart from what is currently provided.
71. In assessing the nature of these community contributions, Ms McGannon stated that the proposed community contributions would be a benefit for Maroondah. In this regard, Ms McGannon also considered that the evidence provided at the Hearing regarding the Applicant's commitment to increasing community contributions provided greater understanding and focus as to how those contributions would be made.
72. However, Ms McGannon considered that the proposed benefit is, to some extent, mitigated by the fact that the proposed contributions would only occur if the Application is granted, and further, she considered that there remained some level of uncertainty as to whether the proposed

<sup>25</sup> See, for example, *Richmond Football Club at Wantima Club premises* (Gaming-EGM increase) [2015] VCGLR 31 (24 July 2015).

<sup>26</sup> See, for example, *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Bakers Arms Hotel*.



contribution to EACH was made as part of, or in addition to, the proposed \$50,000 contributions. On this issue, the Commission has proceeded on the basis that the proposed community contribution to EACH was part of that \$50,000 intended to be provided per annum in community contributions to Maroondah.

73. The Commission notes the proposed condition received from the Applicant as it relates to community contributions. The Applicant proposes to distribute the relevant contributions by way of a committee established by the Applicant, consisting of two representatives of the Applicant and one of the Council. If the Council does not wish to provide a representative, the proposed conditions provide for the Applicant to nominate a community representative.
74. The Commission also notes the process described in relation to the advertisement for submissions from community and sporting organisations within Maroondah, assessment of those submissions, and engagement with the Council throughout the process (should the Council elect to not nominate a representative for the committee).
75. The Commission accepts that the proposed additional community contributions to Maroondah of approximately \$20,000 per annum are an economic benefit to the community. The Commission also accepts these additional contributions would not occur without the grant of the Application, and notes that they do not result in a decrease in community contributions to community and sporting organisations outside Maroondah.
76. In determining weight to be assigned to this benefit, the Commission has had regard to the relatively small quantum of the additional community contribution, though noting that it is to be distributed through a committee process involving the local community. On that basis, the Commission has assigned this benefit a marginal weight.

Increased gaming competition in the municipal district

77. Increasing competition in gaming in Maroondah is a relevant impact in light of the statutory purposes of the GR Act and the consumer benefits that derive from competition.
78. The Application is for a relatively small proportional increase in the number of EGMs in Maroondah, in an existing gaming venue. Further, the utilisation rates at the Premises do not indicate that demand for gaming is high relative to the number of EGMs that are currently available at the Premises.
79. There is also considerable evidence that Maroondah is already a highly competitive gaming market. As such, while an increase in the number of the EGMs permitted at the Premises can be expected to enhance the Applicant's competitiveness in this market, as is illustrated by the





proportion of transferred expenditure estimated to result if the Application is granted, it is not clear that it will have a substantial impact on the overall competitiveness of the gaming market in Maroondah generally.

80. In these circumstances, for the purposes of this Application the Commission considers there is only a limited economic benefit associated with an increase in gaming competition in Maroondah as a result of the addition of 10 EGMs at the Premises, and hence gives this impact marginal weight.

Possibility of increased incidence and impact of problem gambling

81. To the extent that a portion of the new expenditure is attributable to problem gambling, this represents an economic disbenefit.<sup>27</sup> This was supported by Ms Peterson, who stated that problem gambling has an economic cost, including the financial losses of gamblers, as well as the cost of providing support services for problem gamblers and their families. However, in assessing the extent of this disbenefit, the Commission recognises that it does not include transferred expenditure because such expenditure cannot exacerbate problem gambling.<sup>28</sup>
82. The extent to which it can be considered that any new expenditure may be associated with problem gambling, and regarded as a disbenefit associated with this Application, is influenced by the socio-economic status of the community surrounding the location of the Premises.
83. According to Ms Peterson, the socio-economic characteristics of Maroondah and more specifically, Ringwood – which she posits is a major component of the primary catchment area for the Premises – are mixed. Having regard to indicators such as gender, occupation, income level, and ethnicity, she stated that these areas were above average in respect of some characteristics associated with higher risks of problem gambling, but conversely were also above average in characteristics less likely to be associated with problem gambling (such as technicians/trades workers, clerical staff, personal income less than \$31,999 or migrants to Australia within the last five years).<sup>29</sup>
84. Ms Peterson also referred to the indicators associated with problem gambling (such as indigenous

<sup>27</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* 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>28</sup> See *Bakers Arms Hotel* 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>29</sup> In this regard, reference was made both to problem gamblers, and also those who may be categorised as "low at risk" and "medium at risk" gamblers (although there was no evidence from either Ms Peterson or Ms McGannon as to how the socio-economic characteristics of these categories differed).



persons, sales workers, machinery operators, and personal income between \$31,200 and \$51,999), for which the primary catchment areas within Maroondah (being Ringwood and Mitcham) exhibited below average levels.

85. On that basis, Ms Peterson's analysis was that Maroondah had a mixed socio-economic profile but one that generally ranked better than the metropolitan average in terms of relative disadvantage, and exhibited indicators that make the community less likely to be vulnerable to problem gambling. Further, Ms Peterson also considered that the community within the Premises' catchment area ought not be considered 'vulnerable' as there is a mixture of both advantaged and disadvantaged SA1s within this catchment.
86. In response to questions from the Council, Ms Peterson disputed the reference made to the Prevalence Study as evidence that the Commission ought prefer over that which was used in the Ratio Report.<sup>30</sup> In particular, Ms Peterson disagreed with the direct application of the measurements of problem gambling in the Prevalence Study, as she considered it referenced a less specific and geographic area larger than Maroondah. Ms Peterson acknowledged that areas exhibiting signs of disadvantage are more likely to include community members that are more vulnerable to the impacts of problem gambling, comparative to members of a community that exhibit signs of relative advantage, and that the resilience of a disadvantaged community may be lower than that of a comparatively advantaged community. However, she stated that the level of EGM expenditure in Maroondah was not necessarily indicative of the level of vulnerability in the community to problem gambling. Ms Peterson also reiterated that the primary and secondary patron catchments nearest the Premises exhibit lower signs of problem gambling when compared to the Greater Melbourne average.<sup>31</sup>
87. In summary, Ms Peterson considered that the area did not exhibit a comprehensive pattern that allowed a general conclusion to be formed in relation to the risk of problem gambling in Maroondah, but that it was fair to consider that the municipality was not at risk of an increase in problem gambling as a result of the Application being approved having regard to the socio-economic characteristics of both the municipal district as a whole and also given the population living in the immediate surrounds of the Premises.
88. In contrast, Ms McGannon made reference to a range of characteristics which she considered indicated that Ringwood differed from Maroondah as whole, and as a result presented as having greater vulnerability to problem gambling. This included that:
- (a) Ringwood has a weekly median household income over \$120 lower than that of

<sup>30</sup> Throughout the Ratio Report, Ms Peterson referred to the equivalent study released in 2009 by the Department of Justice.

<sup>31</sup> Outlined at Figures 9.5 and 9.6 of the Ratio Report.





Maroondah;

- (b) Ringwood has double the rate of social housing of Maroondah; and
- (c) according to the ABS March 2016 Quarter Small Area Labour Market, Ringwood's unemployment rate was 7.0% (compared to Maroondah's unemployment rate of 5.3%).

89. Ms McGannon noted that while Ringwood was more disadvantaged than other areas of Maroondah, including Ringwood East and Mitcham, it was less disadvantaged than the Greater Melbourne average. Nonetheless, she concluded that Ringwood has a higher level of vulnerability to problem gambling than Maroondah as a whole, and that given the need to have particular regard to the area immediately surrounding the Premises in assessing the impact on the municipal district in which the Premises are located, the approval of an additional ten EGMs would increase the risk of problem gambling, which was a negative impact of this Application.
90. In determining the potential impact of the proposed additional ten EGMs on problem gambling, regard need also be given to the nature of the Premises, as well as existing level of gaming activity at both the Premises and the municipal district as a whole.
91. According to Ms Peterson, in this context there were a range of factors that pointed towards the potential risks of problem gambling being low in this instance:
- (a) as the Application relates to additional EGMs at an existing venue that already operates 80 EGMs, the potential for impact on the local community is less significant than if it were a new venue, as there is already an underlying level of accessibility to EGMs at the Premises. Further, the small number of the proposed increase in EGMs at the Premises does not fundamentally alter the attractiveness of the Premises for gamblers or problem gamblers alike. Recognising that the Premises can already be characterised as a large venue, the level of anonymity afforded at the Premises will not fundamentally alter with an additional ten EGMs;
  - (b) adding ten EGMs at the Premises was unlikely to be significant in terms of both the net machine revenue (**NMR**), and any increase to the level of utilisation of the additional EGMs. In this regard, Ms Peterson stated that the NMR in 2015-16 at the Premises (\$168.58) is a slight increase on the previous financial year (\$164.38) but is less than the metropolitan club average of \$201.18;
  - (c) given the Premises exhibit low rates of EGM utilisation (i.e. the level of EGM usage during a two-week period at the Premises never exceeded 70%), she considers that new expenditure occurring as a result of problem gambling is an unlikely outcome as it suggests that problem gambling is not an existing problem at the venue;



- (d) it is unlikely that adding ten EGMs at the Premises will materially increase the level of risk to any vulnerable members of the community, but rather that the new EGMs would add greater machine and denomination choice to serve existing patrons; and
- (e) the Premises was one of several within the area, and that the vast majority of the catchment area primarily accessed gaming venues by car, with little foot traffic. This level of accessibility made Maroondah a competitive market, and made the Premises one choice for patrons amongst several that were both available and readily accessible. Given that a mature and established gambling market exists in Maroondah, it was likely that patrons attending the Premises would simply be transferring from other venues within Maroondah or the broader trade area.

92. Ms Peterson also noted that, given a considerable amount of expenditure at venues within Maroondah is likely to come from patrons residing outside of the municipality, considering gaming expenditure per adult as an indicator of problem gambling was not a useful measurement for the Commission to rely on. On this aspect, Ms Peterson further stated that the dollar value of EGM expenditure in a particular municipality is not a useful measurement in isolation, as it does not consider the broader social and economic situation of the community. According to Ms Peterson, the level of expenditure in one location in Victoria may be higher than other areas, but that does not equate to a particular location being more (or less) likely or prone to be affected by problem gambling. Ms Peterson did not consider there was a definitive link between EGM expenditure and problem gambling nor that the above average EGM expenditure of Maroondah indicated problem gambling in the municipality, but rather that the municipality enjoyed a higher level of socio-economic advantage, comparative to other municipalities in metropolitan Victoria.
93. In contrast, Ms McGannon stated that accessibility to EGMs is a significant factor to increasing problem gambling outcomes, and local communities in environs where there is increased access to EGMs (as is the case for Maroondah and the suburb of Ringwood) consistently record higher levels of problem gambling. As a result, given that approval of the Application would increase accessibility to EGMs in Maroondah, and in particular Ringwood, this would increase the risk of problem gambling.
94. A further factor potentially relevant in assessing the likely impact of the Application on problem gambling is the manner in which the Applicant implements Responsible Service of Gaming (RSG) practices.
95. According to Ms Peterson, RSG practices at the Premises are strong and would assist in minimising the risk of problem gambling occurring. Further, since Maroondah was unlikely to experience a significant level of population growth that other municipalities (such as Casey,





Wyndham or Whittlesea) may experience, it was likely that any increase in EGM utilisation and NMR at the Premises would result from existing gaming and to an extent, existing problem gambling, and therefore would not create incremental disbenefit to the community.

96. Ms Peterson indicated that the proposed redevelopment at the Premises would also be of benefit with respect to RSG practices, as it would reduce the floor space of the gaming area (from 23.7% to 20.1% of the Premises' floor space), and also provide better physical separation of that area from the rest of the Premises. She conceded, however, there was no available research that supports the implementation of a reduction in the floor area of the Premises as affecting, or reducing, the prevalence of problem gambling at the Premises.
97. Nonetheless, Ms Peterson did not consider that the Premises presents as one where problem gambling is a significant issue and expected that the implementation of such measures would result in positive outcomes in any event. Ms Peterson considered that having such measures in place would be protective and effective in mitigating the risk of harm and prevalence of problem gambling.
98. These views were supported by the evidence of Mr Streater and Ms Burston, who both provided evidence with respect to the provision of RSG at the Premises.
99. Mr Streater detailed the activities DWS undertakes on behalf of the Applicant. He stated that DWS provided ongoing training of staff and management in relation to the awareness of gaming risks, compliance audits relating to the Code of Conduct and Self-Exclusion program and a physical site inspection. DWS also reviews and updates all documentation in relation to the RSG practices at the Premises and provides ongoing updates to the Applicant in relation to current and new issues that may emerge in the gaming sphere.
100. Relatedly, Ms Burston assured the Commission that the Applicant takes its RSG obligations seriously and noted, with regard to the name recognition of the Applicant within the Australian sporting landscape, that it was important for the Applicant that it applies its best endeavours to ensure that the Premises are operated as responsibly as possible. She also referred to the Responsible Gambling Charter that the Applicant is signatory to, which aims to minimize the focus of gambling within sporting clubs in Victoria. Ms Burston considered that the Applicant properly balances RSG requirements with the commercial realities of operating the Premises with a view to enjoying financial success.
101. In addressing questions from the Council, Ms Peterson acknowledged that she relied on the RSG practices in place at the Premises as a mitigating factor in relation to reducing the risk of problem gambling. Ms Peterson also conceded that, irrespective of the outcome of the Application, these



RSG practices would continue to operate at the Premises in any event.

102. On this aspect, the Council submitted that the consideration of RSG practices is not relevant to the Commission in determining the Application, as that factor does not add or detract from the Application as it remains unchanged irrespective of the decision of the Commission. While the Commission recognises that these practices may remain unchanged, it notes that if the Application is granted, they would be applicable to new EGMs, and hence affect the extent to which gaming on those EGMs would involve a risk of problem gambling.
103. In this Application, in assessing the extent of the disbenefit attributable to problem gambling, the Commission refers to and relies upon the evidence and findings with respect to the gaming expenditure likely to result should this Application be granted as set out above at paragraphs 52 to 64. It is noted that the Commission found the evidence was uncertain and as such that it meant less weight could be placed on the benefit associated with new gambling expenditure not associated with problem gambling than would have otherwise been the case. This is because the Commission was unable to assess the extent to which the estimated new expenditure had been overstated.
104. With respect to the likely disbenefit associated with problem gambling, while there are similar uncertainties, the evidence provided does give the Commission an upper bound with respect to the new expenditure estimated to be associated with the Application and, therefore, the maximum expenditure that may be associated with a risk of increased problem gambling. Having regard to the inherent uncertainties associated with estimating the risk of increased problem gambling in any application of this nature, the Commission considers, adopting a conservative approach, that the evidence before it provides a sufficient basis for it to assess the likely extent of such a disbenefit in this instance. As such, it has a greater capacity to assess the weight it should place upon this impact than was the case with respect to new expenditure not associated with problem gambling.
105. In considering the extent to which any new expenditure may give rise to problem gambling, the Commission finds that the area surrounding the Premises does not present as particularly vulnerable to problem gambling and is satisfied that the potential for an increase in problem gambling is low, particularly having regard to the significant level of accessibility to gaming venues that already exists within Maroondah.
106. Further, the manner in which gambling is conducted at the Premises is a relevant consideration. The Commission is satisfied from the evidence of Ms Peterson, Mr Streater and Ms Burston that the Applicant understands the requirements of RSG and the regulatory framework applying to gaming. The Commission is also satisfied that the Applicant has practices and procedures in





place in relation to complying with RSG obligations, which reduces the risk of an increase in problem gambling.

107. In these circumstances, the Commission finds that there is an economic disbenefit associated with the risk of an increase in problem gambling as a result of this Application, and having regard to the relevant mitigating aspects, it places a low weight on this factor.

## **Social Impacts**

### *Improved facilities enabling greater range of services*

108. Separate from the economic benefit that may be associated with expenditure involved in capital works at a venue, 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.
109. The Applicant submitted that if the Application was granted it would undertake a redevelopment of the Premises at an estimated cost of \$3.8 million that included the following proposed works:
- (a) expansion of the bistro to cater for 300 patrons;
  - (b) relocation and upgrade of indoor children's play area;
  - (c) reconfiguration of the bar area associated with the bistro;
  - (d) creation of a new sports bar area and covered outdoor sports lounge area;
  - (e) refurbishment of main kitchen floor and soft furnishings for amenities;
  - (f) reconfiguration of main entrance including installation of lift to first floor;
  - (g) construction of new gaming entrance and coffee lounge, with covered outdoor café area;
  - (h) reconfiguration of gaming room;
  - (i) construction of new café/bar and cashier area, as well as a new kitchen, cool room, administration office and cash room;
  - (j) construction of new covered outdoor smoking area (to be accessed via the gaming room);
  - (k) installation of disabled-access toilets in the upstairs function room; and
  - (l) reconfiguration of amenities area and removal of room from meeting room to allow for an outdoor smoking balcony on the first floor level.
110. Further, according to Ms Burston, should the Application be refused, the venue will undergo a lesser 'cosmetic' renovation at an estimated cost of \$1.2 million. This would involve a refurbishment of the facilities to include updated paint and carpeting at the Premises, with some updated furniture and equipment, subject to budgetary constraints.



111. It was the evidence of both Ms Peterson and Ms Burston that some renovations were required as the Applicant had not dedicated any expenditure to improving the appearance and facilities at the Premises for some time. As a result, the Premises had lost some level of attractiveness and were struggling to compete with other gaming venues in Maroondah.
112. Further, according to Ms Peterson the Premises are fairly rundown and indicative of older venues that have evolved over the course of time, with extensions added as the patronage increased. Ms Peterson considered that the Premises was somewhat of a 'rabbit warren', with several entry and exit points, which has created challenges in relation to surveillance of the gaming room. Ms Peterson considered that the proposed \$3.8 million redevelopment would go some way to remedying both the challenges faced by staff and improving the patron experience for users of the Premises.
113. At issue for the Commission, therefore, is the extent of the benefit associated with additional facilities and services that result from the \$3.8 million expenditure, but not the \$1.2 million cosmetic renovation. On its face, the Commission considers the major differences include:
- (a) improvements to the gaming area to better separate it from the rest of the Premises;
  - (b) improved access to, and facilities associated with, the upstairs function area (including the installation of a lift enabling disabled access); and
  - (c) shifting the children's play area away from the gaming area.
114. In respect of the gaming area, Ms Peterson stated that whilst the Premises would be redeveloped, the actual floor space occupied by the gaming room would decrease. Ms Peterson considered this particular aspect to be beneficial of itself. Further, Ms Burston noted that the Premises would be improved by better separating the gaming area from the rest of the Premises, which would assist staff in ensuring that the Applicant complied with all regulations relating to the provision of gaming.
115. Ms Burston indicated that DWS had raised several matters in relation to creating barriers between the gaming and non-gaming facilities at the Premises, with particular regard to ensuring that children are not unnecessarily exposed to gaming if it can be avoided. She further noted that the proposed improvements were significant measures to undertake and were not financially viable to undertake without the provision of the additional EGMs sought in the Application.
116. Ms Burston also considered that a vital aspect of the proposed renovation was the construction of disabled access to the upper level of the Premises, and related facilities on the first floor. Ms Burston described instances where the Applicant was forced to turn away community groups that sought to use the function spaces at the Premises due to a lack of adequate facilities for disabled





patrons.

117. While Ms McGannon acknowledged that the construction of a disabled access lift was a benefit, she also considered that it ought to have been undertaken by the Applicant in any event. Ms McGannon considered that the disabled access issues that currently exist at the Premises are issues that should not be addressed only on the contingency that the Application be granted, and that access to facilities is something that the Applicant should provide without linking it to a proposed business improvement.<sup>32</sup> She took a similar view with respect to the proposed physical changes to the gaming area.
118. The proposed renovations also include relocating and upgrading the indoor children's play area to the western edge of the bistro. The Commission notes that this area is proposed to be further away from the gaming area and that there will be a greater separation between minors and gaming. This aligns with the purposes of the GR Act and, in the Commission's view, is consistent with the policy intent underlying the Ministerial Guideline referred to in paragraphs 18 and 19.
119. In assessing the extent of the benefit associated with improved services and facilities, the Commission notes the difference between the two proposed undertakings – being a 'cosmetic' improvement as opposed to more substantial redevelopment – though it also considers that the evidence describing the substantive similarities or differences between the proposals could have been clearer.
120. Nevertheless, the Commission accepts the description of the additional proposed works associated with the \$3.8 million and considers that changes clearly associated with this renovation (as compared to the \$1.2 million 'cosmetic' renovation) include a reconfigured gaming room, improved access to upstairs facilities (including the installation of a disabled access lift) and alterations in the location of the children's play area. Further, the Commission considers that these changes will be a benefit to the community of Maroondah, although the extent of this benefit is somewhat uncertain in that little specific evidence was provided as to the extent to which Maroondah already enjoys venues with such facilities. In this regard, the MGN Report stated that Maroondah was not in need of any new community facilities given the current level of retail and recreational spaces provided.
121. Noting that the extent of the social benefit derived as a result of the proposed 'major' development

<sup>32</sup> It was further submitted on behalf of the Council that no weight should be placed on renovations involving improvements with respect to disabled access as such changes would be required if the 'cosmetic' \$1.2 million renovation were to occur. The Applicant disputed this submission, noting that this matter had not been put to any witnesses, that no evidence was led in support of the proposition, and further that the submission was inconsistent with the evidence provided as to the scope of the 'cosmetic' renovation. Having regard to the evidence before it, the Commission did not accept the submission of the Council in this regard.



is distinct from the benefit associated with the capital expenditure associated with this renovation, the Commission considers that there will be a social benefit associated with this factor, to which it attributes a low weight.

Increased community contributions

122. Community contributions may have both an economic and a social impact. In this instance, the increased expenditure has been counted as an economic benefit. However, the Commission considers it may not be double counting to consider the social impact of the community contributions in circumstances where such contributions create a social benefit distinct from the economic benefit associated with increased expenditure.
123. However, while there is some evidence which points to the positive nature of the activities that would be supported by the proposed additional community contributions (as outlined in paragraphs 68 and 76 above), the Commission does not consider that the evidence is sufficient such as to warrant these contributions being categorised as an additional social benefit to which it places any weight for the purposes of the 'no net detriment' test.

Increased gaming opportunities for those who enjoy gaming

124. Related to the economic benefit of increased competition is the social benefit that arises from there being increased gaming opportunities for those who enjoy gaming.
125. According to the Ratio Report, a survey of the Premises' current gaming activity found utilisation rates did not exceed 70% at any stage during the two-week survey period of 15 February 2016 to 28 February 2016. The highest level of utilisation was recorded on 22 February 2016, with 49% of EGMs at the Premises being utilised at approximately 1pm.
126. Having regard to the evidence and submissions made with respect to increased gaming competition in Maroondah, and more generally those contained in paragraphs 52 to 64 in relation to the way in which those expenditure figures have been calculated, the Commission finds that granting approval of the Application will marginally better serve the needs of gaming patrons. However, given the current number of EGMs and venues in Maroondah, the Commission considers this to be a negligible social benefit and hence one on which it places no weight.





Possibility of increased incidence and impact of problem gambling on the Maroondah community

127. 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 costs. In addressing the submission from WHE, Ms Peterson acknowledged that for every problem gambler, there can be a flow-on impact to approximately six to eight persons, and that problem gambling may have an impact on the level of domestic violence that occurs within a community.<sup>33</sup> Accordingly, the Commission accepts that there is potential for negative social costs through possible increased problem gambling.
128. The Commission refers to and relies upon the considerations set out in paragraphs 81 to 107 with respect to the economic impact of problem gambling on the community.
129. As such, the Commission has had regard to the level of EGM utilisation at the Premises, the evidence provided in relation to the mixed levels of socio-economic disadvantage surrounding the Premises, and the likely impact that granting the Application would have in relation to the increased harm relating to problem gambling that may result.
130. The Commission finds that whilst the area immediately surrounding the Premises presents as one with mixed levels of socio-economic advantage and disadvantage, the Commission is satisfied that the potential for an increase in problem gambling at this particular venue is low, having regard to the existing level of gaming available (and the relatively low utilisation that occurs at the Premises) as well as the Applicant's approach to problem gambling and RSG practices.
131. The Commission is mindful of the benefits of the proposed redevelopment, which seeks to better separate the gaming room from other parts of the Premises, both physically and visually. The proposed reconfiguration of the gaming room will likely enhance the capacity for RSG practices to be properly implemented, which may reduce the potential impact of problem gambling arising from use of the additional EGMs, as well as any that currently occurs with existing EGMs.
132. Consequently, the Commission finds that there is social disbenefit associated with problem gambling which in the circumstances of this Application is accorded a low weighting.

Community attitude

133. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,<sup>34</sup> the

<sup>33</sup> While Ms Peterson accepted the position and role of WHE within the community, she did not consider that an increase in domestic violence was a likely outcome if the Application was granted, as Ms Peterson did not consider that an increase in problem gambling would result.

<sup>34</sup> (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.



Commission recognises that whilst community apprehension is not an over-riding factor (in the sense that the Application is not a referendum on gaming), it is certainly a relevant factor in the consideration of particular social impact *within*, and as part of, the 'no net detriment' test.

134. Clause 52.28 of the Maroondah Planning Scheme (**the Planning Scheme**) addresses gaming and EGMs. The Planning Scheme does not support the further expansion of EGMs in Maroondah, any gaming application that results in an increase in EGMs per adult, gaming venues per adult, or gaming expenditure per adult. In this regard, the Commission is mindful that Maroondah has the highest density of EGMs per 1,000 adults of all municipal districts. However, it also recognises that the number of EGMs permitted to operate is, and would remain, below the municipal cap set in accordance with the GR Act should the Application be granted.
135. The Commission also received correspondence from surrounding municipal councils – Knox City Council (**Knox**) and Whitehorse City Council (**Whitehorse**) – in relation to the Application. By correspondence dated 4 August 2016, Knox informed the Commission that it did not wish to offer comment in relation to the Application. However, by correspondence dated 25 July 2016, Whitehorse provided notification that it opposed the Application.
136. The Commission also received correspondence from WHE (dated 29 September 2016) and EACH (dated 19 September 2016) that opposed the Application.
137. The submission from EACH was, in summary, that the likelihood of an increase in problem gambling in the Maroondah community was an outcome that may not be mitigated by benefits proposed by the Applicant, as the profits derived from the Premises may be diverted by the Applicant into other endeavours and, in fact, could be considered a detriment to Maroondah.
138. The WHE submission recommended that the Application be declined by the Commission because of the potential links between problem gambling and family violence. WHE, which operates as a regional women's health service covering the eastern metropolitan region of Melbourne, cited evidence of the link between problem gambling, EGM accessibility, and family violence, with specific reference to Maroondah. For instance, it noted that women in Maroondah experience higher rates of family violence than surrounding areas.<sup>35</sup>
139. WHE provided details of its work in partnership with Women's Health in the North in a project exploring and addressing the links between violence against women and harm from gambling. This project evolved from research indicating that family violence is three times more likely to

<sup>35</sup> Source: Crime Statistics Agency Victoria, *Family Violence Affected Family Members by LGA and sex, January 2014 to December 2014*, reported at <http://victorianwomenshealthatlas.net.au/reports%2Ffactsheets%2FViolence%20against%20Women%2FMaroondah%2FVWHAAtlas%20Fact%20Sheet%20Violence%20against%20Women%20Maroondah.pdf>





occur in families in which there is significant harm from gambling than in families in which there is no harm from gambling<sup>36</sup>. WHE noted that “while the link between these issues is acknowledged in both Australian and international literature, it is not yet well researched, nor understood”<sup>37</sup>.

140. WHE urged the Commission to adopt a cautionary approach towards the Application, based on its assertions that poker machine density is associated with family violence, as is problem gambling. It did not believe that any of the purported benefits of the installation of additional EGMs justified the potential risks that might flow as a consequence.
141. Whilst the Commission acknowledges the opposition from these respective organisations to the Application, the Commission also notes that no community survey was undertaken specifically in relation to the Application. In these circumstances and having regard to the evidence before it, the Commission finds that the community attitude is a negative impact to be considered in assessing this Application, upon which it places a marginal weight.

#### **Net economic and social impact**

142. The ‘*no net detriment test*’ in section 3.4.20(c) of the GR Act requires the Commission to weight 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>38</sup>
143. After consideration of the material before it, including the evidence provided at the public hearing (and weighted as outlined above and in tabular form at Appendix One of this Decision and Reasons for Decision), the Commission is satisfied that there will be a neutral social and economic impact to the well-being of the Maroondah community if the Application is approved, and hence the ‘*no net detriment*’ test has been met.

#### **Determination of the Application**

144. On the material before it, the Commission has determined that the ‘*no net detriment*’ test has been met and that the total number of EGMs will be under the relevant municipal limit. The Commission notes that there remains a discretion to determine whether or not to approve the

<sup>36</sup> Dowling, N.A., Ewin, C., Youssef, G.J., Thomas, S.A., & Jackson, A.C. *Problem gambling and family violence: Findings from a population representative community study*. Manuscript in preparation.

<sup>37</sup> WHE submission, page 4.

<sup>38</sup> *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* [2013] VCAT 101at [52] per Dwyer DP.



Application.

145. The Commission is satisfied that the Applicant understands and will continue to act in accordance with its obligations to, so far as is reasonable, take measures to prevent problem gambling. Accordingly, the Commission is satisfied that it should exercise its discretion to approve the Application and make the proposed amendment to the Venue Operator's Licence to vary the number of EGMs permitted at the Premises from eighty (80) to ninety (90), subject to the conditions set out in paragraph 146 below.

146. The Conditions are as follows:

A. Works

- (1) If the Works (as defined in this condition) are not substantially completed by 30 June 2018 or such later date as agreed to in writing by the Commission, this approval will lapse.*
- (2) The Commission may, upon the request of the owner or operator of the Premises, agree to extend the time for substantial completion of the Works. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed by 30 June 2018.*
- (3) **The Works** generally comprise the plans prepared by Round 6 Architects with reference project R150016 as lodged with Maroondah City Council in conjunction with planning permit application number M/2016/624.*

B. Community Contributions

- (1) The Venue Operator will make the following annual cash contribution (**the Contribution**), without impacting on the level of existing contributions to sporting or community groups and organisations outside of Maroondah:*
  - (a) In the sum of not less than \$50,000 per annum (indexed each year by CPI, all groups Melbourne), from the commencement of the approval of the ten (10) additional electronic gaming machines (**EGMs**) at the Premises.*
- (2) The Contributions will be allocated as follows:*
  - (a) Subject to Eastern Access Community Health (EACH) agreeing to accept such a contribution, not less than \$10,000 annually to be donated to EACH for the purposes of a project, or projects, aimed at addressing problem gambling within the Maroondah municipality, as determined jointly by the Venue Operator and EACH in*





*consultation with one another; and*

- (b) The balance to be donated to not-for-profit community groups and sporting organisations providing services and facilities to residents in Maroondah.*
- (3) The distribution of the Contributions in accordance with condition 2(b) above will be determined by a committee (**the Committee**) established by the Venue Operator, comprising:*
  - (a) Two representatives of the Venue operator; and*
  - (b) One representative of Council or, in the event that Council does not provide a representative, a community representative nominated by the Venue Operator.*
- (4) The Committee will advertise annually in a newspaper circulating in Maroondah for submissions from not-for-profit community and sporting organisations, providing services and facilities to residents within Maroondah regarding the distribution of the Contributions to be made by the Venue Operator each year. The Committee will assess requests for cash contributions in accordance with guidelines to be established by the Committee.*
- (5) In the event that Council does not provide a representative on the Committee, the Venue Operator will contact Council officers prior to the distribution of the Contribution on an annual basis to discuss proposed recipients of funding and will, where appropriate, consider any feedback provided by Council in relation to the distribution of the Contributions.*

***The preceding 146 paragraphs and Appendix One are a true copy of the Reasons for Decision of Dr Bruce Cohen, Chair and Ms Deirdre O'Donnell, Commissioner.***

## Appendix One

### Summary of social and economic impacts

#### *Economic impacts*

	Impact	Paragraph numbers	Comment relevant to weight
<b>Benefits</b>	Expenditure on capital works	40-44	Substantial capital expenditure to result if Application approved, but limited evidence provided as to the extent to which the goods and services required for these renovations would be procured from within Maroondah.  Marginal weight.
	Employment creation	45-51	Likely to be a very small net increase in employment in Maroondah. Further, the evidence available to quantify this benefit is limited.  Marginal weight.
	Gaming expenditure not associated with problem gambling	52-64	While satisfied that there will be some increased gaming expenditure, the evidence upon which the Commission is required to assess the weight to place upon this benefit is not as robust as could be. In any event, the estimated level of new expenditure was low.  Marginal weight.
	Complementary expenditure	65-67	Evidence to support the conclusion that there will be net complementary expenditure as a result of granting the Application is limited, although supported by related estimates of transferred gaming expenditure and competition within Maroondah.  Marginal weight.
	Increased community contributions	68-76	Relatively small quantum of the additional community contribution, though noted this is to be distributed through a committee process involving the local community.  Marginal weight.





## Victorian Commission for Gambling and Liquor Regulation

	Increased gaming competition in the municipal district	77-80	Considerable evidence that Maroondah is already a highly competitive gaming market. Increase in the number of the EGMs permitted at the Premises can be expected to enhance the Applicant's competitiveness in this market; however, not clear that it will have a substantial impact on the overall competitiveness of the gaming market in Maroondah  Marginal weight.
<b>Disbenefits</b>	Possibility of increased incidence and impact of problem gambling	81-107	While determined to be a disbenefit, the area surrounding the Premises does not present as particularly vulnerable to increased risks of problem gambling. Further, the potential for an increase in problem gambling is also less likely given the significant level of accessibility to gaming venues and EGMs that already exists within Maroondah, and the existing number of EGMs at the Premises.  Low weight.



## Victorian Commission for Gambling and Liquor Regulation

### Social impacts

	Impact	Paragraph numbers	Comment relevant to weight
Benefits	Improved facilities enabling greater range of services	108-121	Range of benefits to be derived as a result of the proposed 'major' development as compared 'cosmetic' renovation, including better separation of gaming area from rest of Premises, and improved disability access and facilities on upper floor of Premises.  Low weight.
	Increased community contributions	122-123	Some evidence pointing to the positive nature of the activities that would be supported by the proposed additional community contributions; however, not such as to warrant the contributions being categorised as an additional benefit.  No weight.
	Increased gaming opportunities for those who enjoy gaming	124-126	Granting approval of the Application will marginally better serve the needs of gaming patrons; however, existing high number of EGMs at Premises and at other venues in Maroondah.  No weight.
Disbenefits	Possibility of increased incidence and impact of problem gambling on the community	127-132	Problem gambling can lead to significant negative social impacts, but the potential for increased risks of problem gambling at this particular venue as a result of this Application is low, having regard to the existing level of gaming available (and the relatively low utilisation that occurs) as well as the Applicant's approach to problem gambling and RSG practices.  Low weight.
	Community attitude	133-141	The Commission notes the opposition from Council, the City of Whitehorse and community organisations to the Application; however, it also notes that no community survey was undertaken specifically in relation to the Application.  Marginal weight.