



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 Kilmore Racing Club Inc to amend its venue operator's licence to vary the number of electronic gaming machines at the approved premises, the Bendigo Club, located at 22 Park Street, Bendigo, from forty-four (44) to sixty (60).

Commission:

Ms Helen Versey, Chair
Mr Des Powell AM, Commissioner

Appearances:

Dale Curtis, Solicitor for the Applicant (Tresola Legal)

Ms Lilli Owens-Walton, Counsel Assisting the Commission

Date of Hearing:

1 November 2017

Date of Decision:

21 December 2017

Date of Reasons:

21 December 2017

Decision:

The Application is granted subject to the conditions as outlined at paragraph 121.

Signed:

A handwritten signature in black ink, appearing to read 'Helen Versey'.

Ms Helen Versey
Deputy Chair

REASONS FOR DECISION

INTRODUCTION

1. This is an application by Kilmore Racing Club Inc (**the Applicant**) to the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the approved premises, the Bendigo Club, located at 22 Park Street, Bendigo, (**the Bendigo Club**), from forty-four (44) to sixty (60) (**the Application**).
2. The relevant municipal authority is the City of Greater Bendigo (**Council**). By correspondence to the Commission dated 2 October 2017, Council stated that it intended to make a written submission (together with supporting documents) to oppose the Application, and it did so on 26 October 2017.
3. The Commission considered the Application at a public inquiry conducted on 1 November 2017 (**the Hearing**).¹ The Applicant was represented by Mr Dale Curtis, Tresola Legal. Council did not appear at the Hearing.²

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Gaming on EGMs is a legal recreational and commercial activity in Victoria so long as it is done in accordance with the *Gambling Regulation Act 2003* (**GR Act**). The GR Act recognises that, notwithstanding individual rights of self-determination, gaming on EGMs causes harm to some communities, and some members of some communities. For this reason, the GR Act includes safeguards to ensure an appropriate balance is struck between a lawful and legitimate recreational activity for some, and a potentially harmful activity for others.
5. The objectives of the GR Act are set out at section 1.1, which provides:

...

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

(a) *to foster responsible gambling in order to-*

¹ The Commission is required to conduct a public enquiry 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) Pt 2 Div 3 VCGLR Act (Performance and exercise of the Commission's functions, powers and duties).

² This meant that the author of Council's economic and social impact report was not called to give evidence at the Hearing and was not available to be cross-examined by the Applicant. This necessarily affected the weight that could be given to the Council Report by the Commission.

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

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

- (1) *The purpose of this Chapter is to establish a system for the regulation, supervision and control of gaming equipment and monitoring equipment with the aims of—*
 - (a) *ensuring that gaming on gaming machines is conducted honestly; and*
 - (b) *ensuring that the management of gaming equipment and monitoring equipment is free from criminal influence or exploitation; and*
 - (c) *regulating the use of gaming machines in casinos and other approved venues where liquor is sold; and*
 - (d) *regulating the activities of persons in the gaming machine industry; and*

- (e) *promoting tourism, employment and economic development generally in the State; and*
- (f) *fostering responsible gambling in order to—*
 - (i) *minimise harm caused by problem gambling;*
 - (ii) *accommodate those who gamble without harming themselves or others.*

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

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

7. The relevant provision concerning the Application is in section 3.4.17(1)(b) of the GR Act, which states that variation of the number of EGMs permitted in an approved venue may be amended in accordance with Division 2, Part 4 of Chapter 3 of the GR Act.
8. Sections 3.4.18 to 3.4.19 of the GR Act provide for the manner in which requests for amendments under section 3.4.17(1)(b) are to be made. Relevantly for the Application, section 3.4.18 provides, *inter alia*, that:

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

...

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

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

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

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

- (a) *addressing the economic and social impact of the proposed amendment on the well-being of the community of the municipal district in which the approved venue is located; and*
- (b) *taking into account the impact of the proposed amendment on surrounding municipal districts.*

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

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

...

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

...

11. Section 3.4.20(1)(c) provides for what is now commonly described as the 'no net detriment' test. It requires the Commission to be satisfied that there is no net detriment arising from the approval through positively and objectively establishing that the net economic and social impact will not be detrimental to the well-being of the community.³

³ *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors.* ('*Mount Alexander Shire*') [2013] VCAT 101, [52] per Dwyer DP.

12. The GR Act does not specify the matters which the Commission must consider in deciding whether the '*no net detriment*' test is satisfied. However, the statutory signposts are provided by the test itself. The Commission must consider:
 - (a) the likely economic impacts of approval;
 - (b) the likely social impacts of approval; and
 - (c) the net effect of those impacts on the well-being of the relevant community.⁴
13. As such, the '*no net detriment*' test is a composite test requiring consideration of a single net impact in economic and social terms on the well-being of the community.⁵ The test will be satisfied if, after weighing any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either neutral or positive.
14. The Commission recognises that the task of identifying likely benefits and disbenefits will not always be straightforward given the overlap of socio-economic issues and the quality and availability of relevant data and cogent evidence. Some economic outcomes may have social consequences, and vice versa.⁶ 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.⁷
15. The Commission has adopted the same approach as VCAT in setting out a table of likely economic and social benefits both to enhance clarity of Commission decisions and facilitate greater consistency between the Commission and VCAT.⁸
16. If the Commission is not satisfied that the '*no net detriment*' test is met, that is clearly fatal to the application before it, as given the opening words of section 3.4.20(1) of the GR Act, satisfaction of the test is a mandatory pre-condition to approval. However, although section 3.4.20(1) sets out certain mandatory considerations for the Commission, the provision is not exhaustive. If the Commission is satisfied that the '*no net detriment*' test is met, it still has an ultimate discretion as to whether or not to grant the approval.⁹ The Commission must decide whether to make the

⁴ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, [42]-[43] per Warren CJ, Maxwell P and Osborn AJA ('the **Romsey Case**').

⁵ *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* [2013] VCAT 101, [58] per Dwyer DP.

⁶ *Mount Alexander Shire* [2013] VCAT 101, [57] per Dwyer DP.

⁷ See *Romsey No. 2* [2009] VCAT 2275, [352] per Bell J; *Mount Alexander Shire* [2013] VCAT 101, [58] per Dwyer DP.

⁸ *Mount Alexander Shire* [2013] VCAT 101, [60] per Dwyer DP.

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

proposed amendment, with or without any changes from that proposed by the applicant, even where the applicant has satisfied the minimum threshold of the 'no net detriment' test.¹⁰

17. In considering the exercise of this discretion:

- (a) it must be exercised having regard to the purposes of the GR Act and, in particular, the specific purposes of Chapter 3 of the GR Act dealing with the regulation, supervision and control of gaming machines;¹¹ and
- (b) it may also be influenced by other factors such as broad policy considerations drawn from the content and objectives of the GR Act as a whole.¹²

18. The Commission agrees with the comments of Deputy President Dwyer in *Mount Alexander Shire Council v Victorian Commission for Gambling and Liquor Regulation & Ors*¹³ that, if all of the mandatory considerations under the GR Act favour the grant of an approval, one would expect that the ultimate discretion will commonly favour approval – other than in relatively rare or exceptional circumstances arising in a particular case. In such a case, any such circumstances should be separately and transparently identified.

19. Finally, 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.

20. There is no relevant direction issued pursuant to section 3.2.3 of the GR Act that relates specifically to this Application.¹⁴

MATERIAL BEFORE THE COMMISSION

21. The Applicant provided the Commission with the following material in support of the Application:

¹⁰ GR Act, section 3.4.20(2).

¹¹ *Mount Alexander Shire* [2013] VCAT 101, [98] per Dwyer DP.

¹² *Ocean Grove* [2006] VCAT 1921, [32] per Morris J; *Mount Alexander Shire* [2013] VCAT 101, [99] per Dwyer DP; *Bakers Arms* [2014] VCAT 1192, [126] per Code PM and Nelthorpe M. As to policy principles identified for consideration, see the *Romsey Case* (2008) 19 VR 422, [7] per Warren CJ, Maxwell P and Osborn AJA.

¹³ [2013] VCAT 101, [98].

¹⁴ For the sake of completeness, the Commission has considered both the Decision-Making Guidelines entitlement 'Approval of Premises as Suitable for Gaming' dated 13 February 2017 (*Victorian Government Gazette*, S30, 14 February 2017), which relate to locating gaming machines in a building with permanent residential accommodation, and the Decision-Making Guidelines entitled 'Assessment of children's play areas in gaming premises' dated 14 October 2013 (*Victorian Government Gazette*, S361, 16 October 2013). As the Bendigo Club does not contain or propose to contain a children's play area or residential accommodation, the Commission is satisfied that both Guidelines are not relevant for this particular Application. However, as children would be positively affected by works to install a sight-screen, the Commission will have regard to the principles of the Direction dated 14 October 2013 in making its determination).

- (a) application form – Amendment to venue operator’s licence – vary gaming machines, dated 25 July 2017 (**the Application Form**);
 - (b) The Bendigo Club Social and Economic Impact Statement, prepared by Mr Rhys Quick, (**Mr Quick**) Director of Urbis, dated 10 August 2017 (**the Urbis Report**). Mr Quick appeared as a witness at the Hearing, adopted the Urbis Report as his evidence and provided oral evidence to the Commission;
 - (c) expenditure report prepared by Mr Michael Clyne (**Mr Clyne**) of Progressive Venue Services dated July 2017 (**the PVS Report**). Mr Clyne appeared as a witness at the Hearing, adopted the PVS Report as his evidence with amendments and provided oral evidence to the Commission;
 - (d) witness statement of Mr Benjamin Thomas Murphy (**Mr Murphy**), Chief Executive Officer (**CEO**) of the Applicant, dated 16 August 2017 with attachment (a) Certificate of Completion of Responsible Service of Gaming Training. Mr Murphy appeared as a witness at the Hearing, adopted his witness statement as his evidence and provided oral evidence to the Commission;
 - (e) witness statement of Mr Adrian Ewen McMahon (**Mr McMahon**), venue manager of the Bendigo Club,¹⁵ dated 16 August 2017 with attachments:
 - (i) curriculum vitae of Mr McMahon;
 - (ii) menu of the Bendigo Club;
 - (iii) list of community groups supported by the Bendigo Club;
 - (iv) statement of attainment to provide responsible gambling services from a registered training organisation dated 26 October 2014 and valid until 25 October 2017; and
 - (v) staff handbook for the Bendigo Club last modified in January 2012.
 Mr McMahon appeared as a witness at the Hearing, adopted his witness statement as his evidence and provided oral evidence to the Commission; and
 - (f) outline of submissions of the Applicant dated 1 November 2017.
22. On 26 October 2017, Council provided the Commission and the Applicant with an economic and social impact submission in respect of the Application, which included a Social and Economic Impact Assessment (**the Council Report**). Council did not attend the Hearing which meant that the author of the Council Report was not called to give evidence and was not available to answer questions by the Applicant and the Commission.
23. The following material, prepared by Commission officers, was provided to the Applicant and Council and considered by the Commission:

¹⁵ It is noted that the witness statement provides that Mr McMahon is venue manager 'of the Applicant', who is the Kilmore Racing Club Inc. It transpired at Hearing that Mr McMahon is the venue manager of the Bendigo Club.

- (a) a report titled *Pre-Hearing Inspection and Compliance Report*, for the Bendigo Club, dated 13 October 2017 (**the Pre-Hearing Report**);¹⁶ and
 - (b) a report titled *Economic and Social Impact Report, Gaming Machine Increase*, dated November 2017 (**the VCGLR Report**);¹⁷
24. Prior to the Hearing, Deputy Chairperson Versey and Commissioner Powell together visited the Bendigo Club.
25. At the Hearing, the following further material was provided to the Commission in relation to the Application by the Applicant:
- (a) further written submissions of the Applicant dated 1 November 2017;
 - (b) confirmation regarding the proposed cash contribution associated with the Application. The Applicant confirmed that cash contributions comprised \$33,500¹⁸ of the \$112,976 in community contributions made by the Applicant from the date it acquired the Bendigo Club on 27 May 2016 to 30 June 2017; and
 - (c) confirmation that, if the Application was successful, it would increase this figure to no less than \$55,000 in cash per year until 2042.

DECISION AND REASONS FOR DECISION

Location

26. The Bendigo Club is located in the City of Greater Bendigo at 22 Park Street, Strathdale in a predominantly residential area. The Bendigo Club currently comprises a bistro and a restaurant open daily for meals, a sports bar and TAB facilities, a gaming area with 44 EGMs and a bowling green used by the Woodbury Bowling Club. A few streets to the east of the Bendigo Club is the Strathdale Park, Community Centre and Play Space.
27. The City of Greater Bendigo is a regional local government area (**LGA**)¹⁹ located approximately 150 kilometres north of Melbourne and covering an area of 3000 square kilometres. According to the VCGLR Report, the City of Greater Bendigo has an adult population of 86,565 which ranks it as the second most populous of the 13 regional municipalities. The annual rate of population growth, projected by the Department of Environment, Land, Water and Planning, for the period 2017 to 2022 is 1.9% as compared with the Victorian average of 1.8%. Projections also indicate that by 2022, 36.3% of the population will be over the age of 50.

¹⁶ The Pre-Hearing Report was provided to the parties on 17 October 2017.

¹⁷ The VCGLR Report was provided to the parties on 25 October 2017.

¹⁸ This figure was rounded up from \$33,456 which was provided in the Urbis Report.

¹⁹ Where reference is made to the City of Greater Bendigo, this is a reference to the local government area (LGA).

28. A regional cap on the maximum permissible number of gaming entitlements made under a Ministerial Order pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act applies to the City of Greater Bendigo. The maximum permissible number of gaming machine entitlements in the area covered by the City of Greater Bendigo is 870.²⁰ Currently there are 10 gaming venues operating within the City of Greater Bendigo with approvals to operate a total of 641 EGMs (but with 602 attached entitlements). At the Hearing, the Commission heard that an eleventh gaming venue, the *City Family Hotel*, closed in September 2017. The City Family Hotel has 39 licensed EGMs and 0 attached entitlements. At the Hearing, Mr Clyne confirmed that the closure of the City Family Hotel would not affect the transfer rate he proposed which was calculated when the City Family Hotel was operational, as discussed in paragraph 60.
29. The City of Greater Bendigo has an EGM density of 7 EGMs per 1,000 adults, which is 8.1% lower than the regional LGA average of 7.6% and 26.3% higher than the State average of 5.5. This ranks the City of Greater Bendigo as 8th highest of 31 regional LGAs with gaming machines in terms of EGM density per 1000 adults.
30. The VCGLR Report indicates that in 2016-17 City of Greater Bendigo had an average gaming expenditure of \$552 per adult (based on projections from the 2016 population data),²¹ which is 8.5% lower than the regional LGA average of \$603 and 1.8% higher than the State average of \$542. This does not include any allowance arising from the closure of the City Family Hotel. Gaming expenditure within City of Greater Bendigo has decreased by 10.92% in real terms (indexed to CPI) over the past five years to June 2017, which is a higher decrease than the regional LGA average decline of 8.1%.
31. The Commission considers that this Application would (if approved):
- (a) increase the total number of approvals for EGMs within the City of Greater Bendigo by 16, to 657 EGMs licensed to operate (approximately a 2.49% increase);
 - (b) increase the EGM density of the City of Greater Bendigo from 7 to 7.1 per 1,000 adults compared with the regional average of 7.6 and State average of 5.5 EGMs per 1,000 adults;²² and
 - (c) would result in new gaming expenditure in the municipality of approximately \$164,164 in the first year of operation which equates to approximately 0.3% of total gaming expenditure in the City of Greater Bendigo in 2015-2016.
32. The Commission notes that the Applicant holds a club venue operator's licence within the

²⁰ See the Ministerial Order under sections 3.2.4 and 3.4A.5(3A) of the GR Act dated 20 September 2017 and taking effect on 3 November 2017 (*Victorian Government Gazette No. S 318 Wednesday 20 September 2017*). Note that the VCGLR Report and the Urbis Report provided that the municipal limit for the City of Greater Bendigo was 756, which was accurate at the time of publication. The new cap came into effect on 3 November 2017.

²¹ Department of Environment, Land, Water and Planning, *Victoria in Future 2016*.

²² VCGLR Current LGA population density and gaming expenditure statistics as at June 2016.

meaning of the GR Act, and so is established for a community purpose.²³

33. City of Greater Bendigo is characterised by a mixed socio-economic profile with indices both above and below regional LGA averages. It is ranked 31 of 79 LGAs in Victoria on the Socio-Economic Indexes for Areas (SEIFA) scale of disadvantage,²⁴ indicating moderate disadvantage within the LGA (1st being the LGA with the greatest disadvantage).
34. In relation to the immediate surrounding area of the Bendigo Club (within 2.5 kilometres), 17.9% of SA1s are in the 1st quintile²⁵ of SEIFA scores, with 25% of SA1s in the 4th or 5th quintile. This suggests that the area immediately surrounding the Bendigo Club is relatively disadvantaged.
35. The unemployment rate in City of Greater Bendigo is 4.5%, which is lower than the unemployment rate for regional Victoria which is 5.9%. Unemployment in the City of Greater Bendigo decreased by from 7.06% to 4.46% in the 12 month period of March 2016 to March 2017.²⁶

Nature of the Bendigo Club

36. The Bendigo Club was in voluntary administration when the Applicant acquired it on 27 May 2016. The Bendigo Club currently comprises:
 - (i) a bistro, open daily between 11.30 am to 2.30 pm and 5.00 pm – 8.30 pm seven days per week (closing at 8 pm during the winter trading period);
 - (ii) a function room which can accommodate approximately 200-220 patrons for a sit down event and 300-350 patrons for a stand-up event;²⁷
 - (iii) a members lounge which is currently being converted to a TAB, open daily from 10 am to 8 pm, seven days per week;
 - (iv) a gaming room with 44 EGMs, open 9 am to 12 midnight Monday to Thursday, 9 am to 12.30 am on Friday, 10 am to 1 am on Saturday and 10 am to 11 pm on Sunday;
 - (v) an external terrace; and
 - (vi) a bowling green used by the Woodbury Bowling Club. The Woodbury Bowling Club also uses the function room and terrace during event days.
37. The Bendigo Club itself has a membership base of around 1400 members. The Woodbury

²³ In the GR Act, 'community purpose', when not used in Division 2 of Part 6 of Chapter 3 means, amongst other things, any sporting or recreational purpose, including the benefiting of any sporting or recreational club or association. Also, the constituting document of a club must contain provisions prohibiting the distribution of any annual profit or surplus to its members: See GR Act, s 3.4.8(1A).

²⁴ SEIFA is a product developed by the Australian Bureau of Statistics to assist in the assessment of the welfare of Australian communities. The SEIFA Index allows the ranking of regions/areas, providing a method of determining the level of social and economic well-being in each region.

²⁵ SEIFA index of relative disadvantage is divided into five quintiles each comprising 20% of areas (Statistical Areas Level 1 (SA1s)) ranked by socioeconomic status from the most disadvantaged (lowest/1st quintile) to least disadvantaged (highest / 5th quintile). High disadvantage is indicated by a low SEIFA score (and low disadvantage by a high score).

²⁶ Department of Employment, *Small Area Labour Markets Australia Data June March Quarter 2017*.

²⁷ The PVS Report p 7 approximates 220 patrons seated and 350 patrons standing. The Urbis Report p 4 provides the capacity at 200 seated and 300 standing.

Bowling Club has 73 members with an average age of over 60 years.

Catchment of the Bendigo Club

38. The '*no net detriment*' test refers to 'the community of the municipal district in which the approved venue is located'. In determining the impact of an application of this nature on a municipal district, previous Commission and VCAT decisions have had particular regard to the area serviced by the relevant premises, which is generally referred to as the 'catchment area'.²⁸ The determination of the likely catchment area in this instance is important in the Commission's consideration of the identity of those residents which are likely to be most affected by the Application.
39. The Urbis Report considered the profile of gaming room patrons living within a 2.5 kilometre and 5 kilometre radius around the Bendigo Club, as well as that of those residing in the proposed gaming catchment for the purpose of this Application which included the suburbs of Strathdale, Kennington, Strathfieldsaye, Spring Gullet and Flora Hill ('**Catchment Area**'). This was based on a gaming room patron survey conducted by the Applicant between 1 May 2017 and 21 May 2017 ('**Patron Survey**'). The Patron Survey indicated that approximately 70% of gaming room patrons at the Bendigo Club reside within the suburbs of Strathdale (26%), Kennington (17%), Strathfieldsaye (13%), Spring Gully (8%) and Flora Hill (5%).²⁹
40. Mr Quick gave evidence at the Hearing that the Bendigo Club is one of the first gaming venues one arrives at when approaching from the east, which explains the geographical location of the Catchment Area described at paragraph 39 above. It also explains the Applicant's assertion that the Bendigo Club services an area of less disadvantage than that indicated in the VCGLR Report, as the VCGLR Report analysis refers to the demographic contained in a 2.5 kilometre radius around the venue, which is an area of relative disadvantage, (see paragraph 34).
41. At the Hearing Mr Quick acknowledged that the area around the Bendigo Club does contain pockets of disadvantage compared to the rest of the municipality. However, evidence indicating lower disadvantage was stronger including:
 - (a) the suburb of Strathdale has a SEIFA score of 1025, which is 25 points above the median;
 - (b) all suburbs in the Catchment Area feature lower signs of relative socio-economic disadvantage with SEIFA scores above the national median.
 - (c) the unemployment rate for the City of Greater Bendigo of 4.5% is lower than the regional average of 5.9%;

²⁸ See, for example, *Romsey No. 2* [2009] VCAT 2275 (12 November 2009); *Whittlesea CC v George Adams Pty Ltd* [2011] VCAT 534 (7 April 2011).

²⁹ According to the Urbis Report Table 1.3, the exact figure is 70%.

- (d) the equivalised household income for City of Greater Bendigo is 2.4% higher than the LGA average;
 - (e) the homelessness rate of the City of Greater Bendigo is 14 out of 18 for the regional statistical subdivisions (1st being the highest rate of homelessness); and
 - (f) the EGM expenditure for City of Greater Bendigo, based on 2011 census data, is 8.5% less than the LGA average.
42. The Council Report did not disagree with the gaming catchment submitted by the Applicant. While the Commission notes that there are pockets of disadvantage within that area, the Commission accepts the Catchment Area as the relevant gaming catchment for the purpose of this Application based on Mr Quick's evidence and the Patron Survey.

Issues for determination

43. Pursuant to section 3.4.20 of the GR Act, the Commission cannot grant the Application unless it is satisfied of the following two matters:³⁰
- (a) that the relevant regional or municipal limit for EGMs applicable to the City of Greater Bendigo will not be exceeded by the making of the amendment the subject of the Application; and
 - (b) that the net social and economic impact of the increase in EGMs permitted in the Bendigo Club will not be detrimental to the well-being of the community of the City of Greater Bendigo (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.³¹

A. *Municipal and Regional limits*

44. As noted in paragraph 28 above, the City of Greater Bendigo is subject to a limit on the number of EGMs under a Ministerial Order pursuant to sections 3.2.4 and 3.4A.5(3A) of the GR Act. At the time of the Application, the limit was 756, which was then increased to 870 on 3 November 2017.³² The current number of attached entitlements within the region is 602 and

³⁰ 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.

³¹ See paragraph 18 above. An amendment may be made subject to any conditions the Commission thinks fit: GR Act, section 3.4.20(3).

³² Above n 20.

there are 641 Licensed EGMs. Approval of this Application would increase the number of EGM approvals within the City of Greater Bendigo to 657, which is below the applicable limit.

45. On that basis, the Commission is satisfied that granting the Application would not cause the relevant municipal limit for gaming machines for the City of Greater Bendigo to be exceeded, and hence considers this aspect of the statutory test set out in section 3.4.20 of the GR Act to be satisfied.

B. 'No net detriment' test

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

Economic Impacts

47. The materials before the Commission, including the evidence adduced at the Hearing, either referred specifically to, or provided the evidentiary basis for, a range of economic benefits and disbenefits associated with this Application.

Expenditure on capital works

48. A potential economic benefit associated with the Application is the economic stimulus arising from the expenditure on the proposed renovations of the Bendigo Club.
49. According to the Urbis Report, if the Application is successful, the Applicant will be in a position to undertake renovation works at an estimated cost of approximately \$477,790. The works would consist of:
- (a) addition of TAB Bar to replace the under-used member's bar ('**the TAB Works**');
 - (b) renovation of function rooms;
 - (c) installation of portable building and toilets adjacent to the bowling green;
 - (d) modernisation of the toilet facilities;
 - (e) new furniture and fittings throughout the venue; and
 - (f) the addition of a wall which separates the bistro and gaming rooms.

Subparagraphs 49(b)-(f) will be known in these reasons as '**the Proposed Works**'.

50. At the Hearing, in the Urbis Report and Council Report it was noted that works to install the TAB Bar at a cost of \$87,000 had already commenced. Consequently, the Commission is satisfied that the economic impact associated with the renovation works should not include the TAB Works as having already commenced it cannot be said to be a benefit of this Application. The expenditure on capital works is therefore approximately \$390,790.³³ This is consistent with the statement of Mr Quick at the Hearing: *"you could look at the reduction of that \$477,000 by the renovations of the TAB bar because... that has essentially occurred now."*
51. At the Hearing, Mr Murphy gave evidence about whether the Proposed Works would proceed if the Application is not granted. Mr Murphy explained that the Applicant had paid for the TAB Works from the *'Kilmore Racing Club side of the business'* because it had committed to the members of the Bendigo Club at the time of acquisition that it would 'revitalise the club'. Mr Murphy stated that the Kilmore Racing Club would not invest in the Proposed Works if the Application is not granted because *"the bar was the only commitment that we had made to the membership base."* This was consistent with the Urbis Report, in which it was noted that *'the additional Club profitability generated by the proposed EGMs is necessary for the Club to invest in the planned upgrades and developments'*.
52. The Commission notes that the Proposed Works would involve expenditure which would generally constitute an economic benefit. In this instance, Mr Murphy in his oral evidence stated that the goods and services required for the Proposed Works would be 100% procured from within the City of Greater Bendigo. The Commission accepts that the Proposed Works are contingent on the grant of the Application and expenditure is an economic benefit for the City of Greater Bendigo, however, it should only be attract a marginal weight in this matter given the relatively modest nature of the Proposed Works.
53. The Commission acknowledges that it is important to avoid double counting the benefits associated with capital works, having regard both to the estimated employment impacts of the Proposed Works and the social impact that may result from the improved facilities. These aspects are considered separately, and are detailed below at paragraphs 69 to 73 and 92 to 97 respectively.

Gaming expenditure not associated with problem gambling

54. 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.³⁴ As Bell J notes in

³³ For the avoidance of doubt this figure was arrived at subtracting \$87,000 from \$477,790. In his evidence at the Hearing, Mr Quick rounded the capital works figure of \$477,790 down to \$477,000.

³⁴ See *Romsey No. 2* at [351] per Bell J.

Romsey No. 2, this approach also brings to account the benefit obtained from pure consumption by the lone gambler who does not use machines for social reasons.³⁵

55. Mr Clyne, in the PVS Report and at the Hearing, gave evidence regarding the likely increase in gaming expenditure should the Application be granted. Specifically, he gave evidence regarding the increased gaming expenditure at the Bendigo Club. On the basis of the Geotech model, Mr Clyne estimated that approximately 80% of this will be transferred expenditure from a number of existing gaming venues within the City of Greater Bendigo. He stated:
 - (a) the Geotech model estimates how much gaming expenditure the Bendigo Club will take from each competing venue. The amount of expenditure that is not transferred from competing venues is deemed to be new expenditure;
 - (b) based on an additional 16 EGMs being attached, the increase in annual gaming expenditure at the Bendigo Club is estimated to be \$835,744;
 - (c) adopting the estimated level of 80% transferred expenditure, new gaming expenditure of 20% is estimated to be \$3,157 per week, or \$164,164 per annum; and
 - (d) new gaming expenditure equates to approximately 0.3% of total gaming expenditure in the City of Greater Bendigo in 2016-2017.
56. Using the Geotech model, Mr Clyne calculated that the forecast expenditure at the Bendigo Club would increase by approximately \$16,072 per week on the 2015-2016 year's average weekly expenditure of approximately \$52,920. Mr Clyne also stated that *'the increase in EGM numbers will substantially improve the venue's ability to compete with the All Seasons International Hotel'*. Consequently, Mr Clyne reasoned that the increased expenditure per EGM would also rise with the approval of 16 new entitlements from approximately \$43,548 per EGM per year to \$45,864.
57. The Commission notes that the Council Report did not dispute the Geotech model's prediction. There was no other evidence to suggest that the Geotech model did not accurately predict the overall projected rise in expenditure at the Bendigo Club. Therefore, the Commission accepts Mr Clyne's evidence in this instance.
58. In considering the likely impact of an additional 16 EGMs at the Bendigo Club, the Commission notes that there was a decline in expenditure on EGMs at the Bendigo Club from \$2,441,275 in 2012-2013 to \$1,916,108.0 in the 2015-2016 financial year. The Commission accepts the Applicant's evidence that this was probably due to the circumstances which led to it being placed in administration including a lack of investment in the machines and in the club generally. Following the acquisition of the Bendigo Club by the Applicant on 27 May 2016, expenditure rose

³⁵ See *Romsey No. 2* at [351]. Bell J notes further at [352] that the other approach is to say, as did Morris J in *Branbeau Pty Ltd v Victorian Commission for Gambling Regulation* [2005] VCAT 2606 at [79] that gaming extends 'substantial economic and social benefits' to gaming machine users, which treats consumption as a benefit without saying whether it is economic or social. While Bell J states both approaches are correct, for the purposes of this Application this benefit is treated as an economic benefit.

to \$2,223,290 (+16%) in the 2016-2017 financial year.

59. The Commission notes that the recent increase is attributable in part to the reenergising of the Bendigo Club associated with the new ownership, direction and management approach, and the subsequent proposed investment in, and development of, the Bendigo Club. It accepts that this represents significant growth given that the total expenditure in the City of Greater Bendigo was previously in decline with expenditure declining -1.9% in 2016-2017.
60. The Commission notes that the closure of the City Family Hotel may have an impact on the distribution of gaming expenditure in future. Mr Clyne stated in oral evidence that *'It will affect the distribution of gaming in the City of Greater Bendigo. Normally there is a total loss of some expenditure when a venue closes. Given that City Family was in the trade area, some of the expenditure will be transferred to this club, the Bendigo Club.'*³⁶ Mr Quick submitted that the impact of the City Family Hotel closure would be a reduction to the EGM density per 1000 adults from 7.4 to 7. Taking into account the expected population growth over the year that density will reduce again to 6.88 and so approval of the new machines would result in an increase to 7.06, which is lower than the original rate of 7.4 prior to the City Family Hotel closure.
61. In assessing the extent of this benefit, the Commission has had regard to the evidence outlined in paragraphs 80 to 86 below with respect to the potential for problem gambling as a result of this Application. Various factors suggest that the extent of problem gambling at the Bendigo Club is likely to be low after taking into account certain characteristics of the socio-economic profile of the Catchment Area including:
 - (a) it is located in an area of mixed socio-economic disadvantage. Based on data collected in March 2017, the City of Greater Bendigo has a lower rate of unemployment of 4.5% compared to the regional average of 5.9%.³⁷ According to the Urbis Report, the Catchment Area has a slightly higher unemployment rate of 5% which was on par with the regional Victorian average at the time, however this is based on 2011 data; and
 - (b) the anticipated extent of the new gaming expenditure in the City of Greater Bendigo, taking into account the predicted transfer rate of 80% by Mr Clyne, would be low.
62. The Applicant and Mr Quick submitted that the Bendigo Club is a smaller gaming venue based on the number of EGMs with a lower net machine revenue (**NMR**). In the 2016-2017 financial year, \$47.8 million was expended on EGMs in the City of Greater Bendigo, which is an average expenditure of \$74,499 per EGM or an NMR of \$204 per machine per day. In contrast, the average expenditure at the Bendigo Club for the 2016-2017 financial year is \$50,529 per EGM or \$138

³⁶ The Trade Area referred to in Mr Clyne's evidence is the area in which the majority of the venue's customers are domiciled and contains only one competing venue – the All Seasons. The Trade Area adopts the gaming catchment identified through the gaming room patron survey in the Urbis Report.

³⁷ VCGLR Report p 20 *Department of Employment, Small Area Labour Markets March 2017*.

NMR. The Commission noted these figures were calculated prior to the closure of the City Family Hotel which had 39 licensed EGMs and a 2016-2017 revenue of \$77,506 per EGM, which would inevitably impact future expenditure calculations.

63. After considering all the matters referred to above the Commission considers that this benefit should only be given a marginal weight as the new expenditure as a result of the Application is modest.

Increased gaming competition in City of Greater Bendigo

64. Increasing competition in gaming in the City of Greater Bendigo is a factor to be considered by the Commission in light of the statutory purposes of the GR Act³⁸ and the consumer benefits that derive from competition.
65. Mr Clyne notes that granting the Application would allow the Applicant to be more competitive within the area, in particular against the Applicant's main competitor the All Seasons International Hotel (**All Seasons**). At the Hearing, Mr McMahon provided oral evidence that patrons have utilised the Bendigo Club courtesy bus to attend competing venues to play the pokies during peak times, typically Thursday and Friday nights. The Urbis Report stated that 'peak' periods amount to a 70% utilisation rate in the gaming room on average for 2-3 hours per week. At the Hearing, Mr McMahon stated that those figures have increased now, referencing figures available that morning indicating a 24.4% increase on usage in October 2017 compared with October 2016.
66. At both the Hearing and via written submissions the Applicant contended that peak periods for EGM usage coincided with another event or activity at the Bendigo Club. Mr Quick submitted in the Urbis Report that the gaming room peaks show that the EGMs are used in conjunction with the rest of the venue rather than in isolation. Mr McMahon stated in his oral evidence that the peak times of Thursday and Friday nights coincided with other events held at the venue including Thursday night Members' night and bingo on Friday.
67. The Commission notes that granting the Application could be considered to increase gaming competition in the City of Greater Bendigo by providing additional EGMs given that the Bendigo Club only has 44 EGMs. The Commission further notes that the All Seasons has 100 licensed EGMs and attached entitlements and so the Application would increase competition between these premises, and in the City of Greater Bendigo, by increasing the variety of machines on offer at the Bendigo Club. In this regard, the Commission refers to and relies on the evidence set out in paragraphs 77 to 79 in relation to the anticipated transfer of gaming expenditure within the City of Greater Bendigo

³⁸ See GR Act, s 3.1.1(2).

68. The Commission finds that the Application represents a relatively small proportional increase in the number of EGMs in the City of Greater Bendigo and within the area subject to the municipal limit. Further, the anticipated additional expenditure at the Bendigo Club suggests only an increase in gaming competition in the municipal district. As such, for the purposes of this Application, the Commission considers there is only a small benefit associated with an increase in gaming competition in the City of Greater Bendigo as a result of the addition of 16 EGMs at the Bendigo Club, and hence gives this impact no to marginal weight.

Additional employment

69. The economic benefits associated with an application to increase the number of EGMs at a premises may include short term employment benefits associated with the capital works. In this Application, no evidence was provided as to short term employment benefits associated with the capital works (related to but separate to the economic benefit associated with the expenditure on capital works). Accordingly, no weight was given to this aspect.
70. Separate to the short term economic benefits associated with the capital works is the potential benefit associated with longer term employment arising from the Application. According to the Urbis Report, if the Application is granted, it is expected to result in direct employment of one to two equivalent full time (FTE) employees. The Urbis Report attached a low weight to the estimated additional staff that would be needed to service the demand created throughout the venue, but the particulars of the new employment were not presented to the Commission.
71. The Commission accepts the evidence given at the Hearing by Mr Murphy and Mr Quick that if the Application is granted, this will result in the creation of the equivalent of two new FTE employees at the Bendigo Club. Mr McMahon gave evidence that those two FTE employees would be in the gaming room.
72. The Commission considers that the additional revenue from non-gaming expenditure would be predominantly transferred from within the City of Greater Bendigo, which could have implications for other venues. At the Hearing, Mr Quick contended that *'the transfer would not be significant enough to require a commensurate reduction of employment in other venues.'* Relying on the All Seasons as an example, Mr Quick argued that *'while there might be a dollar figure transferred from there, it doesn't really impact the business of that venue which is one of the largest venues in Bendigo.'*
73. The Commission finds that the likely economic impact on employment arising from this Application, would be the employment of two FTE employees. In consideration of the relatively low unemployment rate in the City of Greater Bendigo compared to the regional average (see

paragraph 35 above) and the small scale of the employment increase, the Commission considers this is a benefit to the community to which it attributes no to marginal weight.

Complementary expenditure

74. Complementary expenditure is a potential economic benefit where it results in increased economic activity in the municipal district in which the premises that are the subject of an application are located, where the expenditure is a consequence of new spending on local goods and services.
75. At the Hearing, Mr McMahon stated that the installation of an additional community building and toilets in closer proximity to the bowling green as part of the Proposed Works would have an impact on as the Woodbury Bowling Club, who utilises the function room on competition days, as they would no longer be reliant on the function room which could then be made available for other types of functions. No figures were provided regarding additional expenditure in the function room or the new community building to be constructed as part of the Proposed Works.
76. On the information available, the Commission considers there is no evidence on this impact and, as such, places no weight any benefit associated with complementary expenditure.

Diversion of trade from other gaming venues

77. Mr Clyne gave evidence that the introduction of the additional EGMs at the Bendigo Club would divert trade from other gaming venues within the municipality resulting in a transfer rate of 80% which he contended was a low transfer rate in an established market. Mr Clyne disagreed with the submission in the Council Report that the transfer rate should be more like 20% on the basis that *'there are plenty of examples where top-up applications appear to result in overall expenditure with no discernible transfer at all,'* because nothing he had seen in terms of calculating transferred expenditure equalled that rate.
78. At the Hearing, the Commission heard that the transfer rate can be affected by venue type. Mr Clyne gave evidence that he had factored in the impact of transferring expenditure from a hotel (such as the All Seasons) to a club (the Bendigo Club) when calculating his projected transfer rate. Mr Clyne assessed that the All Seasons, as the only other venue in the trade area,³⁹ would be likely to lose 5% of their revenue to the Bendigo Club on account of the new EGMs, if approved, but that other hotels would experience a much smaller loss. This evidence aligns with the Urbis Report, which contends that this impact should be given low weight as the transfer of gaming expenditure is not expected to significantly impact on other venues.

³⁹ The trade area is defined in the PVS Report as being the statistical area in which the majority of the venue's customers are domiciled. The PVS Report relied on the Urbis Report when calculating the trade area.

79. As the Council did not appear to answer questions in regard to its Report, the Commission accepts that the transfer rate of 80% is a not unreasonable estimate. Therefore, the Commission considers that the potential diversion of trade will have a detrimental economic impact on other venue operators, in particular, the operator of the All Seasons which is the only other venue in the Catchment Area. Having regard to the evidence of Mr Clyne, and the statutory object of competition, the Commission assigns no to marginal weight to this impact.

Gaming expenditure associated with problem gambling

80. To the extent that a portion of the new gaming expenditure is attributable to problem gambling, this represents an economic disbenefit.⁴⁰ In assessing this impact (and other effects of problem gambling), the Commission recognises that harms associated with problem gambling may be experienced directly and indirectly as a consequence of gaming undertaken by those who may be defined as 'problem gamblers', as well as those who may be otherwise regarded as 'low-risk' or 'moderate-risk' gamblers.
81. In assessing the extent of this disbenefit, the Commission has regard to the expenditure evidence set out in paragraphs 77 to 79 above. In doing so, the Commission recognises that in considering this aspect of the '*no net detriment*' test it does not include consideration of transferred expenditure because such expenditure cannot be said to exacerbate problem gambling.⁴¹
82. The extent to which new gaming expenditure will be associated with problem gambling, and hence may be regarded as a disbenefit associated with the Application, will be influenced by the socio-economic status and vulnerability of the community of the Catchment Area discussed at paragraphs 38 to 41.⁴²
83. Taking into account the material before it, the Commission finds that the Application will result in estimated new expenditure being generated of at least \$164,164 in the first 12 months of the additional 16 EGMs being attached. It accepts that a proportion of this expenditure will be associated with problem gambling. However, the Commission finds that the Catchment Area exhibits relatively low levels of socio-economic disadvantage and consequently a lower vulnerability to the risks of problem gambling.

⁴⁰ 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* [2013] VCAT 101 at [178] and following per Dwyer DP. For completeness, the Commission considers both the economic and social impacts of problem gambling in assessing this Application.

⁴¹ See *Bakers Arms* [2014] VCAT 1192 at 11 per Code PM and Nelthorpe M; *Kilsyth and Mountain District Basketball Association Inc v Victorian Commission for Gambling Regulation* [2007] VCAT 2, [40] per Morris J.

⁴² This common-sense approach accords with the VCAT's treatment of this issue in *Molwin Pty Ltd v Mornington Peninsula SC* [2015] VCAT 1982 (23 December 2015), [68].

84. In considering the extent to which new gaming expenditure may give rise to an increased risk of problem gambling, the manner in which gaming is conducted at the Bendigo Club is also a relevant consideration. In relation to the Bendigo Club's current Responsible Service of Gambling (**RSG**) practices, the Commission notes that the Applicant has implemented a number of positive measures which demonstrate that it would continue to effectively manage RSG at the venue and mitigate the risks associated with problem gambling arising from the Application. Current RSG measures include:
- (a) rostering on staff who are familiar with patrons, which is made easier due to the Bendigo Club being a club with membership and sign in rules;
 - (b) all staff in the gaming room hold RSG certificates in accordance with minimum regulatory requirements;
 - (c) evidence from Mr Murphy regarding the Kilmore Racing Club Board's commitment to RSG including:
 - (i) Mr Murphy and the Chair of the Bendigo Club holding RSG certificates;
 - (ii) undertaking a monthly review of the incident register summary to ensure compliance;
 - (iii) an example of how the Board responded to an incident of an excluded person being on the premises to ensure the Bendigo Club's response accorded with regulatory expectations;
 - (iv) an annual strategic session regarding RSG; and
 - (v) consideration at Board level of the potential for increased problem gambling as a result of the Application;
 - (d) an external audit of the Leigh Barrett policies and procedures adopted by the Bendigo Club to ensure compliance;
 - (e) a high staff to patron ratio allowing better monitoring of patrons in the gaming room;
 - (f) participation in Responsible Gambling Awareness Week initiatives such as 'Your Play';
 - (g) coverage of the entire gaming room with CCTV; and
 - (h) working with the Responsible Gambling Officer in the area from Anglicare and mandating staff to participate in regular RSG compliance training sessions.
85. The Commission accepts the evidence of Mr Murphy and Mr McMahon that the Bendigo Club's current RSG practices would assist to mitigate the risk of problem gambling. The Commission was persuaded that the following additional measures proposed would further mitigate potential economic disbenefit from problem gambling that may arise from this Application, if approved:
- (a) continued engagement of an experienced venue manager, Mr McMahon, whose tenure predates the Applicant's ownership of the Bendigo Club, and who is highly familiar with the patronage and the RSG policies and practices of the Bendigo Club and in Victoria generally;
 - (b) the Proposed Works which, relevantly, include the installation of a sliding door between the

gaming room and the bistro which would reduce the emphasis on gaming; and

- (c) a commitment by Mr Murphy that staff who do not work in the gaming room would obtain RSG certificates.

86. Overall, the Commission considers with respect to the Application that the potential expenditure associated with problem gambling is a negative economic impact upon which it should place a marginal weight. Issues relating to the negative social impacts associated with problem gambling are considered further in paragraphs 106 to 109 below.

Alteration to tax payable to government

87. The Applicant submitted that, based on its status as a club with tax payable according to the revenue rate against the number of machines,⁴³ tax savings for the Bendigo Club would follow the approval of the Application if the revenue per machine reduced. This could improve the profitability of the business and therefore represent an economic benefit to the members of the Bendigo Club and the community who would receive those benefits.
88. Based on the above, Council contended in its report that the one motivation for the Application was tax reduction and that this is a disbenefit because the City of Greater Bendigo relies on tax paid to the Government to undertake its activities for the benefit of the municipality. This contention was refuted by the Applicant's witnesses who submitted that any tax savings as a result of this Application were incidental to the other motivations driving the Application. In addition, at the Hearing Mr Quick and Mr McMahon submitted that, taking into consideration the projected population increase and the additional revenue that would represent for the club, the total tax payable to the Government after approval of this Application would likely increase.
89. The Commission finds that any differential in the tax paid to the Government as a result of this Application is not a relevant consideration as to the economic impacts and does not apportion any weight to this factor.

Conclusion on Economic Impacts

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

⁴³ GR Act, s 3.6.6B, paraphrased, provides that where the EGM venue operator holds a club licence, the tax payable is calculated by dividing the revenue by the number of gaming machine entitlements in the venue.

Social Impacts

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

Improved facilities enabling greater range of services

92. Ancillary to the economic benefit from capital works expenditure that will occur if this Application is granted,⁴⁴ the Proposed Works will result in improved facilities being available to the community. Access to such improved facilities is an outcome which the Commission⁴⁵ and VCAT⁴⁶ have regularly determined is a positive social impact associated with applications of this nature. The physical nature of these improved facilities has been described in detail in paragraph 49.
93. Of relevance to the social impact, according to Mr Quick in the Urbis Report, is the plan to construct or install a dedicated space (including toilet facilities) for bowlers, closer to the bowling green, to free up the function room for other community use. At the Hearing, Mr Quick stated that currently the bowlers take *'the function room away from being used for any other purpose during those times and that can be considerable times of the week... on weekends and mid-week when there are bowls days on'*. The Commission finds that it follows that a social benefit would result from the additional availability of the function room for the community.
94. In addition to the dedicated function space for the bowlers, whether it be the Woodbury Bowling Club or others, the Applicant also proposes to install new accessibility ramps to the bowling green from the carpark and from the Bendigo Club premises. At the Hearing Mr Murphy stated that this ramp will be ancillary to that required by legislation and its purpose is to enable the patrons to more easily get to the bowling green from the club. The Commission accepts that the improvements to the facilities for the bowlers is a social benefit to the community.
95. The Commission notes that some of the Proposed Works are of a primarily cosmetic nature including:
- (a) the renovation of function rooms with the addition of ceiling to floor windows, AV equipment, new paint and extra furniture;
 - (b) the modernisation of toilet facilities;
 - (c) repainting of the bistro and bar facilities; and
 - (d) new furniture.

⁴⁴ See paragraphs 48 to 53 above.

⁴⁵ See, for example, *Glenroy RSL Sub-branch Inc at Glenroy RSL premises* [2015] VCGLR 40 (22 October 2015).

⁴⁶ See, for example, *Bakers Arms* [2014] VCAT 1192.

The Commission finds that cosmetic improvements may improve the patron experience but will not necessarily enable a greater range of services. However, the Commission accepts the evidence of Mr Murphy that improvement to the patron experience of a place where people can come and socialise is an important part of the community service the Bendigo Club offers.

96. The Commission further notes that, as discussed in paragraph 50, as the TAB Works have already commenced construction the addition of these facilities is not dependent on the approval of this Application. Therefore, the social benefit that will result from the availability of those expanded facilities is not attributable to this Application.
97. The Commission refers to its findings in paragraph 52 above that the Proposed Works will not proceed if the Application is not granted and it is therefore appropriate to consider the social benefits arising from the community's access to and use of the improved facilities as benefits of this Application. The Commission, whilst noting the renovations generally represent an expansion and improvement of facilities rather than the introduction of new facilities, regards access to such improved and expanded facilities as a positive social impact, upon which it places a marginal to low weight. In allocating this weight, this Commission did not double count the economic benefits resulting from expenditure on capital works detailed at paragraphs 48 to 53 above.

Increased gaming opportunities for those who enjoy gaming

98. The Applicant submits that the proposed addition of 16 EGMs would improve game choice of current patrons in machines and enable the Bendigo Club to compete with larger venues in the area, as discussed in paragraph 65. While the utilisation rates at the Bendigo Club do not indicate that demand for gaming is outstripping supply for significant periods of time during the surveyed period,⁴⁷ the Commission is satisfied that demand is increasing. Mr McMahon provided evidence that patrons were quite open about leaving the Bendigo Club for a larger venue where there is *'more variety available or more machines available or... more copies of their favourite type of machine that they can get on to.'*
99. The Commission acknowledges that there is a benefit in increasing machine choice for recreational players and catering for non-problem gambling demand. While the Commission notes that the utilisation rate only exceeds 70% usage for a small number of hours in the week (two to three), given there is only one venue in the immediate vicinity (the All Seasons), the level of consumer choice for people choosing to play EGMs for recreational purposes would be improved by the addition of 16 EGMs at the Bendigo Club. Therefore, the Commission considers this to be

⁴⁷ Utilisation rates only exceeded 70% for approximately two – three hours over the survey period from 7 to 13 February 2017.

a social benefit to the community in the City of Greater Bendigo itself, and one on which it places marginal weight.

Social benefit derived from increased community contributions

100. In determining the net economic and social impact of applications of this nature, both the Commission⁴⁸ and VCAT⁴⁹ have regularly treated community contributions as a positive benefit. However, for such contributions to be regarded as a benefit associated with the Application, it is necessary that they are properly regarded as community contributions, and that they will result as a consequence of the Application.
101. According to the Application, from 27 May 2016 until 30 June 2017 the Applicant contributed \$33,456 in cash grants to community organisations. The community organisations who currently benefit from the Applicant's 'Community Support Program' include 16 sporting clubs and 20 charities and community organisations. At the Hearing, the Applicant proposed an additional annual cash contribution of approximately \$21,500, taking the Applicant's overall cash contribution to about \$55,000 per year.
102. At the Hearing, Mr Murphy and Mr McMahon confirmed that the additional cash contribution would go to supporting a broader range of sporting clubs, charities and community organisations. Both witnesses stated that the Bendigo Club was committed to supporting a diversity of beneficiaries in furtherance of their objective which is to ensure Bendigo Club is relevant to a wide subsection of the City of Greater Bendigo community.
103. The Applicant also confirmed that it would maintain its in-kind contributions at the same level bringing the total cash and in-kind contributions to \$120,000 per year while the EGMs are in operation.⁵⁰ In-kind contributions include vouchers, discounted food and, as discussed in paragraph 93 above, free or discounted use of the function room by community groups. This fact was raised in the Council Report which submitted that, if the Applicant was already increasing its community contributions, there was no evidence to suggest this increase would not continue regardless.
104. In response to that assertion in the Council Report, Mr Murphy said that the Applicant's investment in community contributions and capital works (not dependent on the additional machine revenue) were actions intended to result in returning member confidence in the Bendigo Club leading to the stabilisation of the Bendigo Club's finances. Increasing contributions was part of a gesture by the Applicant to demonstrate that it was genuine in its commitment to being part of that

⁴⁸ See, for example, *Application by Richmond Football Club* [2015] VCGLR (24 July 2015) (Commissioners Cohen and Owen).

⁴⁹ See, for example, *Melbourne CC v Kingfish Victoria Pty Ltd & Anor* [2013] VCAT 1130; *Bakers Arms* [2014] VCAT 1192.

⁵⁰ The Applicant arrived at this figure by adding the additional cash contribution of approximately \$21,500 to the \$112,976 in in-kind contributions, cash grants and vouchers contributed from 27 May 2016 to 30 June 2017.

community, as discussed above at paragraph 51. Mr Murphy also stated that while the Applicant was not in a position to continue these contributions without the additional revenue from the new EGMs, any future profit would be reinvested in the Bendigo Club. He confirmed that the Kilmore Racing Club would not receive any of this benefit.

105. The Commission did not account for the community contributions in its consideration of the economic impacts, but accepts that the additional community contributions and to a lesser extent the continuation of the existing contributions will have a positive social impact. The Commission is further satisfied that the contributions will only occur if the Application is granted. Having regard to the increase in the community contributions that will occur, and the breadth of these contributions across community and sporting groups operating in the City of Greater Bendigo (in accordance with conditions of any approval of this Application), the Commission considers these contributions to be a positive benefit to which it affords a marginal weight.

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

106. Wherever accessibility to EGMs is increased there is always a risk of an increase in problem gambling, which leads to other costs such as adverse health outcomes, relationship breakdowns, emotional harms and other social costs. Accordingly, the Commission accepts there is potential for negative social impact on the community through possible increased problem gambling expenditure.
107. In relation to gambling-related harms, the Commission notes the Council Report stated that there are *'greater incentives for clubs to enforce harm-minimisation measures [compared with hotels] as gambling-related harm prejudices their members and therefore their profitability.'* The Council Report also acknowledged that the Bendigo Club has a good record of harm minimisation. The Council Report refers to estimates of the Productivity Commission and the State Government of Victoria concerning the percentage of the population experiencing moderate to high risks of gambling-related harm. On the basis of these figures, Council concluded that when extrapolated to the City of Greater Bendigo, approximately 3,565 people would experience moderate or high risks of gambling-related harm.⁵¹ As noted above, Council provided no evidence as to how this specific Application will exacerbate the existing level of problem gambling.
108. The Commission refers to and relies upon the evidence set out in paragraphs 80 to 86 above with respect to the economic impact of problem gambling on the community, which similarly applies to the social impact of problem gambling. As is concluded there, the Commission is satisfied that

⁵¹ Council Report, p 20, referencing State Government of Victoria 'A Study of Gambling in Victoria'. Regarding the figures presented by Council and attributed to the Productivity Commission, the Commission notes that scope of the population for which 'between 1.9% and 3.1%' experience moderate or high risks of gambling related harm is not provided.

there is potential for increased risk in problem gambling as a result of this Application. This gives rise to a negative social impact. The Commission accepts (as outlined in paragraph 80 above) that harms associated with the incidence of problem gambling are wide-ranging and attributable to all categories of gamblers and across the community more broadly.

109. The Commission finds that while the Catchment Area is characterised by lower socio-economic disadvantage (see paragraphs 38 to 42), it still contains pockets of disadvantage which increases its vulnerability to the impacts of problem gambling.⁵² Relying on its findings in relation to the economic impact of problem gambling at paragraphs 80 to 86 above, the Commission accepts that the risk of an increased incidence and potential impact of problem gambling on the community in this Application is less than would otherwise be the case for the municipality. In reaching this assessment, the RSG practices detailed above in paragraph 84 and 85 and the nature of the patronage at the Bendigo Club during peak times, gave the Commission confidence in the mitigating and protective factors of this Application. The Commission considers the protective factors in this case result in an assessment of this impact as having marginal weight.

Community attitude

110. As was determined in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd and Anor*,⁵³ the Commission recognises that while community apprehension is not an over-riding factor (in the sense that the Application is not a referendum on gaming), it is a relevant factor in the consideration of particular social impact of an application as part of the 'no net detriment' test. In determining this impact, the Commission recognises that the Council's role, as the representative body of the relevant community and charged with statutory duties under various pieces of legislation, includes representing the community attitude.
111. The evidence before the Commission with respect to the community attitude is largely found in the Council Report. While the Council Report contains a discussion on the social and economic impact of the Application on the municipality in general, it does not contain any specific evidence regarding the attitude in the City of Greater Bendigo to this Application. At the Hearing submissions were made in relation to the community attitude to the Application:
- (a) based on the survey referenced in the Council Report, Mr Quick conceded that there is a negative community attitude toward gaming in the community generally;

⁵² *Molwin Pty Ltd v Mornington Peninsula SC* [2015] VCAT 1982 (23 December 2015), [68].

⁵³ (2008) 19 VR 422, [44] per Warren CJ, Maxwell P and Osborn AJA. See also *Mount Alexander Shire* [2013] VCAT 101, [73] per Dwyer DP.

- (b) Mr Quick stated that he did not put much weight on the Council's objection that a negative community attitude was a 'disbenefit' because he sees that this is a result of their assessment of this Application rather than it being an actual disbenefit; and
- (c) Mr Murphy gave evidence that the Bendigo Club had provided an opportunity for community feedback through their website after the Application was lodged and publicised the Application on social media so that the community was aware of it, but did not provide further detail on the feedback received through those channels.

112. In conclusion, the Commission does not consider that there is evidence of significant community opposition to this Application. The Commission notes that, while representative of community views by virtue of its legislative mandate, Council had not canvassed community views regarding this Application upon which to rely when apportioning weight to this potential negative impact. Consequently, the Commission placed no weight on this impact. The Commission itself received no opposing submissions from members of the public. On the basis of the above the Commission attributes no weight to this potential negative social impact of the Application.

Increased exposure of children to gambling activity

- 113. A further, yet distinct, impact that the Application will have on the community of the City of Greater Bendigo is in relation to the potential for increased exposure of children to gambling activity.
- 114. The Council Report noted that the Bendigo Club runs a 'Diggers Kid's Club'. In relation to the proposed renovation works to install a frosted glass door as a sight-screen, the Council Report asserted that the venue design continues to allow children to see into the gaming room. In response, in his oral evidence Mr Quick stated that families and children are a minor part of the overall patronage of the venue. He also argued that due to the installation of the sight screen, there will be less exposure to gaming than there is currently as a result of the Application.
- 115. The Commission notes that there are no children's play areas proposed as a result of the Application hence the Minister's Decision-Making Guidelines entitled 'Assessment of children's play areas in gaming premises' dated 14 October 2013 (*Victorian Government Gazette*, S361, 16 October 2013)⁵⁴ are not strictly applicable. However, the policy underpinning these guidelines is a factor which it may nevertheless have regard to in considering what, if any, conditions should be applied with respect to any determination to grant this Application.
- 116. The Commission concludes that, in relation to this Application, there are no changes intended that will increase the exposure of children in the Bendigo Club or to sights and/or sounds of EGMs in the gaming room. The RSG practices and the proposed installation of the sight-screen resulting

⁵⁴ As stated in footnote 14 above, the Commission did not consider these Decision-Making Guidelines for the purpose of this Application, due to the lack of a children's play area being proposed.

from the Proposed Works, upon which the Application is dependent, provide some protection from the exposure of children to gambling. As such, this is a factor upon which no weight should be given for the purposes of the '*no net detriment*' test.

Conclusion on social impacts

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

Net economic and social impact

118. The '*no net detriment*' test in section 3.4.20(c) of the GR Act requires the Commission to weigh the likely positive social and economic impacts of an application against the likely negative social and economic impacts. This test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impact of approval on the well-being of a relevant community will be either neutral or positive.⁵⁵
119. After consideration of the material before it, including the evidence provided at the Hearing (and weighted as outlined above and summarised in tabular form at Appendix 1 of these Reasons for Decision), the Commission is satisfied that the social and economic impact to the well-being of the community of the municipal district in which the Bendigo Club is located if the Application is approved will be slightly positive.

Determination of Application

120. On the material that has been put before it, the Commission has determined that the '*no net detriment*' test has been satisfied and that the total number of EGMs will be under the relevant municipal limit.
121. The Commission is satisfied that the Applicant recognises the need to act in accordance with its obligations to take measures to prevent problem gambling. The Applicant has demonstrated that there are strong RSG practices currently in place, proposes to implement a new measure to reduce the emphasis on gaming at the Bendigo Club through the Proposed Works to limit the visibility of the gaming room from the bistro and proposes to make additional community contributions. Accordingly, the Commission approves the Application and makes the proposed amendment to the Venue Operator's licence to vary the number of EGMs permitted in the Bendigo

⁵⁵ *Mount Alexander Shire* [2013] VCAT 101 at [52] per Dwyer DP.

Club from forty-four (44) to sixty (60) subject to conditions listed below.

1. Community Contributions

- (a) The operator of the premises (**the Venue Operator**) will make a cash contribution of \$21,500 per year (indexed each year by CPI All Groups Melbourne) (**the Additional Contribution**) whilst and so long as any of the additional sixteen (16) electronic gaming machines (**Additional EGMs**) are in operation at the Bendigo Club.
- (b) The Additional Contribution will be allocated each year to not-for-profit community and sporting organisations providing services and facilities to residents in the City of Greater Bendigo.
- (c) If the Additional Contribution is not allocated in full each year as required in Conditions 1(a) and 1(b) the operation of the Additional EGMs must cease immediately as long as the Additional Contribution (or part thereof) remains outstanding.
- (d) The Venue Operator will also continue to contribute the equivalent of \$65,000.00 in in-kind contributions and \$33,500 in cash per year to not-for-profit community and sporting organisations providing services and facilities to residents in the City of Greater Bendigo.

2. Works

- (a) The Works at the Bendigo Club (as defined in condition 2(b) below) must be substantially completed within eighteen months of the installation of the Additional EGMs (**Completion Date**).
- (b) For the purpose of this condition, "**the Works**" comprises:
 - (i) the works referred to on page 14 of the Social and Economic Impact Statement dated 10 August 2017 prepared by Urbis Pty Ltd, excluding any renovation works related to the TAB Bar; and
 - (ii) screening as indicated in figure 1, page 5 of Social and Economic Impact Statement dated 10 August 2017 prepared by Urbis Pty Ltd.
- (c) If the Works referred to in condition 2(b) are not substantially completed by the Completion Date then the operation of the Additional EGMs must cease immediately until completion of the Works.
- (d) The Commission may, on the request of the Venue Operator, agree to extend the time for completion of the Works referred to in 2(b). Any request for an extension of time must include an explanation as to why the Works have not been substantially completed and must be received by the Victorian Commission for Gambling and Liquor Regulation thirty days prior to the expiry of the Completion Date.

The preceding 121 paragraphs are a true copy of the Reasons for Decision of Ms Helen Versey, Deputy Chair and Mr Des Powell AM, Commissioner.

Appendix One – Summary of Economic and Social Impacts

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

Economic impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
Benefits	Gaming expenditure not associated with problem gambling	54 to 62	The portion of new expenditure not attributable to problem gambling is an economic benefit. Mr Clyne's evidence of an anticipated transfer rate of 80% is accepted however evidence with respect to the gaming expenditure associated with problem gambling has also been considered. The Bendigo Club is located in a gaming catchment of lower relative socio-economic disadvantage (albeit with some vulnerability to financial stress), while the City of Greater Bendigo has a higher relative socio-economic profile. As a result of the anticipated transfer rate of 80% new expenditure at the Bendigo Club is estimated to be \$164,164.00.	marginal
	Expenditure on capital works	48 to 53	The Applicant proposes to undertake works at an estimated cost of \$390,790 which is considered to be modest in the context of the entire municipality. As there are both employment impacts and social impacts associated with the amount which has been assessed, care must be taken to ensure benefits relating to such works are not double counted.	marginal
	Complementary expenditure	74 to 76	Labour, material, goods and services will be procured in the relevant municipal district in which the Bendigo Club is located which is an economic benefit. The ongoing effects as a result of the renovation works cannot be assessed because there was no evidence of the extent of that local sourcing.	no weight
	Increased gaming competition in City of Greater Bendigo	64 to 68	The Application will increase gaming competition in the City of Greater Bendigo by providing additional EGMs at which patrons may choose to play and making the venue more competitive. Limited benefit in light of a relatively small proportional increase in the number of EGMs in the City of Greater Bendigo.	no to marginal weight

Economic impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
Disbenefit	Additional employment	69 to 73	<p>In relation to the short term employment benefits associated with the capital works, there is no evidence before the Commission as to the benefit to the municipality. This is also considered separately under 'Expenditure on capital works' above.</p> <p>In relation to the longer term benefits following completion of the renovations, while the employment of the equivalent of 2 EFT positions is a positive economic impact, the Commission took account of the possible transfer of employment from within the municipality and the low unemployment rate of the Gaming Catchment relative to the City of Greater Bendigo average.</p>	no to marginal weight
	Gaming expenditure associated with problem gambling	80 to 86	The portion of new gaming expenditure attributable to problem gambling is an economic disbenefit. However, the Catchment Area of the Bendigo Club exhibits a lower level of disadvantage than the rest of the City of Greater Bendigo overall which would make them less susceptible to gambling-related harms. The Applicant has implemented a number of positive measures in relation to RSG as well as a new measure that the Commission considers effective in mitigating problem gambling that may arise from this Application.	marginal
	Diversion of trade from other gaming venues	77 to 79	The anticipated transfer rate of 80% is expected to be spread across a number of existing gaming venues both within and outside City of Greater Bendigo and this is a disbenefit. However, any diversion of trade is likely to be dispersed to such an extent that it is unlikely to significantly impact any one gaming venue. Note the All-Seasons discussion and City Family hotel closure	no to marginal
	Tax paid to the government will be reduced	87 to 90	Not relevant in this case.	No weight

Social impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
Benefits	Improved facilities enabling greater range of services	92 to 97	The improvements to the bowling green through the works is a social benefit. In addition to the improvements to the bowling green, the works provide an improvement to the existing hospitality facilities at the Bendigo Club, rather than adding new facilities. Overall, the Commission considers that there is no substantial change to the range of entertainment on offer but acknowledges the benefit of improved facilities for the community.	low
	Increased gaming opportunities for those who enjoy gaming	98 to 99	The Application will increase gaming opportunities and choice by providing an additional 16 EGMs at which patrons may choose to play. This increase is of minimal impact as far as offering increased gaming opportunities across the broader municipality which has 641 machines (602 operational) and ten (10) other gaming venues in City of Greater Bendigo.	marginal
	Social benefit derived from increased community contributions	100 to 105	New expenditure through community contributions by the Bendigo Club is a social benefit. The Bendigo Club has committed to new cash contributions of \$21,500 annually and it has confirmed that it will maintain its existing cash contributions of \$33,500 as well as its in-kind contributions (including grants, sponsorships, discounts and vouchers) which, combined with the cash contribution, will equal a minimum of \$120,000 annually. These contributions will have a positive social impact on a broad range of community groups operating in City of Greater Bendigo and across the municipality. However, the additional contribution proposed as a result of the Application is relatively small.	marginal
Disbenefits	Possibility of increased incidence and the potential impact of problem gambling on the community	106 to 109	A proportion of total gaming expenditure at the Bendigo Club will be associated with problem gambling contributed by a small proportion of total gaming patrons at the Bendigo Club. Adverse impacts include health, jobs, finances, emotional states and relationships. The catchment area of the Bendigo Club exhibits marginally lower levels of socio-economic disadvantage compared to the municipality as a whole. The Commission found that venue-specific factors will play a role in mitigating the risk of problem gambling due to the Bendigo Club's genuine commitment to good RSG practice. In addition, the intended improvements to the layout of the Bendigo Club will reduce emphasis on gaming at the venue.	marginal

Social impacts	Impact	Paragraph numbers	Comment relevant to weight	Weight
	Community attitude/ wellbeing	110 to 112	The Commission has taken into account Council's role in which it represents the community interest and Council's submission that there is a negative community attitude to gambling. However, the submission was reliant on a general survey and did not consider the potential impact on community well-being as a result of this specific Application.	no weight
	Increased exposure of children to gambling activity	113 to 116	No changes intended that will increase the exposure of children in the Bendigo Club or to sights and/or sounds of EGMs in the gaming room. The RSG practices and the installation of the sight-screen resulting from the Proposed Works, upon which the Application is dependent, provide some protection from the exposure of children to gambling.	no weight