

REASONS FOR DECISION

In the matter of an application by Newlands arm Residents and Ratepayers Association for an appeal of the decision to refuse to declare the Applicant as a community or charitable organisation pursuant to section 8.3.5 of the *Gambling Regulation Act 2004*.

Commission: Mr Ross Kennedy, Deputy Chairman
Mr Robert Kerr, Commissioner
Mr Des Powell, Commissioner

Date of Hearing: 23 June 2015

Date of Decision: 23 June 2015

Date of Reasons: 6 July 2015

Appearances: Mr Alistair Mailer for the Applicant

Mr Justin Ghattas as Counsel Assisting the Commission

Decision: The Commission has determined to grant the appeal and declare the Applicant a community or charitable organisation pursuant to section 8.3.5 of the *Gambling Regulation Act 2004*.

Signed:

Ross Kennedy
Deputy Chairman



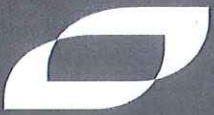
REASONS FOR DECISION

BACKGROUND

1. On 24 July 2014, the Newlands Arm Residents and Ratepayers Association (**the Applicant**) applied to the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) to be declared as a community or charitable organisation.
2. On 31 July 2014, an authorised delegate of the Commission advised that the Commission was not satisfied that the purposes of the Applicant are solely to meet benevolent or philanthropic objectives. The delegate provided 14 days for the Applicant to provide any further relevant information for the Commission consider in making a determination of the application.
3. On 27 January 2015, having not received any further material from the Applicant, a delegate of the Commission determined to refuse the application on the basis that the Applicant did not provide sufficient information to the Commission to justify declaration as a community or charitable organisation.
4. On 1 February 2015, the Applicant applied to the Commission for an appeal of this decision pursuant to section 8.3.4 of the *Gambling Regulation Act 2003* (**the GRA**). The Applicant also provided the Commission with further material in respect of amended purposes of the Applicant.
5. On 24 February 2015, the Commission notified the Applicant that the Commission considered his appeal to be a new application, and would be considered as such.
6. On 8 May 2015, a delegate of the Commission (**the Delegate**) determined to refuse the application on the basis that the Applicant is operating as a self-interest group and not as a community or charitable organisation.
7. On 3 June 2015, the Applicant applied to the Commission for an appeal of this decision pursuant to section 8.3.4 of the GRA.
8. On 23 June 2015, the Commission conducted a public hearing of the appeal. At the hearing of the appeal, the Commission extemporaneously determined to grant the appeal and declare the Applicant as a community or charitable organisation.

LEGISLATION AND THE TASK BEFORE THE COMMISSION

9. Section 8.3.1 of the GRA states that an organisation may apply to the Commission to be declared a community or charitable organisation. A declaration that an organisation is a community or charitable organisation remains in force for a period of 10 years unless the declaration is revoked or renounced under Chapter 8 of the GRA.



10. Further, section 8.3.4 of the Act allows the Applicant to appeal against a decision to refuse an application for a declaration under 8.3.3 of the Act, provided the appeal is in writing and specifies the grounds on which it is made.
11. After consideration of an appeal under section 8.3.5 of the GRA, the Commission may:
 - a) Confirm the original decision of the Delegate to refuse the application; or
 - b) Declare the Applicant as a community or charitable organisation.
12. An appeal under this division of the GRA is a hearing *de novo*. Under this division of the GRA the Commission can exercise all the powers of the original decision maker.

MATERIAL BEFORE THE COMMISSION

13. The Commission had before it and considered all of the material before the Delegate.
14. The Commission also considered oral submissions made by the Applicant at the hearing.

Mr Alastair Mailer

15. Mr Mailer is the Secretary of the Applicant. He provided evidence to the Commission in respect of the operations, financial position, and purpose of the Applicant.
16. Mr Mailer also responded to Commission questions in respect of the initial application, in July 2014, and the secondary application – which was originally made as an appeal by the Applicant – in February 2015, and why such a delay occurred.
17. Mr Mailer also indicated that the Applicant works closely with the East Gippsland Shire Council (**Council**) in relation to improvements and initiatives that can occur within the community. It also manages and operates the Newlands Arm Community Centre which is used by a variety of community organisations, with the ongoing support from Council.

DECISION AND REASONS FOR DECISION

18. To declare an organisation to be a community or charitable organisation, the Commission must be satisfied that the organisation, being the Applicant, is conducted in good faith for any philanthropic or benevolent purpose including (relevantly) the promotion of art, culture, science, religion, education or charity, and including the benefiting of a fund certified to be a patriotic fund under section 24 of the *Patriotic Funds Act 1958*, or a fund or part of a fund of the Australian Red Cross.



19. The Commission heard evidence from Mr Mailer, and received evidence in support, in relation to the amended purposes of the Applicant. In summary, the amendments made specific reference to –

Foster a community spirit amongst and within the Newlands Arm community and to carry out any such charitable or philanthropic works that are consistent with this purpose.
20. Further, the Commission accepts the evidence of Mr Mailer in respect of the important role that the Applicant has in the maintenance, operation and management of community facilities, such as the Newlands Arm Community Centre, and its conduct of Civic Guides and Carols By Twilight performances.
21. The Commission acknowledges the ongoing support from Council in relation to the Applicant achieving of these objectives and purposes for the greater benefit of the Newlands Arm community. Strong support from Council of an organisation such as that of the Applicant is indicative of the Applicant acting in good faith for the benefit of the community, which is the chief concern of Council in any event.
22. On this occasion, the Commission is satisfied that the Applicant is acting as a community organisation in good faith for the benevolent purpose of improving facilities and amenities in the Newlands Arm community, and determines to declare the Application as a community or charitable organisation under 8.3.5 of the GRA.

The preceding document is a true copy of the Reasons for Decision of Mr Ross Kennedy (Deputy Chairman), Mr Robert Kerr (Commissioner) and Mr Des Powell (Commissioner).