



# Victorian Commission for Gambling and Liquor Regulation

## REASONS FOR DECISION

In the matter of an application by Epping RSL Sub-Branch Inc under section 3.4.17(1)(b) of the *Gambling Regulation Act 2003* for amendment of its gaming venue operator licence to vary the number of Electronic Gaming Machines permitted at the approved premises, the Epping RSL, located at 195 Harvest Home Road, Epping from 40 to 45.

**Commission:**

Mr Mark Brennan, Chair  
Mr Robert Kerr, Commissioner

**Decision:**

That the application be granted

**Date of Reasons:**

29 May 2012

**Signed:**

**Mark Brennan**

Chairperson

## REASONS FOR DECISION

### BACKGROUND

1. This is an application by the Epping RSL Sub-branch Inc (the **Applicant**) to vary the number of Electronic Gaming Machines (**EGMs**) permitted at the approved premises, the Epping RSL, situated at Harvest Home Road, Epping (the **Epping RSL**) from 40 to 45.
2. The relevant municipal council in respect of this application is the City of Whittlesea. The Commission received notification from the City of Whittlesea that it did not intend to make a submission concerning this application and did not appear at the hearing of the application.
3. It is noted that, while no submission was made on behalf of the Council, a planning permit has been granted by the Council which permits the installation of an additional 5 machines at the Epping RSL.

### THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

4. Determination of this application is governed by section 3.4.20(1)(c) of the Gambling Regulation Act 2003 (**the Act**) which states that the Commission must not amend a venue operator's licence unless the Commission is satisfied that:
  - i. amendment of the licence does not conflict with a Ministerial Direction given under section 3.2.3 of the Act;
  - ii. the regional limit or municipal limit for EGMs in the region or municipal district in which the venue is located will not be exceeded by the making of the amendment; and
  - iii. 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.
5. The no net detriment test requires the Commission to weigh the likely positive economic and social impacts of an application against the likely negative economic and social impacts. The test will be satisfied if, following the weighing of any likely impacts, the Commission is satisfied that the net economic and social impacts of approval on the well-being of the relevant community will be either

neutral or positive.<sup>1</sup>

6. The Act recognises that, notwithstanding individual rights of self-determination and gaming's recreational legitimacy, gaming on EGMs causes harm to some communities and some members of some communities.<sup>2</sup> It is for this reason that the Act includes safeguards to ensure that an appropriate balance is struck between a lawful and legitimate recreational activity for some and harm for others.
7. Section 3.4.19(1) of the Act gives the relevant municipal authority in which the applicant venue is located the right to make a submission addressing the economic and social impact of the proposed amendment on the well-being of the community of the municipal district and surrounding municipal districts.

## THE MATERIAL BEFORE THE COMMISSION

8. The Applicant filed the following documents in support of its application:
  - i. Application Form dated 21 December 2011;
  - ii. Social and Economic Impact Statement prepared by Mr Nicholas Barry Anderson of NBA Group Pty Ltd dated 4 August 2011;
  - iii. Gaming Expenditure Estimate – Epping RSL prepared by Michael Clyne, dated March 2011;
  - iv. Witness Statement of Narelle Hart, Operations Manager of the Epping RSL, dated 21 December 2011;
  - v. Witness Statement of Herbert Mason, President of the Epping RSL, dated 21 December 2011; and
  - vi. Planning Permit issued by the City of Whittlesea dated 28 February 2012
9. The Commission held a public inquiry to consider the application pursuant to section 28(2)(g)(iii) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* on 4 April 2012.
10. The Applicant called four witnesses to give evidence at the hearing of the application:
  - i. Mr Nicholas Barry Anderson, Director, NBA Group;
  - ii. Mr Michael Clyne, Gaming Expenditure Expert;
  - iii. Mr Herbert Mason, President, Epping RSL; and
  - iv. Ms Narelle Hart, Operations Managers, Epping RSL.

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<sup>1</sup> *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435 (“Romsey”).

<sup>2</sup> See: s 1.1(2) of the Act.

11. Additionally, a statistical report prepared by Commission officers, titled Economic and Social Impact Report, dated March 2012 was considered by the Commission.

### ***Economic and Social Evidence***

12. The Epping RSL is located at 195 Harvest Home Road, Epping. The Epping RSL is one of nine gaming venues within the Local Government of Area (LGA) of the City of Whittlesea.
13. The City of Whittlesea is divided into three statistical local areas (SLA's)- Whittlesea North, Whittlesea Southeast and Whittlesea Southwest. The Epping RSL is located in Whittlesea North, 3 kilometres from the CBD of Epping and is one of two gaming venues within the SLA.
14. The City of Whittlesea is a metropolitan LGA, located approximately 22 kilometres north of Melbourne, with an adult population of 121,472. The annual rate of population growth, projected by the Department of Planning and Community Development, is to be 3.5% over the next four years. This is significantly faster than the Victorian average.
15. The City of Whittlesea is a partially capped municipality, which is subject to a regional cap and a municipal limit. The Epping RSL is located in the area of Whittlesea subject to a regional cap of 581 EGMs. This application to increase the EGMs at the Epping RSL will not increase the number of EGMs above the cap of 581 EGMs in the capped regional area of the City of Whittlesea.
16. Whittlesea North is ranked 30 out of the 79 (with 79 being the most disadvantaged) Metro SLA on the Social and Economic Index For Local Areas (SEIFA) indicating a slightly lower level of disadvantage in the Whittlesea North area compared to other SLA's.
17. Unemployment in the Whittlesea North SLA is 5.40%, higher than the unemployment rate for metropolitan Victoria (5.00%).
18. The Applicant called Mr Nick Anderson of NBA Group Pty Ltd to give evidence regarding the social and economic impact on the City of Whittlesea and the surrounding area should the application be granted.
19. Mr Anderson noted that the Epping RSL had been situated at its current site for 16 years. EGMs were introduced at the Epping RSL on 22 September 1993. When the venue was first established the area was geographically isolated and surrounded by vacant land.

20. Mr Anderson noted that recent growth boundary extensions have resulted in rapid housing development, namely Aurora and VicUrban developments, which is projected to surround the site within the next 5 years. Further, Mr Anderson gave evidence that the Whittlesea North SLA is the fastest growing SLA in the country, not just in Victoria.
21. Currently the venue consists of two bowling greens and clubhouse, a bistro (with some limited outdoor dining), a members bar, a gaming room, a smoking area, an outdoor children's' play area and office and administration areas.
22. The Epping RSL is seeking to update its current facilities. If this application is granted, the Epping RSL has a planning permit which gives approval for building and works totalling \$1.6 million, which includes the provision of a TAB and Sports Bar, a kitchen renovation, construction of a members bar, a bistro and alfresco dining area redevelopment, a bowling green resurfacing and a redevelopment of the office and administration facilities.
23. Mr Anderson noted that the increase in the number of EGMs will assist the applicant in funding these work, and thereby increasing its offering to the local community.
24. In coming to his conclusion that the additional 5 EGMs will result in a net gain for the local community, Mr Anderson cited the following factors:
- i. The local community will benefit from the improved recreational and hospitality facilities and an enhanced local support/sponsorship program for community groups.
  - ii. The economic impact will not be detrimental to the wellbeing of the local community as the major patronage of the Epping RSL is primarily its members.
  - iii. The main catchment area of the Epping RSL will continue to experience a rate of population growth substantially higher than the average growth in metropolitan Melbourne.
  - iv. The surrounding residential developments will result in new population requiring high quality recreation, hospitality and entertainment facilities such as those proposed by the approved future plans of the Epping RSL.
  - v. Overall, Mr Anderson held that the additional machines would result in a neutral to slightly positive economic impact, and a positive social impact on the community.

### ***Evidence of Likely Expenditure***

25. The Applicant called Mr Michael Clyne to give evidence as to the likely EGM expenditure which would result from the proposed increase in EGMs at the Epping RSL.
26. Mr Clyne predicted that the total increased gaming expenditure at the Epping RSL at the conclusion of the first 12 months of trade following the introduction of an additional 5 EGMs would be \$265, 745.
27. Mr Clyne estimated that approximately 60% of the increased expenditure would be transferred from other gaming venues within the City of Whittlesea. Mr Clyne did report that this figure was conservative, however it was based on the fact that there are no venues adjacent to the Epping RSL, and only one other venue (the Casa D'Abruzzo club) within the primary catchment area.
28. Mr Clyne therefore estimated that the total net impact on gaming expenditure within the City of Whittlesea would be an increase in total expenditure in the first 12 months of trade of \$106,298, representing a 0.1065% increase in expenditure in the area.

### ***Evidence from the Epping RSL***

29. The Applicant called two witnesses to provide evidence regarding the Epping RSL and its role in the community:
  - i. Mr Herbert Mason, President, Epping RSL, who gave evidence about the Epping RSL, local community and history of the RSL in the Epping area; and
  - ii. Ms Narelle Hart, Operations Manager of the Epping RSL, who gave evidence regarding the running and management of the Epping RSL, the recent development in lifting the compliance and regulations standards for the Epping RSL and the integration of the Epping RSL with the community.
30. The Applicant operates the Epping RSL, which is located at 195 Harvest Home Road in Epping, Victoria and approximately 3 kilometres from the Epping CBD.
31. The Epping RSL currently has 2062 members, however as the applicant believes the current facilities at the venue are not sufficient, they are not actively recruiting new members.
32. Mr Mason, in his evidence, drew attention to the humble beginnings of the Epping RSL. He stated that the Epping RSL was formed in 1916, however it did not have

a permanent location. From 1967 to 1994 the Epping RSL operated in the Memorial Hall owned by the City of Whittlesea. The Epping RSL then contributed \$350,000 towards building its current facilities, which is owned by the City of Whittlesea, and have leased the site and building from them since 1994. In 2004, the Epping RSL constructed the bowling greens for the use by the general public, and the Epping RSL funded this construction at a cost of \$500,000. Ms Mason's evidence was that the Epping RSL now requires a redevelopment of its facilities to meet the growing demands for the hospitality service to the community, as well as providing continuing support to the veterans, widows and their dependants in the area.

33. Mr Mason stated that the Epping RSL supports the wider community, including local sporting clubs and charitable organisations, with cash donations and in kind. He estimated that in total these donations would equate to a minimum of \$7000.00 per annum. The proposed redevelopment of the Epping RSL, he believes, will result in increased patronages to the venue, which will further enable the RSL to increase its supports to the veteran community and to the wider community of the RSL.
34. Ms Hart, as the operations manager of the Epping RSL, is responsible for the day-to-day management of the Epping RSL. Ms Hart provided the Commission with an overview of the membership of the Epping RSL, the hospitality services available at the venue and the activities and services the Epping RSL conducts for the community, particularly the veteran and elderly members.
35. Ms Hart stated that the Epping RSL adopts and enforces the RSL Responsible Gaming Code of Conduct, and is a party to and enforces the Local Charter for Responsible Gaming. Further, she provided evidence that the Epping RSL was involved in discussion with the City of Whittlesea to update the local charter.
36. Ms Hart told the Commission that the Epping RSL has recently engaged the services of a consultant to assist with compliance and regulatory obligations, including gaming and liquor obligations, across their venue. Since December 2011 the consultant has performed two audits of their responsible gaming practices, including signage and advertising checks, ensuring requirements are met regarding the incident register and also ensuring staff hold the necessary qualifications to work in the gaming room. Ms Hart advised the Commission that the Epping RSL intends to hold a training session with all staff to inform them of

the venue's obligations and give staff advice in relation to approaching and interacting with gaming patrons.

## **FINDING BY THE COMMISSION**

37. On balance, the Commission is satisfied that a variation of the venue operator's licence to permit an additional 5 machines to be operated at the Epping RSL will not result in a net economic and social detriment to the community of the municipal district. The Commission's reasons for reaching this conclusion are set out below.
38. The Commission accepts that the Epping RSL has a long-standing affiliation with the community of the City of Whittlesea, and provides a social benefit particularly for the veterans and elderly in the community. The Epping RSL provides financial and in-kind support to local community and sporting groups. The Commission is satisfied that the Club provides a significant positive social benefit to the community. Further, the Commission accepts that the Epping RSL is operated by personnel who are in touch with the local community, and who show a genuine interest in the members of the Epping RSL and the wider community. In particular, the Commission was impressed with the evidence of Ms Hart in relation to her motivation to improve the policies and procedures regarding its compliance and regulatory standards. The Commission accepts that with Ms Hart leading the management and operation of the Epping RSL, this is likely to enhance their overall responsible gaming practices. Further, the Epping RSL has already invested in engaging a responsible gaming expert and the Commission accepts this will again improve the current practices
39. The Commission notes that the Epping RSL is located in an area of recent population growth, and that this growth is projected to continue over the next 4 years due to the number of housing developments in the Whittlesea North SLA. While the Commission accepts that an increase in EGMs in a venue brings with it an inherent risk of an increase in problem gambling, the Commission is satisfied that any risk of an increase in problem gambling is mitigated by the density of EGMs within the region compared to the population. Where the local population readily has access to a large number of EGMs, it is unlikely that an additional 5 more EGMs in this venue will materially increase the risk of problem gambling in the area. This risk is further mitigated by the Applicant's adequate responsible



service of gaming policies. Accordingly, the Commission is satisfied that the risk of an increase in problem gambling as a result of approval of this application is low.

40. The Commission accepts that the granting of this application will allow the Epping RSL to complete an extensive internal renovation from the increase in overall revenue. The Commission heard evidence that the redevelopment plans will also increase the revenue for the venue through the enhancement of the hospitality services available. This will result in an increase of community satisfaction of the venue and over time, increase the membership and patronage of the Epping RSL.
41. The Commission accepts that this proposal will result in an increase in gaming expenditure of approximately \$106,298 per annum. While the Commission accepts that there is a risk of an increase in problem gambling due to the increase in overall expenditure, this risk is negated by the positive social impacts the increased revenue will have to the community, especially those in the community who benefit from the services offered by the Epping RSL. Upon this application being granted, and in addition to the extensive renovation, the Epping RSL will be able to continue to make financial and in kind contributions to the value of at least \$7000 per annum to various local sporting groups and charitable organisations. The Commission considers this to be an economic and social benefit of this application.
42. Approval of this application will result in 581 EGMs being approved in venues in the rural municipality of the City of Whittlesea. The municipal limit on EGMs for the City of Whittlesea is 581. Accordingly, granting of this application will not result in the municipal limit on EGMs within the City of Whittlesea being exceeded.
43. Amendment of the venue operator's licence does not conflict with a direction given under section 3.2.3 of the Act.
44. The administrative process of amending the licence will take place at a time subsequent to this decision as allowed by section 3.4.20 of the Act.

The preceding document is a true copy of the Reasons for Decision of Mr Mark Brennan (Chairperson) and Mr Robert Kerr.