



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 the Robinvale Golf Club Inc., for amendment of its venue operator's licence to vary the number of gaming machines at the approved premises, the Robinvale Golf Club, located at 4240 Murray Valley Highway, Robinvale, from fifty (50) to seventy (70) gaming machines.

Commissioners: Miss Gail Owen, Deputy Chairman
Ms Kate Hamond, Commissioner

Appearances: Louise Hicks of Counsel (instructed by Williams
Winter Solicitors)
Justin Ghattas as Counsel Assisting the Commission

Date of Hearing: 12 January 2015

Date of Decision: 9 February 2015

Decision: That the application be granted.

Signed:

Gail Owen
Deputy Chairman

REASONS FOR DECISION

INTRODUCTION

1. On 21 September 2014, Robinvale Golf Club Inc. (**the Applicant**) applied to amend its venue operator's licence to vary the number of electronic gaming machines (**EGMs**) operating at the Robinvale Golf Club (**the Premises**) located at 4240 Murray Valley Highway, Robinvale from 50 to 70.
2. The relevant municipal authority is the Rural City of Swan Hill (**Council**). Council did not make a submission in response to the application.

THE LEGISLATION AND THE TASK BEFORE THE COMMISSION

3. A venue operator may request the Commission to amend the conditions of a licence under section 3.4.18 of the *Gambling Regulation Act 2003* (**the Act**), including the number of gaming machines permitted to be operated at a venue. Section 3.4.20 of the Act lists matters to which the Commission must have regard in determining an application.
4. Section 3.4.20(1)(c) of the Act 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 process, the net economic and social impact of approval on the well-being of the relevant community will be either neutral or positive.¹
5. The Act recognises that, while EGM gaming is a lawful recreational activity, gaming on EGMs can cause harm to some communities and to some members of some communities. It is for this reason that the Act includes safeguards to ensure that an appropriate balance is struck between accommodating responsible gambling and minimising the harm caused by problem gambling.²

THE MATERIAL BEFORE THE COMMISSION

6. The Applicant filed the following documents in support of its application:

¹ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422, 435.

² See *Gambling Regulation Act 2003*, s 1.1(2).

- 6.1. a completed application form, dated 21 September 2014;
 - 6.2. a social and economic impact assessment report prepared by Mr Nicholas Anderson, NBA Group Pty Ltd, dated 2 October 2014;
 - 6.3. an expenditure report prepared by Mr Michael Clyne, Progressive Venue Services Pty Ltd, dated 25 September 2014;
 - 6.4. a witness statement from Mr Gary Edward Jukes, former Chief Executive Officer of the Applicant, dated 6 October 2014;
 - 6.5. a witness statement from Mr David Conway Smith, President of the Applicant, dated 6 October 2014;
 - 6.6. a witness statement from Mr Peter John Macintosh, Vice President of the Applicant, dated 6 October 2014;
 - 6.7. a witness statement from Mr Colin Leslie Pearce, Chief Executive Officer of the Applicant, dated 8 January 2015.
7. The Commission also had before it two reports prepared by Commission officers, being:
- 7.1. a social and economic impact report dated December 2014; and
 - 7.2. a pre-hearing inspection and compliance report dated 3 January 2015.

THE CITY OF SWAN HILL

8. Based on the material before the Commission:
- 8.1. the Premises is located within the Local Government Area (**LGA**) of the Rural City of Swan Hill, a regional municipality located approximately 320 kilometres north-west of Melbourne, covering an area of approximately 6,115 square kilometres;
 - 8.2. the Rural City of Swan Hill (**the City**) comprises three statistical local areas (**SLAs**): Swan Hill – Central (C), Swan Hill – Robinvale (R), and Swan Hill – Balance (B);

- 8.3. the Premises is located within the northern part of the Swan Hill - Robinvale SLA;
- 8.4. in terms of social and economic disadvantage, the City is ranked as the 10th most disadvantaged of the 79 Victorian LGAs according to its SEIFA ranking;³
- 8.5. a significant proportion of the local population falls within the two quintiles of highest disadvantage, suggesting that the level of disadvantage is relatively high in the area within 5km of the Premises.

GAMING EXPENDITURE IN THE CITY OF SWAN HILL

9. Within the City of Swan Hill, four gaming venues currently operate 134 EGMs. The Premises is situated within an area subject to a municipal cap, which limits the total number of EGMs permitted to no more than 161.
10. The City is characterised by higher levels of EGM density, but lower levels of EGM expenditure when compared with state averages. Based on the material before the Commission:
 - 10.1. the City has an EGM density of 8.55 machines per 1,000 adults, the 7th highest of all 13 regional municipalities and approximately 7.9% more than the regional average and 5.82% more than the state average;
 - 10.2. gaming expenditure in the City for the 2013/14 financial year totalled approximately \$6.6 million, being an average per adult of \$426 which is 29.9% less than the regional average and 22.4% less than the state average. The City's level of average gaming expenditure per adult ranks as the 3rd lowest of all 13 regional municipalities; and
 - 10.3. trend analysis of gaming expenditure in the City indicates that gaming expenditure has decreased by 19.72% in real terms over the past five years which is approximately 5% greater than the decrease in regional gaming expenditure of 14.1%.

³ The Socio-Economic Indexes for Areas (SEIFA) is a product developed by the Australian Bureau of Statistics which ranks areas in Australia according to their relative socio-economic advantage and disadvantage. The ABS selects indicators such as education, employment, income, families and housing and combines them to provide an index score for each area and ranks all areas in Australia to enable comparison to be made.

THE ROBINVALE GOLF CLUB

11. In 2002 the Premises underwent a \$1.2 million redevelopment, which brought it to the current configuration. In February 2012, the Applicant applied to the Commission for, and was granted, approval to increase the number of EGMs at the Premises from 25 to 50.
12. The Premises comprises an 18-hole golf course, bistro, children's play area, outdoor dining area, sports bar, members' lounge, meeting rooms and offices, function spaces and a gaming lounge operating 50 EGMs.

Applicant's evidence

Mr Peter John Macintosh, Vice President of the Robinvale Golf Club Inc.

13. Mr Macintosh is the Vice President of the Applicant and has been in that role since August 2013. Prior to holding that position, Mr Macintosh was President of the Applicant for ten years, and has had involvement with the Applicant in some form for over 40 years.
14. Mr Macintosh gave evidence in relation to the current operations of the Premises, the nature of the workforce of the Robinvale community, and the various financial and in-kind contributions the Applicant makes to the community.
15. At the hearing of the 2012 application, the Applicant stated that a benefit of that application would be community contributions of \$25,000 p.a. for the life of the entitlements. In the 2012/13 financial year, the Applicant met this target by making donations to several community organisations.
16. In the 2013/14 financial year, Mr Macintosh stated that the Applicant was only able to contribute \$15,000 in cash donations and sponsorships due to a substantial drop in cash flow.
17. Mr Macintosh indicated that the Premises was often used by local community groups for meetings and conferences at no cost and the Applicant also provided discounted rates to community members wishing to use the function space for funeral services or wakes.

18. Mr Macintosh described the intent of the Applicant to further develop the accommodation facilities at the Premises by the addition of a motel which would fill a gap in the market in the Robinvale area.
19. Mr Macintosh concluded his submission by indicating that the true make up of the community of Robinvale was considerably different from the official statistical analysis which, in Mr Macintosh's opinion, did not properly take into account the nature and level of income of the local workforce, which was mostly seasonal.

Mr David Conway Smith, President of the Robinvale Golf Club Inc.

20. Mr Smith is the President of the Applicant and has been in that role since August 2013. Mr Smith has been involved with the Applicant for a number of years as a golfer, volunteer, committee member and now President of the Applicant.
21. Mr Smith gave evidence in relation to the operation of the Club Committee and the golf course and its use by the community. Mr Smith also gave evidence in relation to the influence the Applicant has in Robinvale through community contributions, in kind support and the provision of facilities.
22. Mr Smith believes increasing the number of EGMs will increase the revenue of the Applicant and allow the construction of accommodation facilities. This would increase the attractiveness of the Premises, assist it to retain patrons and be more competitive with the Euston Club (located in NSW); potentially attracting patrons 'back' to the Premises.
23. As well as being a significant source of revenue to the Applicant, Mr Smith considers an increase in EGMs will reduce the likelihood of patrons leaving the Premises for the Euston Club because the offer of EGMs is insufficient. Mr Smith observed that this occurred regularly,
24. Mr Smith indicated that the revenue and patronage at the Premises directly correlates with the strength of Robinvale crop harvests. By way of example, Mr Smith indicated the choice by almond farmers not to prune resulted in a

reduced number of workers in the area, resulting in reduced patronage and revenue at the Premises.

25. Mr Smith concluded that, should the application be granted, the Applicant would expand both its patronage and revenue, enabling it to increase community contributions to the amount it committed to at the 2012 hearing.

Mr Gary Edward Jukes, former CEO of the Robinvale Golf Club Inc.

26. Mr Jukes was the CEO of the Applicant from December 2010 to October 2014. He provided the Commission with an overview of the local community, the nature of the workforce and economy, and the role the Premises plays in the community.

27. In Mr Jukes' opinion the success of the Premises has traditionally been influenced by the success of the local agricultural industry because fluctuations in the number of seasonal workers, who frequent the Premises for entertainment, directly impact the revenue of the Premises.

28. Despite a reduction in golfing memberships, Mr Jukes believes that the Premises has positioned itself within Robinvale as a community hub by providing a variety of entertainment, golf clinics and school programs and the availability of social memberships.

29. Mr Jukes believes the Euston Club's success is, at least in part, attributable to the extensive accommodation options it provides. Mr Jukes indicated that the Euston Club experiences occupancy rates of 90% throughout the year.

30. Mr Jukes considers that the addition of motel facilities at the Premises would increase the Applicant's revenue and better allow the Applicant to compete with the Euston Club.

31. Mr Jukes indicated that the Applicant employs staff from the local community, and has low staff turnover, with three of the 20 staff having worked at the Premises for ten years or more. The Applicant estimates that a grant of the Application will result in an increase by one staff member.

32. Mr Jukes indicated that the Applicant had a strong relationship with Gamblers Help Mildura and ensured that all staff are trained in responsible service of gaming practices.
33. Mr Jukes concluded his evidence by reiterating the intention of the Applicant to use the increased revenue to construct the proposed motel, attract more tourists and locals to the Premises, provide the level of contribution to the community that had previously been anticipated and, generally, place the Premises in a better competitive position with the Euston Club.

Mr Colin Leslie Pearce, current CEO of the Robinvale Golf Club Inc.

34. Mr Pearce is the CEO of the Applicant, and has been in that role since October 2014.
35. Mr Pearce has been involved with the hospitality industry for several years, mostly managing and operating clubs and hotels in New South Wales and Tasmania. Mr Pearce provided the Commission with details of the plans for the Premises should the Commission grant the application.
36. Mr Pearce has developed a five year plan for the Premises, with the addition of the motel earmarked as a priority.
37. Mr Pearce believes that, whilst the increase of EGMs at the Premises may not have a significant direct economic benefit to the Applicant given the relatively low utilisation rates, taxation savings derived will provide a significant indirect benefit.

Mr Michael Clyne, PVS Australia Pty Ltd (Expenditure Report)

38. The Applicant engaged Mr Clyne of PVS Australia to provide an estimate of the gaming expenditure expected to be generated by the addition of 20 EGMs at the Premises.
39. Mr Clyne estimated that:
 - 39.1. an additional 20 EGMs would increase the gross gaming expenditure at the Premises by between \$90,700 to \$145,000 in the first twelve months of operation;

- 39.2. of this additional expenditure, 70 to 80% is expected to be transferred from nearby venues, all of which are located in New South Wales; and
- 39.3. after transferred expenditure is taken into account, total new gaming expenditure in the City is expected to rise by between \$27,200 and \$43,500 in the first year of operation (or by between 1.4 to 2.2% of total actual gaming expenditure in the City for the financial year 2013/14).
40. Mr Clyne believes the attractiveness of the Premises will not be impacted by the proposed renovations or improvements. In his view the increase in EGM access and game variety/type will have a more substantial impact on the attractiveness of the venue.
41. Mr Clyne considers the Premises to be a destination venue, given its relatively isolated location.
42. By increasing the number of EGMs, and thus improving the attractiveness of the Premises, Mr Clyne believes that the Premises will leverage itself into a more competitive position vis a vis other local gaming venues, particularly the Euston Club.

Mr Nicholas Anderson, NBA Group Pty Ltd (Social and Economic Impact)

43. Mr Anderson gave evidence about the expected social and economic impact the application may have on the Rural City of Swan Hill.
44. Mr Anderson told the Commission that it was difficult to accurately assess the nature of the community given the fluctuating workforce intrinsically linked with agricultural conditions that change from year to year.
45. Mr Anderson explained that the Premises' location is not "overly convenient" and believes most patrons travel to the Premises as a destination venue. He observed that gaming room surveys show that utilisation of EGMs in the gaming room is quite low and the installation of additional EGMs would have a negligible impact on peak utilisation.

46. Mr Anderson noted that peak utilisation of EGMs occurred after dinner or lunch periods, suggesting that the gaming room is used in conjunction with the bistro.
47. Mr Anderson concluded that the impact on problem gambling if the application were approved would be small as it will not create a new venue, the venue already offers access to EGMs, utilisation is low and gaming is one part of a wider range of recreational facilities available
48. Mr Anderson outlined the community contributions and social benefits expected to flow if the Commission grants the application. These include:
 - 48.1. improving the quality and range of the hospitality offering at the Premises;
 - 48.2. increasing competition with the Euston Club and reducing leaked expenditure across the border;
 - 48.3. increasing and enhancing the courtesy bus service to make the Premises more accessible and better compete with the Euston Club;
 - 48.4. the addition of motel accommodation on land adjoining the Premises to meet the need for 'traveller' focussed accommodation in Robinvale and compete with the Euston Club;
 - 48.5. increasing the choice and variety of EGM options; and maintenance of the golf course.

In Mr Anderson's view the Applicant could not continue to maintain the golf course on club membership fees and bistro/event operations alone.

49. Mr Anderson considers any increase in problem gambling would be minimal and the benefits resulting from the application outweigh possible detriments to the community. He noted that the area is already exposed to a total of 150 EGMs between the Euston Club and the Premises and that the proposed EGM increase will provide the Premises with an opportunity to compete with the Euston Club.

FINDINGS BY THE COMMISSION

Social Impacts

50. The primary social detriment relevant to this application is the possibility of an increase in problem gambling. The Commission accepts that increased access to EGMs can increase the risk of problem gambling in a community.
51. The Commission closely considered the demographic characteristics of the LGA and the Premises' patron catchment. The Commission notes that, while the municipality is relatively disadvantaged in terms of the SEIFA data, this data may not reflect the transient nature of the workforce which is a significant contributor to the Robinvale economy and the LGA.
52. The Premises is a destination venue and unlikely to draw passing pedestrians as patrons. To the extent that problem gambling already exists in the City, the Commission considers that it is unlikely it will be significantly exacerbated by the addition of 20 EGMs at this venue, especially given the somewhat unique circumstances in the area in which the Premises exists.
53. The Commission notes the Applicant's sound Responsible Service of Gambling management of the Premises and positive working relationship with the local Gamblers Help support service as outlined in evidence by Mr Jukes.
54. The Commission does not consider there will be a significant increase in the risk of problem gambling occurring at the venue and, when balanced with the social benefits that exist, considers that there would be a neutral social impact on the City.

Economic Impacts

55. The Commission considers the addition of motel accommodation in Robinvale, and the utilisation of a local builder to complete the proposed works, to be a benefit to the community.
56. The Commission also considers the increased ability of the Applicant to compete with the nearby Euston Club to be a benefit as is the likelihood that some revenue will be drawn from patrons using the Premises rather than the Euston Club, bringing an economic benefit to the LGA.

57. The Commission considers that, for the reasons outlined above, there is not a significant risk of an increase in problem gambling if this application were granted, and any increased expenditure attributable to problem gambling will be small.
58. The Commission considers the economic impact of this application, based on the evidence before it, is slightly positive.

CONCLUSION

59. The Commission considers the likely social and economic impacts of this application will be slightly positive. As such, the Commission considers that the net economic and social impact of approving this application will not be detrimental to the well-being of the community of Swan Hill, and accordingly grants the application subject to the following condition:

A minimum of eighteen (18) motel rooms (as shown on the plan produced to the Commission at the hearing on 12 January 2015) are operational by 31 January 2017. If this condition is not fulfilled, the approval to operate an additional 20 EGMs at the Premises will lapse and the Applicant must operate no more than 50 EGMs at the venue.

The preceding 59 paragraphs are a true copy of the Reasons for Decision of Miss Gail Owen (Deputy Chairman) and Ms Kate Hamond (Commissioner).