



Ballarat Gaming Policy Framework
Final Report

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Prepared by CPG Australia for the City of Ballarat

CPG

This report has been prepared from the office of CPG

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Contents

1	Executive Summary	1
1.1	Introduction	1
1.2	Background	1
1.3	Overview of recommendations	1
2	Research and literature review	3
2.1	Why people gamble	3
2.2	Problem gambling	4
2.3	People with problems caused by gambling	4
2.4	Vulnerable communities	5
2.5	Accessibility	5
3	City of Ballarat Gaming Context	10
3.1	City of Ballarat Gaming Profile	10
3.2	Location of vulnerable communities	11
3.3	EGM density	13
3.4	Convenience and destination venues	15
3.5	Adopted Council policy	15
4	Planning for gaming	17
4.1	State planning and gaming context	17
4.2	Ballarat Planning Scheme	23
4.3	Consideration of policy and legislation by VCAT, Supreme Court and Panels	24
4.4	Destination gaming	26
4.5	Opportunities to influence gaming outcomes through local policy	28
4.6	Reconciling competing planning considerations	29
4.7	Resolution of these issues in the interest of Net Community Benefit	31
5	Locational Principles for Gaming	33
5.1	Rationale for principles	34
5.2	Conclusion – adopting an approach which promotes harm minimisation	41
6	Conclusion and recommendations	42
6.1	Planning mechanisms to manage gaming	42
6.2	Recommendations	42
7	References	45
8	Attachment 1 - Clause 52.28	48

9	Attachment 2 – Analysis of VCAT decisions and Panel reports	50
9.1	Planning Panels	50
9.2	VCAT and Supreme Court	50
10	Attachment 3 – Proposed local planning policy	56
11	Attachment 4 – Assessment tool	60

1 Executive Summary

1.1 Introduction

This report provides a context and background rationale for the preparation of a gaming policy for the City of Ballarat. It sets out the legislative, policy, research and local gaming and socio-economic context for gaming in Victoria and Ballarat. It then uses that information to develop a set of potential locational criteria to guide assessment of gaming machine proposals and to establish an evidence base for any future planning policy.

1.2 Background

In October 2006, the State Government of Victoria introduced amendments to the Victorian Planning Provisions which gave Councils decision making power over the location of electronic gaming machines (EGMs). Clause 52.28 'Gaming' was amended (State Amendment VC39) to require a planning permit be obtained for *all* gaming machines. Previous as-of-right provisions for the installation of gaming machines were removed.

This document provides the strategic justification to allow the City of Ballarat to respond to gaming as a planning concern. By increasing the planning control over gaming, councils are able to influence the location of gaming machines and give consideration to the social and economic effects of new gaming machines. Gaming is a legitimate activity in Victoria and for the majority of gamblers gaming is a source of recreation. However, gaming has serious detrimental consequences for a small but significant proportion of players. Local governments have a responsibility to ensure that their policies mitigate the negative impacts of gaming on the community, whilst increasing the benefits.

Council has already taken a lead on this issue by preparing and adopting a *Gaming Machines Community Policy* in 2010. This policy establishes a range of principles in relation to gaming, including providing a starting point for consideration of locational issues. Council is now seeking to implement its overall policy position by providing relevant policy and other planning provisions related to gaming in the Ballarat Planning Scheme. In March 2011, the City of Ballarat engaged CPG to undertake a strategic assessment of required planning provisions, prepare those provisions and provide justification for the proposed measures.

1.3 Overview of recommendations

The Ballarat Gaming Policy Framework has advanced a number of location principles for gaming machines, based on evidence and research outlined in the balance of the document. These location principles are summarised below:

- Proposals for gaming machines should locate in the following preferred areas:
 - The Central Business District (CBD);
 - Locations proximate to, but not in the core of, higher order activity centres; and
 - Areas remote from activity centres and a choice of transport modes, *if* associated with a sports and recreation club with an extensive land holding.
- Gaming machines should locate in areas which can accommodate additional gaming.
- Gaming machines should not be located in towns or small urban settlements which do not contain a variety of non-gaming clubs and entertainment venues.
- Gaming machines should not locate in areas of relative socio-economic disadvantage.
- Proposals should seek to redistribute gaming machines away from areas of socio-economic disadvantage and higher EGM densities.
- Proposals should contribute to a net community benefit.
- Gaming machines should be separated from shops, supermarkets and major community facilities involving a high concentration of people undertaking daily activities.
- Proposals should not be incompatible with the predominant surrounding land use and amenity of the area.
- It is preferred that gaming machines are located in venues which:
 - Have a range of other entertainment and leisure options;
 - Make non-gaming social and recreational activities the primary purpose of the venue;
 - Are integrated with existing tourism uses and primarily focused on providing tourism services for visitors to the City of Ballarat; and
 - Implement harm minimisation measures, including limiting their hours of operation.

In order to implement these location principles, the following measures are recommended:

- Include new objectives, strategies and implementation provisions at Clause 21.04-4 - Retail/Commercial.
- Introduce a local planning policy to identify preferred and non-preferred locations for EGMs.
- Require applicants to provide extensive information and social impact assessments as part of their application for EGMs.
- Develop an assessment tool to assist Council officers in evaluating permit applications for EGMs.

2 Research and literature review

This section outlines and summarises current research in relation to the social and economic benefits and costs of gaming, and discusses how this may be resolved in the interest of net community benefit.

While gaming is a legitimate – and for many people enjoyable – form of recreation, policy must address the potential negative impacts of gaming. It is important that there is a balance between access for those who wish to play gaming machines for recreation, and the small but significant group whose gaming leads to harm for themselves, their family and friends and the broader community.

Research has identified that for disadvantaged communities the negative impacts of gaming may be compounded or experienced sooner (Livingstone 2006; Doughney 1999). Furthermore, the number and distribution of gaming venues within an area has been shown to influence gaming behaviour. Specifically, evidence suggests that when there are significant time and space barriers to gambling, people are more likely to make planned decisions to gamble (and to set and stick to money and time limits), rather than gambling on impulse alone (DoJ, 2008, referencing (McDonnell Phillips 2006). Conversely, people who gamble at locally accessible venues are more likely to have higher expenditure, gamble more regularly and play for longer periods of time (ANU, 2004).

One of the challenges of developing a location based gaming policy is to establish in sufficient detail robust empirical evidence to support a particular policy provision. There is no simple causal relationship between problem gambling and gambling exposure. Problem gambling seems to be linked to a number of complex interactions between individual personality and life circumstances, exposure, accessibility and social context (Dept of Justice 2008).

Overall, the research supports discouraging 'convenience gambling' and indicates that limiting accessibility to EGMs is likely to reduce the socio-economic impact of gaming and protect vulnerable communities.

The key principles and themes that emerge from the literature are discussed below. For a more detailed discussion of the research and key issues, refer to the adopted City of Ballarat Gaming Machine Community Policy and Ballarat Gaming Policy Framework.

2.1 Why people gamble

For the majority of EGM gamblers, gaming is a form of enjoyable recreation and social contact. Gaming machine venues can provide increased recreational and entertainment opportunities (the machines and also the other club and hotel facilities that are included in the facility); and increased opportunities for social contact. People gamble for a variety of reasons, including reduction of boredom,

isolation and loneliness; to win money; for excitement and entertainment and for social contact (PC 1999; New Focus 2005). People are attracted to EGMs as a form of entertainment that provides contact in a non-confrontational and independent environment. Women gamblers in particular have reported that they feel safe accessing these venues alone, unlike other forms of similar entertainment (New Focus 2005).

2.2 Problem gambling

As discussed above, gaming is a legitimate form of entertainment in Victoria and is a source of recreation for many players. However, unlike many other recreational activities, gambling has the potential to generate significant negative social/economic impacts for the player, their family and friends, and the wider community.

People with problems caused by gambling are those people whose gambling behaviour leads to adverse consequences for themselves, others, or for the community. They often find it difficult to limit the money and/or time they spend on gambling.

The main trigger for most people experiencing gambling problems is financial loss which then has a range of social and personal repercussions for the gambler and the wider community. This may include the loss of a job, inability to pay loans or loss of a house. Problem gambling does not only affect the individual, but can have social implications for surrounding family and friends; which can resonate throughout the wider community.

Research indicates that problem gambling affects a small proportion of gamblers, but that people with problems caused by gambling are responsible for a significant proportion of gaming expenditure. In particular, people who play gaming machines regularly face much greater risks than people who undertake other forms of gambling (Productivity Commission 2010).

2.3 People with problems caused by gambling

There are few clear socio-demographic factors that pre-dispose people to a higher likelihood of problem gambling. To illustrate, the Productivity Commission found that while average personal income appears to be somewhat lower among problems gamblers, the difference is slight. Similarly, Jackson et al. (1999) found that people with problems caused by gambling have a similar level of income to other adults. A recent survey conducted in Victoria showed that people who live in low income households are under-represented in the population of problem gamblers in Victoria, while those with moderate incomes are over-represented (DoJ 2009).

However, people who are separated or divorced, unemployed, have a lower level of education or living in single person households are over-represented in the population of people with problems caused by gambling.

Further to the above, some groups of consumers – such as people with intellectual or mental health disabilities – are particularly vulnerable to problems when gambling. For example, people with depression and bipolar disorder have a much higher likelihood of developing gambling problems. Overall, around 35 per cent of people who experience problems caused by gambling have a severe mental disorder compared with around 2 per cent of non-problem gamblers (DoJ 2009).

The most recent data reviewed suggests that the proportion of people in the adult population who experience problems caused by gambling or are at moderate risk of experiencing significant problems as a result of their gambling is relatively low. However, those experiencing problems and those at moderate risk of harm play EGMs more often, for longer periods and spend more during each session. One study suggested that while people with problems caused by gambling account for only 1 per cent of the total adult population, they may constitute 20 or more times this amount among gaming venue patrons at any one time (Caraniche 2005).

2.4 Vulnerable communities

The disadvantage experienced by certain communities may magnify the harm they experience due to problem gambling. For example, for those with limited financial means, impacts may be compounded or experienced sooner. This is because people with a lower socio-economic status tend to have fewer of life's financial 'safety nets' – such as insurance, a good credit record, friends and family with the means to lend financial support, employability through educational qualifications and a sound employment history.

2.5 Accessibility

The term accessibility relates to how much effort is required by a person to seek out an opportunity to play a gaming machine. Accessibility for a particular individual can be influenced by a number of factors, including travel distance to a venue, travel time, the availability of transport, the desirability of a particular venue, venue opening hours, etc.

At the macro level in Australia, there is evidence of a relationship between accessibility and gambling related problems. For example, in Western Australia, gaming machines are located only in Burswood Casino and the prevalence of EGM problem gambling is lower in WA than in those jurisdictions where gaming is more widely available. Specifically, the PC explains that data on counselling services indicate that the proportion of clients experiencing problems with gaming machines is 22 per cent in Western Australia compared with at least 74 per cent in other states. Notwithstanding, other observations tell a different story. For

example, in Victoria, the number of machines is a fraction of that in New South Wales, without a commensurate effect on problem gambling prevalence rates.

It is clear that the link between accessibility and gambling behaviour is complex and mediated by a number of factors. Increasingly, researchers working in this area (including the PC) suggest that the relationship between accessibility and problem gambling declines as accessibility increases. In other words, that the correlation between problem gambling and access to venues is less evident in areas of high gaming machine accessibility. A number of studies are discussed below which illustrate the complexities surrounding this issue and the difficulties for policy makers in formulating effective strategies.

2.5.1 EGM Density at the Municipal Scale in Victoria

EGMs per 1,000 adults (EGM Density) is used in Victoria as the primary indicator of accessibility. This measure relates to the number of gaming machines in a specific area relative to that area's population. In Victoria, density of EGMs at the municipal level is closely correlated with average loss per adult, which has prompted a number of commentators to suggest a link between this measure of accessibility and problem gaming.

Furthermore, research by Stubbs et al (in a submission to the PC's 2010 inquiry) led to the conclusion that the major indicator of the prevalence of problem gambling is the presence of EGMs, followed by the passage of time. A meta-analysis across 34 studies found that the addition of an extra EGM into an area resulted in an additional 0.8 problem gamblers.

However, the possibility of 'endogeneity' bias should also be considered. That is, the link between density and spending may (at least partly) reflect the fact that clubs and hotels are more likely to invest in gaming machines in suburban or local government areas where there is higher demand. As the PC suggests, there is evidence that a number of socio-economic indicators are associated with higher participation in gaming and it is known that municipal populations have different mixes of these socio-economic characteristics which would lead to greater gambling rates in some areas. Further to the above Livingston (2006) explains that differences in expenditure rates across areas arise due to variable integration of EGM gaming with the lifestyle preferences of different segments of the population:

The EGM system has been integrated into the preferred lifestyle venues of working and middle class Australians in metropolitan and suburban areas, and in regional and rural towns. The segments of the Australian population whose cultural tastes do not include frequent or regular times spent in hotel or club venues are much less likely to gamble on EGMs (Livingston 2006).

On the issue of causality, the PC also notes that there are two possible factors at play:

- On the one hand, greater accessibility stimulates demand, with the result that some gamblers are exposed to risks that were originally muted or not present.
- On the other hand, a population that already includes regular and problem gamblers will be typified by higher expenditure levels, encouraging greater supply of gaming machines in those areas. To the extent that this is the case, reducing accessibility in that area may result in greater utilisation of existing machines or shifts in the location of demand, without reducing harm.

It is probable that both effects are present in local areas, with the relative size of the two competing effects likely to depend on the existing level of accessibility and the nature of the host communities. The PC suggests that it is likely that the second effect is dominant once accessibility rises above a certain threshold.

The above considered, while it is likely that the accessibility of gaming opportunities influences the level of gaming undertaken, how changes to accessibility levels in a given area will affect gambling behaviour cannot be inferred through analysis of aggregate data at the municipal level. A better guide is provided by examining the outcome of exogenous (from outside the system) change in EGM numbers resulting from a policy decision. The South Australian Centre for Economic Studies (SACES, 2005b) assessed the impact of EGM caps in particular regions in Victoria. At the time of the study, caps applied to five regions and led to the removal of over 400 gaming machines from these regions. Interestingly, SACES found no evidence that the regional caps had any influence on problem gamblers or problem gambling. The study suggested that the imposed reductions in machine numbers were insufficient to create a material reduction in accessibility for players and produce downward pressure on the rate of gambling or problem gambling.

Similar observations were made in South Australia following removal of approximately 14.5 per cent of the total number of machines. The results of an evaluation conducted by Delfabbro (2008) showed that venues with a reduction in machine numbers had no obvious correlation in loss of revenue, although average net expenditure per machine increased, suggesting that patrons spent approximately the same overall amount of money, but on fewer machines.

2.5.2 Distance to Venues

As described above, a number of Australian studies suggest that EGM densities in many jurisdictions are likely to be sufficiently high so that the impact of modest decreases within existing venues would have negligible impacts on gaming expenditure.

Notwithstanding, it has also been suggested that geographical proximity to venues is associated with increased gaming expenditure and problem gambling and therefore that increasing travel distances may influence gambling behaviour.

This position rests on the assumption that without immediate access to gambling opportunities, the extra effort required to travel longer distances to gamble may reduce habitual and impulsive gambling behaviour. On a similar vein, it has also been suggested that if gaming venues are positioned where a person is more likely to spend time (for instance, residential areas, shopping precincts or other areas of community congregation), the individual will encounter gaming opportunities more frequently and potentially make impulse decisions to gamble.

A small number of studies have been conducted that explore the link between proximity and gambling behaviour. In general these support the view that people who live closer to gaming venues will tend to gamble more. For example:

- McMillan et al. (2004) found that 57% of Victorians travel less than five kilometres to gamble and that 32% travel less than 2.5 km. This result has been used to suggest that people tend to be attracted to gambling venues close to their place of residence and therefore that venues may induce people from local areas to gamble. However, as Delfabbro (2008) notes, existing travel behaviours are likely to tell us more about the existing distribution of venues and their apparent similarity in the eyes of consumers than the distance that people are *prepared* to travel to gamble.
- Marshall *et al.* (2004) found that regular club patrons in Tuggeranong who live within 3.5 kilometres of their preferred local club spend more on average than those who live further away (\$1,858 compared with \$580). Although interesting, the usefulness of this finding for policy makers is somewhat limited, as 100% of urban metropolitan Melbourne's population live within 3.5km of a gaming venue. Additionally, the recorded higher expenditure level of those living closer to venues is likely to be manageable within the context of even a modest household income and the study did not directly investigate the relationship between proximity and problem gaming.
- In the same study, Marshall *et al.* (2004) demonstrated that the catchment areas of different clubs vary markedly and that specific clubs tend to have distinctive EGM patron profiles. Clubs with spatially extensive catchments (up to 14km) were typically located close to large areas of community congregation whilst clubs with small catchment areas (up to 4 km) were generally located some distance from large areas of community congregation, often in suburbs with pockets of relative socio-disadvantage. Clubs which drew their patrons from a more localised catchment tended to have patrons with heavier gambling profiles than clubs with wider reach into the surrounding area.
- Baker and Marshall (2005) constructed a space-time model of trips to EGM gaming venues in the Richmond-Tweed area of NSW. On average, EGM gamblers in the sample spent 40 minutes gambling per session and visited once per fortnight - the average trip distance was 4.24km and the return trip time was 0.5 hours. Average yearly expenditure was \$2,441. The segment of the gambler population known as the 'involved gamblers' (top 20 gamblers – average expenditure of \$16,653 p.a. on EGMs) spent 104 minutes gambling, 2.9 times per week and lived closer to their preferred venue (average of 2.05

km). In this study, the gambling behaviour of the 'involved gamblers' was extreme, suggestive of a link between proximity and problem gambling.

- McDonnell Phillips (2006) undertook an analysis of gambler pre-commitment behaviours and concluded that when limits are set closer in time to gambling there is a greater tendency to exceed gambling spend limits. A New Zealand Ministry of Health study (2008) found that gambling behaviour was significantly associated with accessibility of gaming venues. In particular, the results suggested that living in a neighbourhood closer to a gambling venue increased the odds that a person had gambled and was a problem gambler. If people had EGMs within 800m of the centre of their neighbourhood then they were more likely to have gambled on EGMs in the past year. However it was noted that gambling behaviour appeared to be more strongly related to the distance to the nearest venue, rather than the number of gaming venues in the area.
- A study by Thomas et al (2010) examined the multiple dimensions of accessibility and noted a distinct difference between the implications of social accessibility (a venue that is fun, social, affordable and safe) versus geo-temporal accessibility (a venue that is close and open at convenient times). It was found that using gambling as an easy entertainment option (social accessibility) may be a relatively safe social activity. However, persons who gamble because it is a geographically and temporally convenient escape from life problems are more likely to have the characteristics of problem gamblers (such as financial stress, irrational gambling cognitions and the like). This suggests that for those persons pre-disposed to problem gambling, proximity and accessibility of gambling venues could make avoidance of venues difficult; avoidance being one of the key self-regulation strategies employed by people with problems caused by gambling.

On the basis of the research described above and other studies/opinion, the Victorian Government has conducted an investigation into the benefits associated with restructuring the spatial dimensions of the EGM supply network in Victoria, such that there would be fewer, larger venues (destination venues). The study concluded that while destination gaming could reduce accessibility to a degree, overall accessibility to gaming opportunities would remain high. The results of this investigation are discussed in detail in Section 4.4 (Destination gaming).

3 City of Ballarat Gaming Context

The issue of gaming in Ballarat attracts considerable attention from the community, Councillors, and the media. The interest in gaming related issues in Ballarat is fuelled in part by a perception that Ballarat has a disproportionate number of EGMs compared with other regional towns such as Bendigo, Geelong and Shepparton. This section provides an overview of gaming patterns in the City of Ballarat.

3.1 City of Ballarat Gaming Profile

There are currently 14 gaming venues in the City of Ballarat, which provide a total of 657 EGMs. The number of EGMs located in the City is slightly lower than permitted under the existing Regional Cap level for the City of Ballarat of 663 EGMs.

There are currently no gaming venues located in the rural areas in the northern or southern parts of the Ballarat LGA. As a result, although the City of Ballarat has a relatively small number of venues per hectare across the entire LGA, within the urban centre, the number of venues per hectare is comparable with middle ring metropolitan Councils (around 1 venue per 500 hectares). Due to the concentration of population around Ballarat's CBD, approximately 82% of residents live within 2.5km of a gaming venue. Moreover, many residents can access multiple venues within 2.5km of their home.

EGMs located in the City of Ballarat generated total revenue from July 2009 to June 2010 of \$54,830,372, equivalent to around \$759 per person adult resident. The number of EGMs and average expenditure in Ballarat are high when compared with other municipal areas and the Victorian average (see Table 1).

Table 1: EGM Expenditure within Selected Areas

	Adult Population	Venues	EGMs	EGM per 1,000 adults	Expenditure per adult
Ballarat (C)	72,268	14	657	9.09	\$759
Bendigo (C)	79,118	10	547	6.9	\$559
Shepparton (C)	46,553	7	329	7.1	\$628
Victoria	4,251,468	516	26,872	6.28	\$611

Source: VCGR 2011

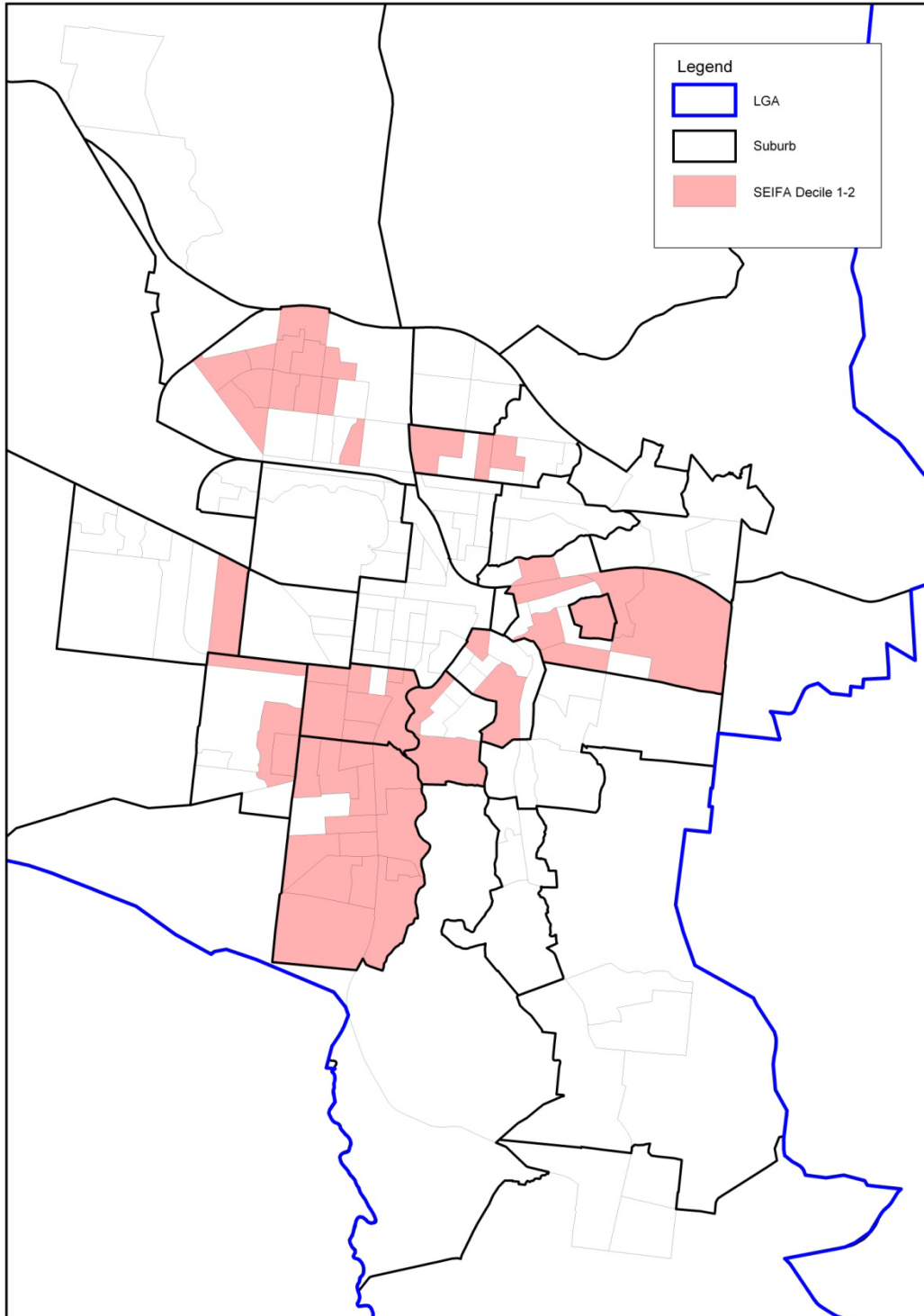


3.2 Location of vulnerable communities

The City of Ballarat's existing gaming policy suggests that gaming venues should not be located in close proximity to neighbourhoods with low SEIFA measures. In a supporting discussion paper prepared for the 2001 Gaming Machine Policy, it was stated that the policy specifically relates to areas with a SEIFA score of less than 800.

Figure 1 shows the location of neighbourhoods (ABS CCDs) in Ballarat which are in the most relatively disadvantaged 20% of CCDs in Victoria. There are a number of areas with SEIFA scores in this range in the north and south of the existing urban area. The North Ballarat Sports Club, Sebastopol Bowling Club and the Golf House Hotel are located either within or in close proximity to one of these areas. It should be noted however, that due to the compact nature of the Ballarat Urban Area, residents of all the areas within Ballarat with low SEIFA scores can access multiple venues within 2-3 kilometres.

Figure 1: Vulnerable communities (20% most relatively disadvantaged)



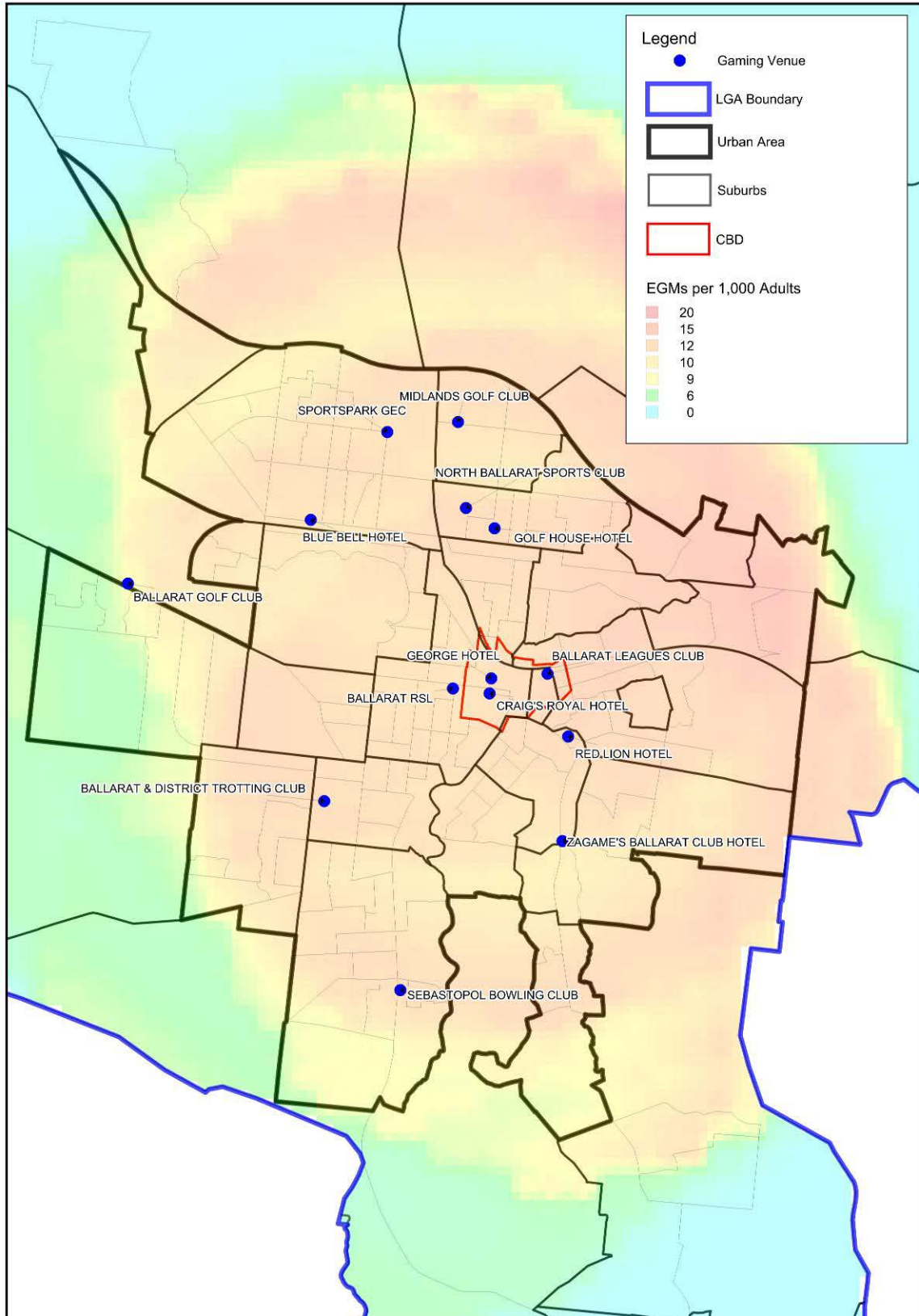


3.3 EGM density

The existing EGM density (machine per 1,000 adults) is close to the capped level of 10 at 9.09 EGMs per thousand adults. However, accessibility of EGMs is not uniform across the City and is influenced by the distribution of population and venues. Figure 2 shows the density of EGMs calculated on the basis of a 5km catchment extending out from every point of the map. A 5km catchment was chosen as more than 50% of EGM players in Victoria choose to access EGMs in a venue located within 5km of their residence. Using this approach, the map shows how accessibility varies across the LGA.

As can be seen, residents in the northern and southern parts of the Ballarat (C) have no venues within 5km of their residence and as a result have a much lower level of access to EGMs than residents of the urban area. In Ballarat's urban area EGM density based on a 5km catchment exceeds 20 EGMs per 1,000 adults in certain areas. If EGM density is calculated for the urban area of Ballarat as a whole, the EGM density is around 12.3 EGMS per 1,000 adults.

Figure 2: Gaming densities across Ballarat (based on a 5 kilometre catchment)



3.4 Convenience and destination venues

Although for many Ballarat residents (specifically those who live in the urban areas surrounding the Ballarat CBD) one or more gaming venues are located within a couple of kilometres of their residence, the extent to which these venues are accessible varies. In particular, some venues are located so that particular individuals will 'pass by' the venue during the course of their daily activities (work, shopping, visiting friends, etc.), whereas others are located so that very few individuals would pass by the venue without having made a purposeful decision to travel to it.

For the most part, venues located outside of the CBD are not within or close to strip shopping centres. The exception is the Blue Bell Hotel, which is located opposite a strip shopping centre in Wendouree, and close to two schools. Venues located within the CBD are within walking distance of many areas of community congregation, including cafes and shopping areas, workplaces, etc.

3.5 Adopted Council policy

The City of Ballarat Gaming Machine Community Policy was adopted in November 2010, and provides a policy framework for Council decision-making in relation to EGMs within the municipality. The policy notes that the City of Ballarat supports a collaborative approach to managing the impacts of gaming.

In relation to issues of accessibility to EGMs, the need to protect vulnerable communities and harm minimisation, the policy notes that maintaining access to EGM gaming is required in order to continue to meet the legitimate recreational needs of the Ballarat community and visitors to the municipality. However, the City of Ballarat considered that some limits on accessibility are appropriate due to the potential harmful nature of EGMs, as follows:

Prohibited areas

- With the exception of the CBD, gaming venues are prohibited from locating in shopping complexes or strip shopping.

Discouraged areas

- Gaming venues should not be located in areas:
 - With a low score on the ABS SEIFA index; or
 - Within close proximity to uses associated with people's day to day activities such as convenience shops, medical centres, child care, schools and community centres, etc.

More desirable areas

- It is more desirable for gaming venues to be located in areas:
 - Proximate to but not in the core of activity centres;



- Where residents have a number of choices of entertainment and recreation facilities in the local area;
- Where there are currently limited existing gaming opportunities for residents;
- Where the redistribution of EGMs results in a net decrease in EGMs from an area of socio-economic disadvantage; and
- In the CBD and tourism precincts where they will be accessible to visitors to Ballarat.

Further to these principles, the City of Ballarat is not supportive of EGMs being highly accessible to vulnerable communities, to be determined according to a number of indicators including: relative disadvantage, level of community engagement and connectedness, and lifestyle of the community including gambling, substance abuse, crime and perceived safety. The policy highlights that harm minimisation strategies implemented at the venue level, including effective pre-commitment and self-exclusion schemes, can reduce the potential for harm, and in these cases it may be appropriate to relax restrictions on accessibility.

In addition to encouraging the design of gaming machines and venues to reflect the principle of gaming as a safe and enjoyable recreational pursuit, the following policies are included in relation to limiting accessibility of EGMs by:

- Ensuring the number of EGMs does not exceed the current Regional Cap for the City of Ballarat of 663 EGMs;
- Assessing applications taking into consideration: the location of the venue, harm minimisation measures adopted by the venue, and the likely impact on the community; and
- Further developing a framework that clearly defines the suitability or otherwise of proposed EGM venue locations to be detailed as a schedule to the Gaming Policy.

4 Planning for gaming

4.1 State planning and gaming context

The legislation and subordinate legislation discussed in this section sets the context in which decisions on the locations of gaming machines and gaming venues can be made. Operational provisions are not discussed in detail in this report.

The provisions governing the conduct of gaming are set out in the following legislation and regulations:

- Gambling Regulation Act 2003
- Planning and Environment Act 1987
- Local Government Act 1989
- Casino Control Act 1991
- Casino (Management Agreement) Act 1993
- Liquor Control Reform Act 1998

Statutory Rules and Directions:

- Ministerial Direction No. S123 Friday 2 May 2008
- VCGR Determination No. S 364 Wednesday 21 October 2009
- VCGR Rules as in force on 21 February 2007
- Gambling Regulation Regulations 2005
- Gambling Regulation (Signage) Regulations 2005
- Gambling Regulation (Infringements Offences) 2006
- Regional Cap Directions
- Municipal Limit Directions

4.1.1 The Regulation of Gaming in Victoria

In 1991 the Victorian Parliament passed legislation enabling the introduction of electronic gaming machines (EGMs) into hotels and licensed clubs (under the *Gaming Machine Control Act 1991*).

The *Gambling Regulation Act 2003* ('the Gambling Act') re-enacts and consolidates various laws relating to gambling in Victoria and establishes various powers and authorities on gambling.

The main objectives of the Gambling Act (under Section 1.1(2)) are:

- (a) to foster responsible gambling in order to -
 - (i) minimise harm caused by problem gambling; and
 - (ii) accommodate those who gamble without harming themselves or others;

- (f) to promote tourism, employment and economic development generally in the State.

The Act identifies that gambling has both positive and negative impacts on the community. The challenge for managing gaming is to produce a balanced outcome by enabling gaming as a form of recreation while minimising the harm caused by problem gambling.

The Gambling Act states that premises suitable for gambling in Victoria must have one of the following licenses:

- a pub license
- a club license
- a racing club license

Therefore, appropriate venues for gaming are decided jointly by the Director of Liquor Licensing under the *Liquor Control Reform Act 1998* and the Victorian Commission for Gambling Regulation.

The Gambling Act established the Victorian Commission for Gambling Regulation (VCGR) under Section 1.1 (3) (j) to oversee the conduct of gambling in Victoria and gives it the power to grant or refuse an application for a gambling license. Approval is given to a premise for gaming under Division 2, Part 3, and Chapter 3 of the Act.

Pursuant to Sections 3.3.6 and 3.4.19 of the Gambling Act, Council (as the “relevant responsible authority”) may make a submission to the VCGR on a gaming application and should address the social and economic impact of the proposed application on community wellbeing and on surrounding municipal districts.

The Gambling Act gives power to the Minister to give Directions to the VCGR on requirements for gaming machines which are set out in Section 3.2.3. Such matters include:

- the maximum permissible number of gaming machines available for gaming in the State;
- the maximum permissible number of gaming machines available for gaming in any approved venue in the State or a specified part of the State;
- the proportion to be located outside the Melbourne Statistical Division;
- the proportion of machines to be placed in premises with a pub license, club license or racing club license.

Section 3.2.4 of the Gambling Act further sets out the ministerial powers to determine regional areas and the regional limits permissible within them.

Taxation of gaming revenue is set out in Section 3.6.6 of the Gambling Act. A venue operator of an approved venue with a pub license must pay to the

Commission 8.33% of total daily net cash balances, to be paid into the Consolidated Fund (Community Support Fund).

Each financial year, approved club venues who received gaming revenue over that year are required to submit a Community Benefit Statement under section 3.6.9, which must state the percentage of gaming revenue applied for community purpose. Under the Act 'community purpose' is defined as an activity determined by the Minister under section 3.6.9(3).

Section 11.2.1 of the Act sets out the regulations put in place by the Act. The objective of these regulations is to provide for matters relating to gaming machines and other matters that are authorised or required to be prescribed by the Gambling Act including display of time of day, lighting and external views, printed and electronic information and loyalty schemes. These matters are controlled under the *Gambling Regulation Regulations 2005*.

4.1.2 Legislative context for planning

The *Planning and Environment Act 1987* (the P&E Act) establishes a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians. The P&E Act establishes the content and regulation of planning schemes in Victoria and recognises the legal power of authority over various issues covered by the Act.

The most pertinent objectives in Section 4(1) of the P&E Act with regard to the regulation of gaming machines and gaming venues are:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient, safe working living and recreational environment for all Victorians and visitors to Victoria;
- (g) to balance the present and future interests of all Victorians.

In addition to these objectives, Section 4(2) (d) requires that consideration be given to the social and economic impact of the use and development of land.

Section 60 of the P&E Act sets out the matters a responsible authority must consider before deciding on a planning application. These include the relevant planning scheme and the objectives of planning in Victoria. Before deciding on an application the responsible authority may consider any significant social and economic effects of the use or development for which the application is made.

The P&E Act gives Council, as the responsible authority, the power to grant or refuse a planning permit for the installation or use of a gaming machine. A planning scheme may set out policies and specific objectives under section 6(2) (a) without limiting the relevant State policy. A planning scheme may also regulate or prohibit the use or development of any land under Section 6(2) (b).

4.1.3 Planning Schemes and Victoria Planning Provisions (VPPs)

The location of gaming machines is further guided by the following provisions across Victoria.

State Policy and Provisions

The removal of former Clause 19.02 on gaming in October 2006 means there is no State policy for the regulation of gaming in planning schemes throughout Victoria.

The use of land for the purposes of gaming, like other land uses, is regulated by the State policies set out at Clauses 10-19 of the VPPs. These policies must be taken into account when making a decision under the planning scheme. Those policies that are relevant to the location of gaming machines in Victoria relate to the following key themes:

Net Community Benefit and Sustainable Development

Clause 10.02 The goal of the State Planning Policy Framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Entertainment, Tourism and Recreation

Clause 17.01 Encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Clause 17.03-1 This clause seeks to encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.

Clause 19.02-3 The objective of this clause is to develop a strong cultural environment and increase access to arts, recreation and other cultural facilities. In particular entertainment facilities are encouraged in Principal and Major Activity Centres.

Activity Centres and Sustainable Transport

Clause 11.01-1 Develop a network of activity centres that are the focus for business, shopping, working, leisure and community facilities.

Clause 11.01-2 The objective of this clause is to encourage the concentrating of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community. Planning should

reduce the number of private motorised trips by concentrating activities that generate high numbers of trips in highly accessible locations.

Regional development

Clause 11.05 This clause supports the sustainable development of regional cities. Urban growth is to be directed to major urban centres such as Ballarat.

Gaming

Clause 52.28 Under this provision, a planning permit is required to install or use gaming machines. This provision was introduced in October 2006 as part of the State Amendment VC39 and is reproduced in Attachment 1. It creates a discretion which a local policy will inform.

Clause 52.28-1 The purpose of this Clause is:

- To ensure that gaming machines are situated on appropriate locations and premises;
- To ensure the social and economic impacts of the location of gaming machines are considered; and
- To prohibit gaming machines in specified shopping complexes and strip shopping centres.

Clause 52.28-4 A strip shopping centre is defined as an area that meets all of the following requirements:

- it is zoned for business use;
- it consists of at least two separate buildings on at least two separate and adjoining lots;
- it is an area in which a significant proportion of the buildings are shops; and
- it is an area in which a significant proportion of the lots abut a road accessible to the public generally.

Clause 52.28-6 The decision guidelines state that before deciding on an application a responsible authority must consider:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The compatibility of the proposal with adjoining and nearby land uses.
- The capability of the site to accommodate the proposal.

- Whether the gaming premises provides a full range of hotel facilities or services to patrons or a full range of club facilities or services to members and patrons.

Prohibited gaming areas

Schedules to 52.28 Local schedules to Clause 52.28 potentially allow Council to specify local shopping complexes and strip shopping areas where gaming is prohibited.

4.1.4 State Government Policy Position

Taking Action on Problem Gambling: A strategy for combating problem gambling in Victoria (2006) is the State Government's 5 year strategy on problem gambling. It was published concurrently with Amendment VC39. The *Taking Action on Problem Gambling* strategy sets out a number of major initiatives and actions to be taken by Government including:

- Reviewing and extending regional caps to 19 regions (at 10 machines per thousand adults);
- Introducing a maximum municipal EGM density of 10 machines per thousand adults by 2010;
- Researching the community benefit of “destination gambling”;
- Amending the VPPs to require a planning permit for the establishment of gaming venues.

The fourth action area of this strategy is entitled *Protecting Vulnerable Communities* which sets out the Government's position on locating gaming machines in areas of relative socio-economic disadvantage. These areas are considered to be particularly at risk from the harms associated with problem gambling, to illustrate:

Government is committed to “effectively managing the distribution of gaming opportunities to better protect the communities most at risk from problem gambling” including the expanded regional caps.

4.1.5 New gaming arrangements

Victoria has recently changed from a duopoly gaming operator system to a venue operator system. Under the new system, gaming venues acquire entitlements to operate an EGM. These entitlements can only be activated by a licensed venue operator, in a licensed venue. Moreover, all venues are required to obtain planning approval for their venue from a local Council. A number of points to note about the new system are:

- The State allocated gaming machine entitlements to approved venue operators through a competitive bidding process (auction).
- A gaming machine entitlement authorises the approved venue operator to possess and operate a gaming machine.

- The number of EGMs available for purchase through the auction process did not exceed the cap level for each LGA.
- The VCGR will continue to approve and regulate venue operator licences.
- Gaming machine entitlements are valid for 10 years from 2012.
- Venue operators are able to transfer gaming machine entitlements to other licensed venue operators (e.g. machines could be transferred to and from Mt Buller), however the normal permit and licensing approvals processes and municipal caps still apply

4.2 Ballarat Planning Scheme

The Ballarat Municipal Strategic Statement sets the strategic framework for land use and development within the municipality and whilst not containing any direct references to gaming, contains a number of directions which are relevant to and must be considered in the establishment of a local gaming policy.

4.2.1 Strategic Framework

Clause 21.03 outlines three goals derived from the Council Plan, which are summarised below:

- Growth and Development: A sustainable mix of residential, commercial and industrial development and infrastructure.
- People and Communities: A safe, healthy, environmentally sustainable, innovative and well serviced community that has equal access to opportunities.
- Destination and Connections: A respected regional leader with a strong profile that facilitates tourism, residential and business attraction.

4.2.2 Settlement

Council has identified a growth corridor along the western side of Ballarat and seeks to consolidate urban expansion within the areas it has identified (Clause 21.04-1). Infill development, including redevelopment of commercial space in the CBD, is also supported in order to minimise the need for outwards growth.

4.2.3 Retail/Commercial

The City of Ballarat has adopted a hierarchical approach to the location of commercial floorspace. The Ballarat CBD is identified as a regional centre and Wendouree Village as a sub-regional centre. A range of smaller neighbourhood centres are also identified which focus on convenience shopping, particularly grocery shopping.

Clause 21.04-4 encourages new commercial floorspace to locate within existing centres, or new neighbourhood centres serving growth areas. Of particular relevance to gaming venues is Strategy 1.14 which seeks to prevent the

establishment of new licensed premises and changes to existing licensed premises where they will cause a reduction in quality of life to the surrounding area.

The CBD is acknowledged as having a strong role in the provision of a wider range of non-retail functions including entertainment. Objective 2 of Clause 21.04-4 is to recognise, enhance and facilitate the function of the Ballarat CBD as the dominant administrative, commercial, financial, cultural, recreational, tourist, and entertainment centre within the City and region. This includes promoting the CBD as a focus for entertainment to support the existing regional shopping role.

4.2.4 Tourism

The MSS at Clause 21.04-6 supports the development of the tourism sector and encourages the use and development of land for purposes that will encourage visitors to increase their length of stay within Ballarat. Various locations are noted as being suitable for tourism-related purposes including land to the east of Sovereign Hill, land along parts of the Western Highway and the Ballarat Railway precinct.

4.2.5 Shopping centres

Clause 52.28 of the Ballarat Planning Scheme allows Council to specify where gaming machines are prohibited in shopping complexes and strip shopping centres. The schedules to this clause prohibit gaming machines in all strip shopping centres and the following shopping complexes:

- Central Square;
- Wendouree Village; and
- Ballarat Marketplace.

4.3 Consideration of policy and legislation by VCAT, Supreme Court and Panels

The interpretation of gaming legislation and policy by the Tribunal and Supreme Court continues to evolve and provides an important context when considering the appropriate response to gaming issues at a local municipal level. Similarly, a series of Planning Panel reports over the last 18 months have provided a solid basis to understand the acceptable parameters for a local planning policy on gaming. Some of the key matters raised by these bodies are set out below. A more detailed set of findings is set out in Attachment 2.

4.3.1 Planning Panels

In all cases Planning Panels considering local gaming policies have agreed with the strategic need to introduce a policy to assist in the exercise of discretion. Panels have strongly supported policies dealing with concepts such as minimising convenience gaming, considering socio-economic issues and setting directions as

to appropriate densities and locations for gaming machines across a municipality. These reports and recommendations provide clear direction as to how a policy for the City of Ballarat might be framed.

4.3.2 VCAT and Supreme Court

Some of the most relevant findings from recent VCAT and Supreme Court decisions in relation to the installation of gaming machines are as follows:

- There is a differentiation between the role of the gaming and planning approvals processes for gaming machines. Clause 52.28 is about the location of gaming machines and its purposes do not require consideration of the social and economic impacts of the machines themselves.
- The Act and the planning scheme require consideration of the significant social and economic impacts of the proposal and the social and economic impacts of the location of gaming respectively.
- The Tribunal has noted the importance of having a local policy: in one case it stated, “it goes against Council that there is no specific local gaming policy providing any spatial preference for which part of the municipality new EGMs should be located.”
- Entertainment venues including activity gaming facilities are appropriately located in activity centres, although this is easier to achieve in new master planned centres where a buffer can be created.
- Existing accessibility to gaming machines is a relevant consideration when examining the impact of a proposal on disadvantaged and vulnerable communities. There is also a need to show clear links as to how a proposal will lead to negative social impacts.
- The SPPF’s expectation that decision makers will balance a range of conflicting objectives in favour of net community benefit does not, in itself, prohibit the granting of a permit in the absence of net community benefit.
- Community wellbeing is an important regulatory concept and adverse community opinion about a gaming proposal can be considered as a negative social impact. However this pertains more to the gaming licensing legislation than planning applications.
- Permit conditions seeking to lock in community contributions are not appropriate as they relate to the social and economic impact of the machines themselves, rather than the location.
- The criteria which define strip shopping centres are open to debate, but a reasonably broad interpretation of the criteria by the Tribunal has meant that in a number of cases hotels have found to be located within strip shopping centres and thus prohibited from installing gaming machines.

4.4 Destination gaming

4.4.1 What is destination gaming?

Destination gaming is a concept which has been the subject of some debate in Victoria over recent years. *Taking Action on Problem Gambling* committed to an investigation of whether destination gaming can deliver community benefit to Victoria.

In this Strategy, destination gambling is described as:

*a style of gambling that encourages pre-determined decisions to gamble
(Taking Action on Problem Gambling, 2006)*

The Department of Justice subsequently conducted an analysis of destination gaming and its benefits for Victoria. The defining feature of the destination gaming model is provision of fewer but larger venues, in order to increase travel distances, reduce convenience and encourage people to make a pre-determined decision to gamble. A research report commissioned by the Department (Young, 2007) suggested that a regime including fewer venues may reduce the level of problem gambling at the local level, such reducing convenience through destination-style gaming could be seen as sound policy. However, simply reducing EGM densities was seen as unlikely to be effective; rather, a spatial reconfiguration of supply would be required to affect accessibility for vulnerable communities. The report suggested that a successful destination gaming model would depend on factors such as:

- Reducing the supply of venues convenient to vulnerable communities;
- Locating new venues in areas of low vulnerability;
- Limiting the accessibility profile of new venues to vulnerable groups through accessibility factors such as location (distance constraints), opening hours (time constraints) and transport costs (budgetary constraints);
- The extent to which new destination venues introduce new markets to gambling;
- The extent to which the configuration of venues, including size, product mix and complementary facilities, attract new markets; and
- The degree to which problem gambling can be monitored and ameliorated at individual venues.

Essentially destination gambling was viewed by the researchers as a trade-off, with the prevalence and harms associated with problem gambling being redistributed from disadvantaged to more affluent areas.

Ultimately, the State Government's review of destination style gaming recommended that this model not be pursued in Victoria at this time¹. It found that

¹ It should be noted that a more recent Auditor General's report (Victorian Auditor-General, 2010) examining *Taking Action on Problem Gambling* and its implementation found that the destination gaming review's methodology was flawed and given this limitation it could not provide evidence about the appropriateness of destination gaming in Victoria.

in the short term destination gaming could increase problem gambling harm, although in the longer term it may reduce harm by providing a barrier to impulsive gambling behaviour. Furthermore, it was noted that given that more factors than just convenient accessibility contribute to problem gambling, this limits the benefits of pursuing a destination gaming model (Department of Justice, 2008).

4.4.2 Implications for the distribution of gaming in Ballarat

At one level it can be argued that the concept of destination gaming, as envisioned by the State Government's review, has limited applicability to Ballarat. This is because even if Council resolved to pursue such a destination gaming model, it could not do so. Council has no ability to raise the number of gaming machines beyond the State's 105 EGM venue maximum and as such would be unable to significantly reconfigure gaming machines into a handful of large venues. Another key constraint is that the existing distribution of venues is well established, is highly accessible to persons across the entire urban area and is unlikely to significantly alter in the short to medium term, with local supply being controlled by individual venue operators.

Nevertheless, although DoJ concluded that wholesale restructuring of the spatial characteristics of supply of gaming opportunities is not desirable, the review indicates that where new gaming venues can be developed in a manner consistent with the destination gaming model, this will contribute to mitigating potential harms associated with problem gambling. As a result, it is still appropriate that the principles of destination gaming be considered as a way to reduce the convenience of gaming opportunities and thereby mitigate potential harms.

The key principles to be taken from this model therefore might be:

- Increasing constraints for access to gaming machines by vulnerable communities, including through managing issues of location and operating hours;
- Locating venues in areas of low vulnerability;
- Supporting venues which proactively minimise risks through their range of activities, type of gaming product and responsible gambling practices; and
- Encouraging venues which provide benefits to the community;

In practical terms, a locational policy for gaming Ballarat might therefore encourage venues not to be located in areas which are convenient to the most vulnerable communities in the municipality. Accessibility could furthermore be limited by ensuring that appropriate operating hour and distance constraints exist for new venues. There is of course a need to balance these factors against normal planning considerations such as activity centre policy and promoting sustainable urban forms and this policy dilemma is discussed further in Section 4.6 and the locational principles in Section 5.

Perhaps the best opportunities though for Council to establish destination gaming venues, along the lines considered by the Government, will be in growth areas and, to a lesser extent, the City's Central Business District (CBD). In growth areas in particular there is a chance to carefully plan for the location of gaming venues in relation to other land uses and activities and ensure new venues provide a range of entertainment and recreation facilities for the community. The CBD, whilst being a generally accessible place, is also the traditional location for destination entertainment activities and tourism activity in Ballarat and as such offers a further potential option for consideration.

4.5 Opportunities to influence gaming outcomes through local policy

A local planning policy cannot influence all aspects of Council's approach to gaming in the way that Ballarat's adopted policy covers a wide range of accessibility, advocacy and harm minimisation issues. It is considered that it is reasonable, under the parameters of the Victoria Planning Provisions, to seek to influence the following matters through a local gaming policy:

- Location of gaming machines in relation to other land uses and infrastructure.
- Distribution and density of gaming machines in a municipality.
- Socio-economic impact arising from the location of the gaming machines.
- Uses associated with gaming venues.
- Amenity issues and operating hours.
- Application requirements.

Consideration of these matters will help ensure that gaming machines are located so as to deliver a net community benefit. A number of Planning Panels have supported addressing these matters in a local planning policy.

Due to existing State gaming regulations it is considered problematic to seek to influence the following matters:

- Proportion of EGMs in clubs and pubs.
- Prohibiting additional EGMs in a specific geographic area.
- Capping EGM numbers.
- Certain detailed venue or EGM design features (such as location of ATMs, spin rates and so on).
- Advertising of gaming.

It is also not considered appropriate for a local policy to specifically deal with issues associated with gaming venues on Council owned land. There is no planning reason why an applicant for EGMs on Council land should be treated differently to an applicant on private land. It is recommended that if Council is concerned about this issue, it explores how they best use their position as land owner, through lease agreement conditions or any other viable means, to ensure

that occupiers meet the Council's expectations of appropriate uses on municipal land.

In relation to managing or directing community contributions, it is unclear whether a Council would be successful in regulating this issue through the planning system. Net community benefit is clearly a goal of the planning system and it can be argued that in order to determine this, a responsible authority will need to take account of the community benefits and contributions made by a gaming proponent. On the other hand the Tribunal has previously found² that a condition on a planning permit seeking to lock a community contribution is inappropriate since clause 52.28 focuses upon the *location* of the gaming machines rather than specifically the social and economic impacts of the machines themselves. A possible compromise could be that if the permit applicant has sought to 'pledge' a specified amount per year towards community organisations, then this matter could be taken into account as part of a net benefit assessment.

4.6 Reconciling competing planning considerations

There is a dichotomy between the locational influences on gaming and the factors underpinning sustainable development.

4.6.1 Sustainability

Sustainability and sustainable development are the overarching principles of planning in Victoria; that is, an integrated approach to ensuring the social, economic and environmental requirements of the present and future generations is considered. 'Sustainable development' is described as:

"Development which meets the needs of the present without compromising the ability of future generations to meet their own needs" (Melbourne 2030)

A key platform of sustainable development is the establishment of multi-purpose, highly accessible activity centres to reduce the number of individual motorised trips made, increased health and wellbeing through walkability and integrated public transport and enhancing interest and vitality in our centres.

4.6.2 Activity Centres

Under Clause 11.01-2 of the Ballarat Planning Scheme, the objective of the activity centres policy is:

² See *Bright Newbay Pty Ltd v Bayside CC*. It should be noted that in an earlier case, another division of the Tribunal in *Beretta's Langwarrin Pty Ltd v Frankston CC* agreed to include a permit condition requiring a Section 173 Agreement to lock in a community contribution.

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.

Activity centres policy includes a hierarchy of activity centres including Central Activities Districts (CADs), Principal, Major and Neighbourhood centres; each with differing roles and services. Central Principal and Major Activity Centres are to “have a mix of activities that generate high number of trips including business, retail, services and **entertainment**” (Clause 11.04-2 Ballarat Planning Scheme).

Neighbourhood Activity Centres are to have a mix of uses that meet local convenience needs, be accessible to a viable user population by walking and cycling and be an important community focal point (Clause 12.01 Ballarat Planning Scheme).

The hierarchy of activity centres, identified in the State Planning Policy Framework, can also be applied to regional centres such as Ballarat. Under the Ballarat MSS entertainment and recreation land uses are specifically encouraged in the Ballarat CBD, compared with smaller neighbourhood centres where people undertake everyday activities.

4.6.3 Entertainment and Recreation Land Uses

Gaming is part of a suite of activities that can be characterised as recreation and entertainment. Recreation and entertainment can encompass a vast range of activities from golf and team sports to more sedentary and individual activities such as the cinema.

Not all recreation and entertainment can be accommodated in or adjacent to activity centres. Firstly, there are those recreation and entertainment uses which are land (or water) extensive or for which some other reason means they are unable to locate within an activity centre and as such are promoted as out of centre uses. For example, golf courses and football ovals.

The second and more common category is made up of those entertainment and recreation uses which involve congregations of people and are often located indoors. Gaming venues are in this category. Entertainment and recreation facilities under this stream are encouraged, through planning policy, to locate within activity centres to promote more sustainable communities.

4.6.4 Retail

Central to Activity Centres policy is the notion of retail. However, the planning provisions at Clause 52.28 of the Ballarat Planning Scheme specifically prohibit gaming facilities to locate within predominantly shopping areas. It is a distinct conflict within the planning scheme that gaming, which is nested under the retail

suite of land uses under Clause 75, is discouraged from co-locating with other 'like' land uses.

SC Project Management v City of Nunawading & P Stoles & Ors 1992 was one of the first cases heard by the Administrative Appeals Tribunal³ early after the introduction of gaming machines to Victoria. The case involved the proposed location of a gaming venue (a tavern, bar, lounge and 90 gaming machines) within the Forest Hill Chase Shopping Centre. The critical issues considered included the adverse impact on shopping centre users and the compatibility of land uses.

In the absence of any provisions regarding accessibility and location of gaming venues, the Tribunal ruled that a permit should be granted and that the location of gaming venues in prominent locations such as shopping centres and [what we would now refer to as] activity centres was to be encouraged. The Tribunal held that,

"If gaming machines are to be considered legitimate and complementary entertainment facilities in our society, then it would appear preferable to locate them alongside a range of entertainment facilities in the major and dominant commercial centres in the City of Nunawading, rather than to relegate them to out-of-the-way centres"

4.7 Resolution of these issues in the interest of Net Community Benefit

Whilst the principle of seeking to minimise convenience gambling would rule out gaming venues being located within retail centres, strategic policy actively encourages entertainment uses to locate within such centres. Therefore, a distinct and balanced approach needs to be taken in order to address this conflict.

Gaming is not regulated in the same manner as other industries in relation to the importance of consumer protection, minimising potential "unethical activity" and reducing the risks and social and economic costs of problem gambling. Therefore it is no surprise that a locational approach to gaming venues will be complex and require careful consideration of the local context.

A combination of current research, legislative context and planning considerations has led to the conclusion that gaming should be located outside the retail core but with some accessibility to an activity centre and not in an area of low socio-economic disadvantage. In this sense, a gaming venue should be **accessible** (to address sustainable development) but **not convenient** so that it is more likely that a gambler has made a predetermined decision to gamble.

³ Now under the jurisdiction of VCAT



The steps taken to reach this conclusion can be summarised as follows:

- Legislation and State planning policy seeks to ensure that all development is sustainable.
- The Ballarat Planning Scheme encourages entertainment facilities to locate within activity centres, particularly the CBD.
- However, the Scheme also prohibits the locating of gaming venues with retail facilities; specifically, strip shopping centres and shopping complexes common in activity centres.
- Research indicates that gaming should not be convenient, particularly to vulnerable communities.

Therefore, gaming venues should have the attributes of destination gaming by seeking to minimise convenience to everyday activities, but embody principles of sustainable development. To overcome this conflict, venues should be located proximate to; but not within the retail core of activity centres in Ballarat.

5 Locational Principles for Gaming

The key location principles for gaming machines and the rationale for those principles have been developed on the basis of the findings and conclusions outlined above. Proposed principles have been grouped into a number of subheadings indicating the main location criteria for EGM venues and machine increases.

Primary location criteria

Macro locational attributes

1. Proposals for gaming machines should locate in preferred areas including:
 - a) the Central Business District (CBD) where they will be most accessible to visitors to Ballarat; and
 - b) locations proximate to, but not in the core of, other higher order activity centres, particularly where entertainment is promoted as a policy objective.
 - c) areas remote from activity centres and a choice of transport modes if associated with a sports and recreation club with an extensive land holding.
2. Gaming machines should be located in areas which can accommodate additional gaming because –
 - a) residents also have a choice of other types of entertainment and recreation facilities in the local area; and
 - b) there is established social infrastructure and social networks within the town or suburb.
3. Gaming machines should not be located in towns or small urban settlements where there is not a variety of non-gaming clubs and entertainment venues in the area.

Vulnerable communities

4. Gaming machines should not locate in areas of relative socio-economic disadvantage.
5. Where possible, proposals should make a positive contribution to the redistribution of gaming machines away from areas of socio-economic disadvantage and areas with higher EGM densities.

Net community benefit

6. It is preferred that gaming machines be located where the characteristics of the area, site and venue contribute to a net community benefit.

Detailed location criteria

Minimising convenience

7. Proposals for gaming machines should be able to demonstrate that the chosen location could reasonably be perceived as a destination in its own right. This would be achieved by gaming machines and associated uses being separated from shops, supermarkets and major community facilities involving a high concentration of people undertaking daily activities.

Compatibility with surrounds

8. The location and operation of gaming venues and any associated recreation and entertainment facilities should not be incompatible with the predominant surrounding land use and amenity of the area.

Venue attributes

9. It is preferred that gaming machines are located in venues which:
 - a) Have a range of other entertainment and leisure options;
 - b) Make non-gaming social and recreational activities the primary purpose of the venue;
 - c) Are integrated with existing tourism uses and primarily focused on providing tourism services for visitors to the City of Ballarat; and
 - d) Implement harm minimisation measures including limiting their hours of operation.

5.1 Rationale for principles

5.1.1 Macro locational attributes

Preferred locations

Gaming is an unusual land use in that 'gaming premises' are situated under the retail use hierarchy in the VPPs, yet Clause 52.28 seeks to prohibit gaming machines in shopping centres. Normally entertainment uses are encouraged to locate in activity centres where they will achieve the greatest accessibility, but this does not sit comfortably with the provisions of Clause 52.28 State gaming policy which essentially aims to provide limits to accessibility in activity centres. It is this fundamental policy tension which Principle 1 seeks to resolve.

Research has concluded that proximity of gaming venues to places of community congregation may influence gambler behaviour. Furthermore as one of the strategies employed by problem gamblers is avoidance, limiting access to EGMs in places of everyday activity is a reasonable policy response. On this basis alone an isolationist approach to gaming would seem warranted.

However, there are a number of reasons to support at least some level of accessibility for gaming venues. The *Planning and Environment Act* includes an objective to provide for the fair, orderly, economic and sustainable use and development of land. It is suggested that if gaming venues were to be located only

in isolated locations, this negates any opportunity for multi-purpose trips and use of public transport. To do so would be neither fair (to those without a car), nor environmentally sustainable. As gaming is a legal recreation activity that is enjoyed responsibly by a vast majority of Victorians, it is considered important that measures to minimise the incidence of problem gambling do not completely undermine activity centre policy.

It is therefore considered that encouraging gaming machines to establish in appropriate designated centres, or other edge of centre locations, provides for a balance between competing policy objectives. The key is that gaming venues should not be located in the core of an activity centre where the highest concentrations of people will be located and where convenience gaming could be encouraged (Principle 1).

Principle 1 also makes it clear that gaming venues should preferably be located around an activity centre where entertainment and recreation are encouraged by policy. Higher order centres are more likely to be appropriate locations for gaming venues as they will provide for a range of activities, not just convenience grocery shopping. Furthermore they are likely to be more geographically expansive, thus enabling better opportunities to separate incompatible uses, that is, gaming and shopping/community hubs, than a very small activity centre. It is also noted that ANU research concluded that in general terms, clubs which draw their patrons from a more localised catchment have patrons with heavier gambling profiles than those clubs with a wider reach into the surrounding area.

In Ballarat it is suggested that centres most likely to be appropriate for gaming would therefore include those centres designated as 'Primary neighbourhood centres' or higher in the local retail hierarchy set out in the MSS. It should be noted that some existing centres will be highly constrained in terms of whether they can accommodate gaming venues without being overly convenient to other uses. New centres planned as part of a growth area are likely to better enable the siting of gaming machines as part of a mix of activities⁴.

The CBD has however been identified as the key preferred location for gaming machines in the municipality. As well as implementing the direction set out in Council's Community Gaming Policy, the Ballarat MSS also identifies the CBD as the preferred location for entertainment and tourism activities. In making such a recommendation, it is recognised that the CBD is in itself a highly accessible location and includes a range of shopping, transport and community functions that are incompatible with gaming. Nevertheless, the CBD is the prime location for tourism and entertainment uses, an extensive area which can accommodate a range of commercial activities and a location which represents a 'destination' for

⁴ This issue was discussed by the Tribunal in *Walker Corporation Pty Ltd v Wyndham CC*. The Tribunal observed that large master planned activity centres can potentially separate incompatible uses, however this is much more difficult when proposing gaming machines in existing centres where there are not the same opportunities to create buffers.



local residents, Accordingly it is considered a reasonable policy response in terms of providing a balanced approach to managing the location of gaming machines and an alternative to locating EGMs in close proximity to vulnerable communities or activity centres focused more on convenience shopping.

Finally Principle 1 recognises the reality that it is not feasible for all clubs to locate close to activity centres, as they may be associated with large recreation uses such as golf courses or ovals. In these cases such clubs should not be discriminated against in terms of location policy as these venues may in other respects be suitable for gaming. For example they are likely to be a destination in their own right and have a social and recreational focus which is not solely related to gaming.

Small towns, growth areas and alternative recreation opportunities

Principle 2 prefers that gaming should be located where alternative recreation and social infrastructure is available, whilst Principle 3 proposes to direct gaming machines away from smaller towns.

State planning policy on gaming has suggested that it is desirable that gaming venues provide a variety of facilities and services for patrons so that gaming is not the sole purpose of the venue. To extend this concept to a more macro level, Principle 4 encourages gaming to be considered as part of the broader entertainment and recreation offer and social networks in the area. This essentially promotes choice, so that residents have the opportunity to engage in social activities in their local area, without being exposed to gaming.

A range of entertainment options is particularly pertinent for growth areas and small communities which are more likely to have a limited range of recreation venues and support services for gamblers. This has particular significance in regional areas such as Ballarat; for example the communities of Learmonth and Buninyong each contain a single Hotel. A VCGA study (1997) of the impact of gaming machines on small rural communities also found that entertainment and expenditure patterns changed after their introduction and there were an increased number of problem gamblers and bankruptcies.

However this is not a clear-cut issue. The same study noted some benefits to the introduction of EGMs into such towns, including the provision of a safe, accessible and non-discriminatory form of entertainment. Furthermore in the *Branbeau Pty Ltd v Victorian Commission of Gambling Regulation 2005* case, the Tribunal stated that it was not aware of evidence about the impact of a new venue on problem gambling when residents already have good access to gaming opportunities. This was despite the VCGR arguing that the possibility that the risk of harm to problem gamblers or people at risk of becoming problem gamblers might be more likely to be increased by the opening of a new venue in a location which has been previously free from EGMs.

Nevertheless, on the basis that gaming is not a benign form of recreation, it is a reasonable proposition that consumers have access to a choice of entertainment and recreation facilities and social networks, not just those associated with EGMs. Furthermore, the Productivity Commission (2010) noted that given the links between accessibility and gambling harms, in hindsight the current spatial model, whereby EGMs have been widely distributed through the community, may not have been appropriate. Thus, there are considered to be benefits to the City in limiting overall accessibility of gaming in terms of the distribution of venues, particularly in relation to smaller communities, or areas without alternative recreation options.

5.1.2 Vulnerable communities

It is recognised that the links between problem gambling and accessibility are not fully understood, although the Productivity Commission in 1999 did find that “there is sufficient evidence from many sources to suggest a significant connection between greater accessibility – particularly to gaming machines – and the greater prevalence of problem gambling.” The Commission’s recent (2010) report also supports the idea of a causal link between accessibility and problem gambling, although it notes the relationship is complex at a local level.

In taking a precautionary approach it would seem more appropriate, subject to other principles, to direct new gaming machines away from the more disadvantaged localities where a high level of accessibility to gaming may attract those who are most vulnerable to issues of problem gambling. As noted by Consumer Affairs Victoria (2004), disadvantaged consumers are by definition vulnerable consumers, as they will have less ability to guard against the chance of a loss and less ability to deal with the consequences when it occurs.

Whilst the City of Ballarat as a whole ranks in the fourth decile on the SEIFA Index of Relative Disadvantage, suggesting moderate levels of disadvantage, a more detailed analysis as set out in Section 3.2 has identified that the main urban centre contains a number of concentrated areas of high relative disadvantage. In particular parts of the suburbs of Wendouree, Ballarat North and Sebastapol record SEIFA scores in the most relatively disadvantaged 20% of CCDs in Victoria. A number of existing gaming venues are located within easy walking distance of these disadvantaged areas. Accordingly, it is considered to be a sound policy position to not only discourage new EGMs from locating in these relatively vulnerable communities (Principle 4), but providing some support to new venues which relocate EGMs away from these area (Principle 5). In a setting such as Ballarat where the municipal gaming cap has been reached, a positive redistribution of EGMs away from the most vulnerable communities to other preferred locations is a potentially achievable outcome under this policy setting.

5.1.3 Net community benefit

Gaming has both positive and negative impacts upon local communities. This is recognised by the *Gambling Regulation Act* which requires the VCGR to consider whether the net social and economic impacts will be detrimental to the well-being of the community when considering approval of premises suitable for gaming.

Given:

- the dual planning permit and gaming license approval system that now operates; and
- the overall goal of Victorian planning at Clause 10 of the SPPF which seeks to integrate environmental, social and economic factors in the interests of net community benefit;

it is appropriate that councils also consider issues of net community benefit to ensure both sides of any socio-economic assessment are examined. There is no set definition of net community benefit, however it can essentially be inferred to mean having an overall positive impact on communities.

There has been some contention in relation to the issue of net community benefit and gaming proposals in recent decisions of the Tribunal (see Attachment 2). One decision, pertaining to the Langwarrin Hotel, suggested that the planning system's consideration of net community benefit creates a 'higher bar' than gaming legislation.

A number of subsequent decisions (eg the Club Edgewater and New Bay Hotel cases) have moderated this finding by indicating that as the SPPF is a policy, a proposal does not necessarily fail if it does not achieve a net community benefit. Furthermore, the Tribunal in the New Bay Hotel case suggested that an objective seeking to ensure that venues achieve a net community benefit may be contrary to the Gaming Act that mandates no net community detriment (as opposed to achieving a net community benefit).

Nevertheless as an overall goal, the Ballarat Planning Scheme seeks to balance competing policies in favour of achieving a net community benefit. This should therefore be the goal of decision making in relation to gaming machines and as such be a principle underpinning any policy. This is not to say a proposal has to achieve a net community benefit to be approved, but certainly decision making should positively reward those that do achieve it. In addition, at the very least, a proposal should satisfy the test under the Gaming Act that the net impact of the proposal will not be detrimental to the well-being of the community. This test can be seen as a 'stepping stone' on the way to achieving a net community benefit, along with other criteria relating to the location of the gaming machines.

Ultimately there will be a series of criteria for decision makers to consider based on the characteristics of the area, the site and the venue itself. A proposal which achieves these criteria will be more likely to demonstrate that it has balanced competing factors to achieve a net community benefit.

5.1.4 Minimising convenience

The aim of removing gaming venues from shopping centres has been an established part of State planning policy on gaming for some time. It is based on the idea of reducing accessibility to gaming in places people congregate to spend money for other purposes.

Principle 7 seeks to extend the basis for the statutory prohibition of gaming in shopping centres, that is, minimising convenient access to gaming, to include those areas which can be easily accessed from shops. As a number of Tribunal cases have shown (including *Crestline Architects Pty Ltd v COGG – 1998*), business areas not meeting the strict interpretation of a 'strip shopping centre' are potentially available for the location of gaming machines. There are likely to be instances when there is a fine line between whether land will be deemed to be in or outside a strip shopping centre due to ambiguities in the definitions. As such there is a need to make clear in any policy that those areas within easy walking distance of shopping centres are also not suitable for gaming, to minimise the incidence of convenience gaming. This will also ensure that shopping centres not scheduled in Clause 52.28 (perhaps because they are newly established) are given some policy protection.

As with shopping centres, separating gaming machines from other major land uses where people concentrate in daily activities, such as railway stations, or major community hubs, will also minimise the likelihood of convenience gaming. It is noted that Council's adopted Community Gaming Policy prefers that gaming machines are not located within close proximity to uses associated with people's day to day activities such as convenience shops, medical centres, child care, schools and community centres. Whilst the principle of limiting convenience gaming opportunities is sound, it is suggested that a literal interpretation of this policy may result in an unreasonably large part of the urban area of Ballarat being off-limits to gaming.

Ultimately Clause 10 of the Ballarat Planning Scheme requires a planning authority to take a balanced approach where conflicting objectives exist. As such it is recommended that the locational principle, for the purposes of developing a planning scheme response, focus on limiting access to gaming close to major community hubs, key transport interchanges such as railway stations and shops. This would be achieved by ensuring that gaming facilities were not integrated with the above uses (for example a gaming facility located inside a railway station), or having a close physical adjacency allowing easy pedestrian access between the gaming and other uses.

5.1.5 Compatibility with surrounds

Although gaming machines themselves do not cause external amenity impacts, gaming premises are encouraged through State policy to co-locate with other

complementary activities. Therefore it is likely to exacerbate the potential for problems at the interface between gaming venues and surrounding land uses.

While this principle can relate to the potential impact of a gaming venue on the amenity of nearby sensitive uses, such as residential areas, this should not be seen as encouraging gaming machines and associated uses to be located in isolated industrial areas either. Such areas are likely to be inappropriate in terms of being potentially unsafe after hours for non-vehicle users.

In Ballarat it is also important that gaming venues and associated uses are located where they will complement, and not compromise the key tourism assets of the City, including environmental and heritage assets. Research (AIGR, 2000) suggests that gaming in itself is unlikely to be a major drawcard, and as such gaming venues should be carefully integrated so as not to intrude on more significant tourist attractions.

5.1.6 Venue attributes

Gaming machines should preferably be located in venues that have particular attributes to minimise opportunities for problem gambling.

Research (Livingstone 2006) found that certain types of venues are more likely to have the characteristics of low risk venues in terms of levels of EGM consumption. These attributes include small club venues with a relatively small number of EGMs, modest activity levels (whether measured by the value of EGM consumption or the proportion of time EGMs are in use), and some definite social or recreational purpose other than gambling.

It is considered problematic to set a maximum number of EGMs as the State has already regulated this matter (105 EGMs per venue) and the appropriate number of EGMs for any given location is likely to be a function of other factors such as levels of disadvantage, contributions to the community and EGM density in the area. It is also inappropriate to specifically distinguish between hotels and clubs as there are State regulations for an overall 50/50 split of EGMs between hotels and clubs across Victoria. Nevertheless, given that Clause 52.28's objectives include ensuring that gaming machines are located in appropriate premises, there is a case to be made for ensuring that gaming is not a primary function in any particular premises and there are a range of other activities to engage patrons.

Furthermore limiting hours of operation to avoid 24 hour gaming will assist in ensuring gaming machines are not available at times when other recreation opportunities are closed. The Productivity Commission's 2010 report has also suggested that extended shut down periods in gaming venues of say 1am to 9am would help target problem gamblers without unduly affecting non-problem gamblers.

Finally it is considered that venues which are integrated with or targeted at a tourist market are less likely to contribute towards problem gambling in the local community. Such venues, which may for example be located within tourist hotels or as part of tourism facilities, will essentially act as destination venues and support the municipality's role as a tourist destination. Venues with these attributes should be given planning policy support and this approach is also consistent with Council's adopted policy.

5.2 Conclusion – adopting an approach which promotes harm minimisation

As a final remark in relation to the development of locational principles to guide a future policy, the following comments from the Productivity Commission (2010) in relation to issues of accessibility of EGMs are highly pertinent:

“Even with modifications, restrictions on caps, operating hours of gaming machines and other restrictions on accessibility are unlikely to be as effective as other harm minimisation measures, including the Commission’s pre-commitment proposal. This is primarily because small changes to accessibility (across its varying dimensions) would make little difference to the overall accessibility of machines in most jurisdictions. This is not to say that such modifications should not occur. On the contrary, were governments not to introduce the Commission’s pre-commitment proposal or other measures, there is a greater imperative upon them to refine their existing harm minimisation measures, including their accessibility restrictions. The introduction of other more effective harm minimisation measures could allow some existing restrictions on accessibility of gaming machines to be relaxed such as caps and shutdowns to gaming machines. But relaxation of existing restrictions would need to be contingent on an adequate review by governments.”

A planning policy can only influence certain issues – primarily pertaining to accessibility around location and opening hours. However, as the PC identifies, other measures are likely to be highly effective in minimising the harm associated with gaming as an entertainment product. Accordingly, it is recommended that any policy provide positive support to proposed gaming venues which are willing to include best practice harm minimisation measures, such that locational constraints will be largely irrelevant as the EGMs would constitute a ‘safe’ product.

6 Conclusion and recommendations

6.1 Planning mechanisms to manage gaming

The introduction of gaming policies to the Local Planning Policy Frameworks of various planning schemes in recent years has provided the City of Ballarat with an excellent opportunity to examine the ongoing debate about the most appropriate measures to manage gaming machines through the Victorian planning system. These measures have generally encompassed a range of the following tools:

- Inclusion of overarching gaming strategies in the MSS;
- Introduction of a local planning policy to identify preferred and non-preferred locations for EGMs;
- Use of local policy to require applicants to provide extensive information and social impact assessments as part of their application for EGMs;
- Specifying the exact location of strip shopping centres in the schedule to Clause 52.28; and
- Use of mapping or wording in either local policy or an incorporated document to identify 'discouraged areas' or buffers around strip shopping areas. Discouraged areas have varied in their nature across different municipalities. Some have provided for buffers around strip shopping centres; others have covered those centres or parts of centres considered to not qualify as strip shopping centres; or a combination of the above.

6.2 Recommendations

It is recommended that in order to implement the location principles set out in this report, the following measures should be undertaken.

6.2.1 Municipal Strategic Statement

As the Ballarat MSS does not contain references to gaming machines, in order to provide strategic support for the proposed policy approach, new provisions should be inserted at **Clause 21.04-4 Retail/Commercial**. It is recommended that these be worded as follows:

Objective 4: To locate gaming machines in areas and venues which minimise the potential harms associated with gambling.

- Strategy 4.1: Locate gaming machines in venues that do not facilitate convenience gaming for the local community, including through the prohibition of gaming venues in strip shopping centres and shopping complexes.
- Strategy 4.2: Limit the accessibility of gaming machines to vulnerable communities.

- Strategy 4.3: Encourage gaming machines to be located in venues which deliver a net benefit to the community.

Implementation provisions should also be included at **Clause 21.04-13** as follows:

Policy and Exercise of Discretion

- Apply the Gaming policy at Clause 22.XX to all proposals for new or relocated gaming machines.
- Prohibit gaming machines in strip shopping centres and shopping complexes through the schedules to Clause 52.28.

6.2.2 Local planning policy

It is recommended that a local planning policy be prepared to provide guidance on how to exercise the discretion provided by the provisions of Clause 52.28. The local policy should contain a set of locational criteria which implement the locational principles set out in this report. The policy should also provide for a comprehensive set of information to be provided by applicants, given the unusual and complex nature of gaming issues.

A suggested local policy is set out in Attachment 3. The local policy states that gaming machines should not be located in or within 400m of the most vulnerable 20% of communities in Ballarat according to the SEIFA Index of Relative Disadvantage, but does not map these areas. The SEIFA Index is regularly updated with new data, and this should be reviewed anew with each gaming proposal.

6.2.3 Strip shopping centres and shopping complexes

Gaming is prohibited in all strip shopping centres in the municipality. Under Clause 52.28-4 of the Ballarat Planning Scheme a strip shopping area is defined as an area meeting all of the following requirements:

- It is zoned for business use.
- It consists of at least two separate buildings on at least two separate and adjoining lots.
- It is an area in which a significant proportion of the buildings are shops.
- It is an area in which a significant proportion of the lots abut a road accessible to the public generally.

There are a number of ambiguities associated with the definition of a strip shopping centre as shown by the various Tribunal decisions which have considered the issue (eg *Crestline Architects v Greater Geelong CC*; *M & S Whelan Investments v Alpine SC*) and as it stands it is left to a decision maker to interpret on a case by case basis what constitutes a strip shopping centre. A number of municipalities have chosen to map strip shopping centres and stand alone shopping centres which accord with the tests set out in Clause 52.28-4.



However, the Panel which considered Amendment C64 to the Macedon Ranges Planning Scheme concluded that interpretation of the precise boundaries of a strip shopping centre is best made on a case by case basis. As such, it is not recommended that Ballarat include mapping of strip shopping centres in the local planning policy.

6.2.4 Assessment tool

In order to assist Council officers in undertaking an assessment of a permit application for gaming machines, an assessment tool has been prepared (see Attachment 4). The tool is linked to the requirements of the proposed local policy and provides a comprehensive methodology to examine the relevant considerations for a gaming application and determine whether the proposal will lead to a net community benefit. This tool could also be used to help proponents prepare an application for EGMs.

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8 Attachment 1 - Clause 52.28

52.28 GAMING

17/09/2007
VC45

52.28-1 Purpose

18/10/2006
VC39

To ensure that gaming machines are situated in appropriate locations and premises.
To ensure the social and economic impacts of the location of gaming machines are considered.
To prohibit gaming machines in specified shopping complexes and strip shopping centres.

52.28-2 Permit requirement

18/10/2006
VC39

A permit is required to install or use a gaming machine.
This does not apply in either of the following circumstances:

- Clause 52.28-3 or Clause 52.28-4 specifically prohibit a gaming machine.
- the gaming machine is in an approved venue under the Gambling Regulation Act 2003 on 18 October 2006 and the maximum number of gaming machines for the approved venue on 18 October 2006 is not exceeded.

52.28-3 Prohibition of a gaming machine in a shopping complex

18/10/2006
VC39

Installation or use of a gaming machine is prohibited on land specified in a schedule to this clause.
This does not apply to a gaming machine in an approved venue under the Gambling Regulation Act 2003 on 18 October 2006; and the maximum number of gaming machines for the approved venue on 18 October 2006 is not exceeded.

52.28-4 Prohibition of a gaming machine in a strip shopping centre

18/10/2006
VC39

Installation or use of a gaming machine is prohibited in a strip shopping centre if:

- the strip shopping centre is specified in the schedule to this clause.
- the schedule provides that a gaming machine is prohibited in all strip shopping centres on land covered by this planning scheme.

This does not apply to a gaming machine in an approved venue under the Gambling Regulation Act 2003 on 18 October 2006; and the maximum number of gaming machines for the approved venue on 18 October 2006 is not exceeded.

A strip shopping centre is an area that meets all of the following requirements:

- it is zoned for business use;
- it consists of at least two separate buildings on at least two separate and adjoining lots;
- it is an area in which a significant proportion of the buildings are shops;
- it is an area in which a significant proportion of the lots abut a road accessible to the public generally;

but it does not include the Capital City Zone in the Melbourne Planning Scheme.

52.28-5 Transitional arrangements

17/09/2007
VC45

The requirements of Clause 52.28 as in force immediately before 18 October 2006 continue to apply to a gaming machine referred to in a transitional application and permitted in the determination of a transitional application if a planning permit was not required immediately before 18 October 2006 for that gaming machine.



In this clause, "transitional application" means an application or request made, and not determined, before 18 October 2006 to the Victorian Commission for Gambling Regulation under the Gambling Regulation Act 2003 for either:

- an approval of premises for gaming, or variation of approval of premises for gaming, or
- amendment of conditions of a venue operator's licence to vary the number of permitted gaming machines for an approved venue.

52.28-6

18/10/2006
VC39

Decision guidelines

Before deciding on an application, in addition to the decision guidelines of Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The compatibility of the proposal with adjoining and nearby land uses.
- The capability of the site to accommodate the proposal.
- Whether the gaming premises provides a full range of hotel facilities or services to patrons or a full range of club facilities or services to members and patrons.

9 Attachment 2 – Analysis of VCAT decisions and Panel reports

9.1 Planning Panels

To date a number of Planning Panels have considered planning scheme amendments to introduce local planning policies for gaming machine applications: Greater Bendigo C110, Greater Geelong C168, Hume City Council C100, Mansfield C21, Maroondah C60, Mitchell C50, Macedon Ranges C64 and Yarra Ranges C77. There have been broadly similar findings emerging from these reports which may be summarised as follows:

- With appropriate strategic work, there is a strong basis to justify the introduction of a local planning policy to deal with gaming.
- It is appropriate for the policy to seek to minimise convenience gaming in designated areas, as distinct from encouraging a destination gaming model.
- In order to reconcile the policy tension between encouraging entertainment facilities in activity centres on the one hand, and discouraging convenience gaming on the other, edge of centre locations may be appropriate. However it has been noted that in a regional setting where small townships and activity centres are prevalent, it is appropriate that EGMs not be located at the edge of a centre, but rather at a point not convenient to the centre.
- It is appropriate for a policy to deal with the issue of gaming density and distribution across the municipality.
- Any policy should focus on the achievement of net community benefit through the provision of criteria about appropriate areas, sites and venues for EGMs
- There is not a basis for a planning policy to distinguish between clubs and hotels.
- Mapping strip shopping centres is generally considered an appropriate way to identify prohibited gaming areas.
- The application of locational criteria requiring in excess of 400 metres between EGM sites and shopping centres and other public facilities has been found to be appropriate as a means of reducing convenience gaming.
- It is reasonable to request a social and economic impact assessment as an application requirement.

In all cases the panels have recommended adoption of proposed local planning policies, with some changes.

9.2 VCAT and Supreme Court

Club Edgewater (2009)⁵

The Tribunal considered a combined planning permit and gaming licence application to establish a new social club with 70 EGMs in a Neighbourhood Activity Centre (NAC) in the new Edgewater Estate, Maribyrnong. The application involved relocating and removing EGMs from other locations in the municipality,

⁵ Prizac Investments Pty Ltd & Ors v Maribyrnong CC & Ors



leading to an overall net reduction in machines in the City of Maribyrnong. Council did not have a planning scheme policy about gaming.

Having decided that the site was not in a strip shopping centre, despite being in close proximity to shopping facilities, VCAT turned its attention to whether it was appropriate to locate a restricted place of assembly in the activity centre. They considered that the centre could not strictly be defined as a NAC and the hierarchy of centres did not limit non-retail uses. Furthermore gaming, as a legitimate entertainment activity, should be generally accessible, not remote from shops and houses.

The local area contained pockets of significant disadvantage, but given these persons already had convenient access to EGMs at another venue this matter was not decisive. Indeed the Tribunal considered that the proposal would have a positive benefit in reducing EGMs in other disadvantaged areas.

The Tribunal considered that the net community benefit policy at (the then) Clause 11 of the SPPF should be treated as a policy rather than a prohibition on the grant of a permit in the absence of net community benefit. Ultimately Council's refusal was set aside and the VCGR's approval affirmed.

Langwarrin Hotel (2009)⁶

The Langwarrin Hotel appealed against a decision by Frankston City Council to not approve 16 additional EGMs on top of the Hotel's existing 44 EGMs. In this case, Council had refused the planning application for gaming machines, but had not objected to the VCGR application. The Tribunal overturned Council's refusal. The case is notable for VCAT making a number of interesting observations about the role of a planning assessment versus the gaming licensing process. The Tribunal stated that it was not its role to revisit the social/demographic implications of the proposal that had been considered by the VCGR, but rather focus on the locational aspects of the proposal. The same finding applied to the issue of whether Frankston City as a whole should absorb more EGMs, as the VCGR had also determined this matter in the positive.

Interestingly the Tribunal outlined that the net community benefit test under the planning system sets a 'higher bar' than under the gaming legislation. Whereas the VCGR only needs to find that a proposal will not cause net detriment, Clause 11 of the SPPF means that an applicant must demonstrate there is a net positive benefit. This contrasts with the findings in the Edgewater decision discussed above and this interpretation has not been followed in other VCAT decisions.

Council argued that the EGMs would better be located in the Frankston CAD, however the Tribunal dismissed this argument on the basis that Langwarrin residents also had a right to entertainment facilities and exhibited relatively low level of disadvantage. Critically, the decision stated: "it goes against Council that

⁶ Beretta's Langwarrin Pty Ltd v Frankston CC

there is no specific local gaming policy providing any spatial preference for which part of the municipality new EGMs should be located.”

Finally, in relation to taking account of the results of community surveys, the Tribunal considered that a planning review has the discretion to consider such evidence if the circumstances require, but it is one of many planning issues and factors.

Marine Hotel (2010)⁷

The Tribunal upheld a review of Council’s decision to refuse permission for an additional ten EGMs at the Hotel. One of Council’s concerns related to the proximity to a number of major education and community facilities primarily involving persons under the age of 18. This was not considered to be a sufficient reason to refuse the application, especially given restrictions on youth entering the gaming room of a licensed premises.

An important point to arise from the case was some clarification around the differentiation between the role of the planning system versus VCGR in gaming approvals. VCAT noted that the key to Clause 52.28 is that it is about the location of gaming machines and that the purpose and decision guidelines of this clause do not require consideration of the social and economic impact of the machines themselves.

The case also provided some guidance about appropriate permit conditions. Council had proposed a draft condition requiring \$50,000 annually to be distributed to community projects. Again the Tribunal made the point that the planning controls related to the location of the EGMs and as such it would not be appropriate to impose a condition which relates to the social and economic impacts of the machines themselves.

New Bay Hotel (2010)⁸

This case was a combined planning and gaming review of the proposal to install 50 EGMs at the Hotel. The land was located in a commercial area, but was not deemed to constitute a strip shopping centre by the Tribunal. The centre had very few shops and was not considered to have the character and function of a strip shopping centre, but rather was seen as a small commercial centre with an office/service focus. The land was also located in a Business 5 Zone, meaning that shops are a prohibited use.

The case provided some important discussion about the issue of net community benefit. A Council policy objective to ensure that gaming venues achieve a net community benefit was considered contrary to (the then) Clause 11 of the SPPF which sought to balance conflicting objectives in favour of net community benefit and sustainable development. Furthermore it was considered contrary to gaming

⁷ CK & Sons Pty Ltd v Bayside CC

⁸ Bright Newbay Pty Ltd v Bayside CC

legislation that mandates no net community detriment. Council argued that such policies had been included in gazetted local planning policies for Hume and Greater Bendigo planning schemes, however the Tribunal noted that these had been approved prior to recent Tribunal decisions about the issue. It instead suggested that there should be a review of existing gaming policies within all planning schemes to ensure a requirement to achieve net community benefit is modified to accord with (the then) Clause 11 and/or the *Gambling Regulation Act*.

A final point of interest from the case is that attempts to lock in an annual contribution through either the planning or gaming approval were unsuccessful. VCAT considered that the such a condition was contrary to the locational basis of Clause 52.28 and, having regard to the Romsey case, was not appropriate under gambling legislation given the role of the Community Benefit Fund. However it was noted that the proposed contribution had been given express consideration as a positive aspect of the application.

Bells Hotel (2010)⁹

This review pertained to a decision by Port Phillip City Council to refuse an application for 40 EGMs at the Bells Hotel in South Melbourne. Key contextual issues included the proximity of Crown Casino and a public housing estate. In this case the VCGR had already granted permission, despite some moderate concerns about the vulnerable population nearby.

VCAT considered that its role was to focus on location, but that it was up to each case to decide the appropriate locality within which to consider the impact of the proposal. It noted that the impact on a particular local vulnerable group could be decisive in relevant circumstances. However the Tribunal was not convinced that there was appropriate evidence linking the characteristics of housing estate residents with the profile of problem gamblers. Furthermore, the ability to access the nearby casino was an issue. VCAT concluded that the introduction of EGMs would not cause socio-economic problems of a scale that would justify refusal of the application.

Stolberg Hotel (2010)¹⁰

Following Darebin Council's approval of a gaming application, the appeal was lodged by an objector who was concerned that the social and economic impacts of the location of the EGMs had not been adequately assessed by Council. The Tribunal agreed with this position, overturning the approval. Its decision noted that the social and economic considerations in the planning and gaming applications do overlap and planning focuses upon the particular location whereas gaming licensing focuses upon the community of the municipality as a whole.

A key issue in the case was the high number of existing gaming venues in an area of relative disadvantage. Despite the applicant's arguments that the implication of

⁹ Bells Hotel Pty Ltd v Port Phillip CC

¹⁰ Rennie v Darebin CC

this context was the proposal would have a marginal effect, the Tribunal was not persuaded that this was a good planning outcome. Furthermore the regional cap level was not considered a good guide as to when 'enough is enough', given venue catchments go over municipal boundaries.

Williams Landing (2007)¹¹

A proposal to construct a large hotel and reception centre with gaming facilities in an industrial area which sat just outside a proposed Major Activity Centre (MAC) at Williams Landing had been approved by Wyndham City Council. The decision was appealed by the developers of the activity centre who were concerned that the approval of an out-of-centre entertainment facility would undermine the future activity centre. A key issue then was how to balance the preferred location of entertainment facilities within activity centres with a desire to limit convenience gaming.

VCAT considered the proposal a substantial entertainment facility with a regional catchment that could be an important anchor for an activity centre. It was not considered the proposal would result in net community benefit if located out-of-centre. With regards to the convenience gaming issue the Tribunal observed that large master planned activity centres can potentially separate incompatible uses, however this is much more difficult when proposing gaming machines in existing centres where there are not the same opportunities to create buffers.

Romsey Hotel (2007-9)¹²

This long running and prominent case involved an application for 30 EGMs at the only hotel in Romsey, a town with no other gaming facilities. Steps in this process involved:

- Refusal of the application by the VCGR;
- VCAT overturning the VCGR decision;
- Macedon Ranges Shire Council appealing the decision to the Supreme Court, which determined that VCAT had erred in law in not considering community opposition to the proposal;
- The matter returning to VCAT, which ultimately upheld the VCGR's original refusal.

Whilst this case relates to decision making under the *Gambling Regulation Act*, it still has some significance to the planning system given its commentary on community wellbeing and the role of community opposition to a gaming proposal, which were key issues of contention.

The Tribunal noted that community wellbeing is a regulatory concept with some importance given that it is employed in legislation relation to gambling, public

¹¹ Walker Corporation Pty Ltd v Wyndham CC

¹² Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation [2007]

Macedon Ranges Shire Council v Romsey Hotel Pty Ltd & Anor [2008]

Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor [2009]

health and the role of local government. Wellbeing was seen as a holistic concept that involved physical, social, spiritual, economic and cultural aspects, including democratic participation. It was suggested that communities will experience those social impacts in different ways and some communities may place a high value on the negative consequences of EGMs.

The Tribunal determined that there was evidence to suggest that the introduction of gaming machines would cause significant unhappiness and discontent in a substantial part of the Romsey community. This was illustrated through three surveys which revealed significant opposition to the proposal, which the Tribunal gave great weight to in considering the social character of the township. With the Hotel located prominently in the small town, it was considered that the idea of gaming machine at the Hotel represented a major challenge to the community. On balance then it was deemed that the social impact of the proposal would be strongly negative, even though Romsey is not especially disadvantaged.

Prohibited locations in strip shopping centres (2008)¹³

A number of VCAT cases have considered whether a potential gaming venue is located within a strip shopping centre, the implication being that gaming machines will be prohibited if the venue is found to be located in a strip shopping centre. Two such cases in 2008 involved the Beaumaris Hotel, Beaumaris and Star Hotel in Bright. These involved VCAT examining the four tests for defining a strip shopping centre under Clause 52.28-4, the most contentious of which involves determining whether a significant proportion of buildings in the area are shops. In both cases the hotel was located towards the edge of the shopping precinct and zoned Business 1, with the Tribunal finding that the locations constituted a strip shopping centre and thus gaming was prohibited.

Some key messages that can be taken from these cases are as follows:

- The shopping centre should be considered as a whole.
- A broad view of what constitutes a shop should be taken rather than the planning scheme definition, as the aim of the clause is to reduce convenience.
- A majority of premises does not need to be shops to constitute a significant proportion.
- The location of pedestrian traffic may be relevant but lower rates of activity in some parts of the centre do not change the character of an area as a strip shopping centre.

¹³ Shimmerbridge Pty Ltd v Bayside CC; M & S Whelan Investments Pty Ltd v Alpine SC

10 Attachment 3 – Proposed local planning policy

22.XX GAMING

This policy applies to all applications which require a permit to install or use a gaming machine, or use land for the purpose of gaming in the City of Ballarat.

22.XX-X Policy Basis

Ballarat has a high density of gaming machines, and a level of gaming expenditure that exceeds both Victorian and regional municipal averages. Approximately 82% of residents live within 2.5 kilometres of a gaming venue.

Research has concluded that there are links between social vulnerability, problem gambling and access to gaming venues. Although gaming machines may be accessible to the community as a form of entertainment and recreation, it is desirable to focus gaming machines away from everyday activity including shops whereby a pre-determined decision to gamble must be required. Furthermore, the socio-economic characteristics of the municipality should be considered in any application for gaming machines. A number of areas of Ballarat, primarily around Wendouree, Sebastopol and North Ballarat, are particularly disadvantaged, and these areas are least capable of addressing the potential harmful effects of gaming.

The location of gaming machines within Ballarat should seek to balance competing social, economic and environmental issues in order to achieve a net community benefit by using the locational criteria set out in this policy.

22.XX-X Objectives

- To minimise net harm to the health, social and economic wellbeing of residents and communities that arises from gaming.
- To ensure that the area, site and venue characteristics contribute to net community benefit.
- To protect the amenity of existing uses surrounding gaming venues.

22.XX-X Policy

It is policy that applications for gaming machines are assessed against the following criteria:

Appropriate areas

Gaming machines should not be located:

- In or within 400 metres of areas of relative socio-economic disadvantage. This is defined as locations where any Australian Bureau of Statistics collection district is within the most disadvantaged 20% of collection districts in Victoria, as established by the SEIFA Index of Relative Disadvantage.
- In small towns or small urban settlements where there is not a variety of non-gaming entertainment and recreation activities.

Subject to the above criteria, it is preferred that gaming machines are located:

- In the Central Business District (CBD), outside of prohibited gaming areas identified at Clause 52.28.
- Where they will make a positive contribution to the redistribution of gaming machines away from areas of relative socio-economic disadvantage.
- Where the community has a choice of other non-gaming entertainment and recreation activities operating at the times the proposed gaming venue will operate.
- Where there is established social infrastructure and community support networks.
- In areas proximate to, but not in the primary retail core of, higher order activity centres. Clause 21.04-4 identifies these centres as follows: the CBD, Wendouree, Sebastopol, Buninyong, Delacombe and Alfredton West.
- In areas covered by the Urban Growth Zone. In these areas, gaming machines should not be established ahead of the provision of non-gaming entertainment and recreation activities or social infrastructure.

Appropriate sites

Gaming machines should not be located:

- On sites within 400m of shops, supermarkets, and major health and community services or key public transport nodes where large numbers of pedestrians are likely to pass in the course of their daily activities. This does not apply within the Ballarat CBD.

Gaming machines should be located:

- Where the gaming venue, and its associated uses, are compatible with the predominant surrounding land uses by ensuring that the proposed design, location and operating hours do not detrimentally affect the amenity of the surrounding area.
- In a sports or recreation club with a land holding of more than 2 hectares.

Appropriate venues

Gaming machines should not be located in venues that:

- Have a gaming floor area of more than 25% of the total floor area of the venue.
- Will have a significant adverse impact on the amenity of adjoining areas as a result of operating hours, traffic and noise from patrons and vehicles.

Gaming machines should be located in venues that:

- Offer a range of social, entertainment and recreational opportunities and activities other than gaming as the primary purpose of the venue.
- Promote responsible gaming practices.
- Do not operate gaming machines between at least 1am and 9am.

It is preferred that gaming machines be located in venues that are integrated with existing tourism uses and primarily focused on providing tourism services for visitors to the City of Ballarat.

22.XX-X Application Requirements

It is policy that all applications must include the following information to the satisfaction of the responsible authority:

- The proposed design and layout of the premises including all signage and evidence of compliance with the relevant gaming regulations for premises layout and design.
- A venue management plan identifying strategies to manage patron behaviour and minimise problem gambling in relation to the design and management of the venue, including the applicant's responsible gaming practices.
- A detailed assessment of the social and economic benefits and disadvantages of the proposed gaming machines comprising:

Socio-economic impact

- An analysis of the demographic and socio-economic profile of the municipality and the venue's projected patron catchment and its potential vulnerability to problem gambling, with the inclusion of data from the SEIFA index of relative disadvantage.
- If it is proposed to move gaming machines from one part of the municipality to another, details of the relative social and economic differences between the two areas. An explanation as to why the gaming machines are being transferred is to be provided.
- Details of and justification for the projected patron catchment.

Location assessment

- Characteristics of the local area including the location of and distance to nearby retail uses, community facilities, public housing, counselling services and public transport.
- Details of existing and proposed gambling and non-gambling related entertainment and recreation facilities and activities at the venue and within 2.5km of the venue.
- Pedestrian counts outside the venue on different days and at variety of different times.

Gaming machine impacts

- Details about the existing and proposed distribution and density of gaming machines in the municipality.
- Details of existing gaming expenditure at the venue over a 3 year period prior to the application (if relevant) and a forecast of the anticipated expenditure (gaming losses) at the venue if the proposal was to be approved.
- If gaming machines are to be relocated from other venues, and as a result gaming expenditure is likely to be transferred from other venues:
 - particulars as to how the level of transfer has been calculated (including, but not limited to, comparison per machine expenditure at the venue prior to and then after the additional machines, current usage levels of machines at the venue, projected usage level of machines at the venue after the additional machines);
 - the amount of transfer expenditure anticipated;
 - the resulting impact on revenue of the venue from where the expenditure is transferred; and
 - the resulting impact on the venue from where the expenditure is transferred (such as loss of employment, loss of complementary expenditures, loss of customers, impact on ability to provide services etc).



Benefits

- Details of the nature and extent of community benefits expected from locating the gaming machines at the proposed venue and how the benefits are to be secured and distributed to the local community.

22.XX-X Decision Guidelines

In addition to the decision guidelines at Clause 52.28 and Clause 65, it is policy that the responsible authority must consider, as appropriate:

- The net community benefit to be derived from the application.
- Whether approval is likely to increase the socio-economic disadvantage of the local community.
- Whether the proposal will result in a redistribution of gaming machines away from areas of relatively high socio-economic disadvantage.
- Whether the location of the gaming machines or gaming premises is close to places of community congregation and will encourage convenience gaming.
- Whether patrons will have a choice between entertainment and recreation venues (with and without gaming) in the local area, and access to established social infrastructure.
- Whether the venue provides a range of non-gaming entertainment, leisure and recreation options.
- Whether the venue can be considered to be primarily associated with tourism uses and activities.
- The impact of the proposal on the amenity and character of the area and surrounding land uses.

11 Attachment 4 – Assessment tool

The table below sets out some of the key factors that may be relevant in establishing net community benefit. Decision makers will need to establish which positive and negative factors listed below apply to the application and then weigh up the relative merits versus concerns. The relevant factors will depend on the location and scale of the proposal, what information is available, as well as whether the proposed gaming machines are additional to the municipality or being relocated from elsewhere in the municipality. Other factors not listed here may also be relevant.

Category	Issues to consider		Potential information sources
	Positive impacts	Negative impacts	
Location principles	<p>Location of venue is consistent with higher order strategic location principles as follows:</p> <ul style="list-style-type: none"> – Venue is not located within a discouraged area identified in Ballarat Gaming Local Policy – Venue is proximate to, but not in the retail core of, higher order activity centres (CBD, Wendouree, Sebastopol, Buninyong, Delacombe, Alfredton West) – Venue is not located within a small town where there is not a variety of non-gaming entertainment and recreation options. – Venue is a sports or recreation club with a land holding of greater than 2 ha. 	<p>Location of venue is inconsistent with higher order strategic location principles as follows:</p> <ul style="list-style-type: none"> – Venue is located within a discouraged area identified in Ballarat Gaming Local Policy – Venue is in the retail core of, higher order activity centres – Venue is located in a small town without a variety of other non-gaming options 	<p>Site inspection</p> <p>Planning Scheme maps and policies</p>
Socio-economic profile	<p>Socio-economic indicators show above Victorian average levels of advantage and well-being at a municipal level and in the expected patron catchment (within 2.5km of venue). Key indicators will be:</p> <ul style="list-style-type: none"> – Scores in the highest deciles on SEIFA Index of Disadvantage – Higher than average household incomes – Lower than average unemployment – Lower than average proportion of single parent households – Lower than average levels of 	<p>Socio-economic indicators show above average disadvantage and vulnerability to problem gambling at a municipal level and in the expected patron catchment. Key indicators will be:</p> <ul style="list-style-type: none"> – Venue is located in or within 400m of areas of relative socio-economic disadvantage (in the lowest 20% identified by the SEIFA Index of Relative Disadvantage) – Lower than average household incomes – Higher than average unemployment – Higher than average proportion of single parent households – Higher than average levels of public 	<p>ABS Census data (www.abs.gov.au)</p> <p>Community Profile and Forecasts (Council website)</p> <p>ABS Census InfoMap on Housing Stress</p> <p>DVC Indicators of Community Strength</p> <p>Community Indicators Victoria (www.communityindicators.net.au)</p> <p>Jesuit Social Services, Tony Vinson. Community</p>

Category		Issues to consider		Potential information sources
	Positive impacts	Negative impacts		
	<p>public housing tenants</p> <ul style="list-style-type: none"> - Lower than average levels of housing stress - Lower than average levels of non-English speakers - Above average scores for municipal community indicators 	<p>housing tenants</p> <ul style="list-style-type: none"> - Higher than average levels of housing stress - Higher than average levels of non-English speakers - Below average scores for municipal community indicators. 		<p>Adversity and Resilience Report 2004</p> <p>Council community planning department</p>
<p><i>Note: other indicators may be relevant to local area.</i></p>				
Transport and land use	<p>Location of venue will not encourage convenience gaming as:</p> <ul style="list-style-type: none"> - Venue is not in close proximity to or integrated with high pedestrian generating activities or key places of community congregation - Venue is located at least 400m from shops, supermarkets, major health and community service hubs and transport nodes - Location of venue allows for safe and sustainable travel - Venue is compatible with its surrounds and will not cause amenity impacts on neighbouring uses 	<p>Location of venue will encourage convenience gaming as:</p> <ul style="list-style-type: none"> - Venue is located within or in close proximity to major pedestrian generating activities and key places of community congregation - Venue is within 400m of shops, a supermarket, major health and community services, or major transport node - Location of venue makes safe sustainable travel difficult - Venue is incompatible with its surrounds and will cause negative amenity impacts on neighbouring uses 		<p>Site inspection</p> <p>Council transport planning department</p> <p>MSS</p> <p>ABS Census data, SEIFA and Community Profile (for public housing)</p>
Other entertainment and recreation facilities	<p>Local residents have a choice of entertainment and recreation activities within the local catchment area (2.5km).</p> <p>There are a range of other non-gambling entertainment, leisure and recreation options available which operate at the same time the gaming machines will operate.</p>	<p>Local residents do not have a choice of non-gambling entertainment and recreation options as there are limited or no other non-gambling entertainment facilities available within the catchment (2.5km) at times the gaming machines will be operating.</p>		<p>Council</p> <p>Community Development Department</p> <p>Application details</p>
Other facilities at the venue	<p>Venue offers social, entertainment and recreational opportunities and activities other than gaming as the primary purpose of the venue.</p> <p>Venue has a gaming floor area of less than 25% of the total floor area of the venue.</p>	<p>The venue is primarily established for gaming and has limited or no other activities to choose from.</p> <p>Gaming occupies more than 25% of the total floor area of the venue.</p>		<p>Site inspection</p> <p>Application details</p>
Population growth	<p>Venue is located in an area projected for future population growth, which will result in a lower gaming machine density in the local area.</p>	<p>Limited, stable or negative population growth is projected which will mean higher gaming machine densities in the local area.</p>		<p>DPCD population projections</p> <p>Planning Scheme</p>

Category	Issues to consider		Potential information sources
	Positive impacts	Negative impacts	
			Any relevant policy or document (for example, structure plans or growth area strategies)
Social impact	<p>The venue will provide facilities, services or activities needed by the community.</p> <p>Local area has existing established social infrastructure and social networks.</p> <p>The application will result in negligible additional need for counselling services for gaming addiction and problem gambling.</p> <p>There is community support for the gaming machines and facilities proposed.</p>	<p>Facilities and activities provided by the venue are already readily available in the local area and there is no additional demand.</p> <p>Additional community facilities or services will be required as a result of the gaming revenue.</p> <p>Approval of the application will generate additional need for counselling services.</p> <p>There is notable community opposition to the application.</p>	<p>Information from the applicant about contributions</p> <p>Council Community Development Department</p> <p>Local Gambler's Help office</p> <p>Any survey conducted by Council or the applicant about the proposal</p>
Economic impact	<p>Evidence suggests that economic benefits will arise from the application, including:</p> <ul style="list-style-type: none"> – The application will result in a decrease in overall EGM expenditure within the local area or municipality – Venue will make contributions to community services or sponsorship of community activities – Additional employment will be generated related to the gaming component of the venue – Other contributions will be made to the local economy such as use of local business and investment infrastructure 	<p>Evidence suggests likely negative economic impacts arising from as the application, potentially including:</p> <ul style="list-style-type: none"> – Redistribution of spending away from local business – Limited EGM expenditure to be retained in the local community 	<p>VCGR Research and Statistics (www.vcgr.vic.gov.au)</p> <p>Past Community Benefit Statements for clubs on the VCGR website</p> <p>ABS Census data</p> <p>Application details</p>
Relocation of EGMs	<p>The application will result in a relocation of EGMs from elsewhere in the municipality and there are comparative benefits of the redistribution, such as:</p> <ul style="list-style-type: none"> – Removal of gaming machines from a disadvantaged area – Removal of gaming machines from a convenient location – Increased financial contributions to 	<p>The application seeks to relocate EGMs from elsewhere in the municipality and there are comparative disadvantages this redistribution, such as:</p> <ul style="list-style-type: none"> – Relocation of gaming machines to a more disadvantaged community – Relocation of gaming machines to a more convenient location – Reduced financial contributions to community facilities and activities 	As identified above

Category		Issues to consider		Potential information sources
	Positive impacts	Negative impacts		
	community facilities and activities			
Harm minimisation	<p>If the EGMs are to be located in a current gaming venue, evidence of strong past commitment to minimising harm caused by gaming machines and a detailed plan of additional measures to minimise future harm.</p> <p>If the EGMs are to be located in a new gaming venue a detailed plan of strategies to be adopted to minimise harm caused by problem gambling.</p> <p>Harm minimisation measures include:</p> <ul style="list-style-type: none"> - Separate entrance to gaming room - Limiting hours of operation - Ensuring all staff adequately trained in responsible gambling - Uptake of pre-commitment technologies 	<p>Little evidence of past adoption of harm minimisation strategies for existing venues.</p> <p>Failure to submit a harm minimisation plan.</p>	<p>Harm minimisation plan submitted as part of planning permit application</p> <p>Gaming room layout</p> <p>Hours of operation</p>	
Tourism function	<p>The venue is integrated with existing tourism uses and is primarily focused on providing tourism services for visitors to the municipality.</p>	<p>The venue is not integrated with existing tourism uses.</p> <p>The venue is integrated with existing tourism uses but does not primarily focus on providing tourism services for visitors to the municipality.</p>		

