

MANSFIELD SHIRE

Gaming Policy Framework



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List of Abbreviations

ABS – Australian Bureau of Statistics
 CBS – Community Benefit Statements
 CSF – Community Support Fund
 DoJ – Department of Justice
 EGM – Electronic Gaming Machine
 LGA – Local Government Area
 SEIFA – Socio Economic Indicators for Areas
 VCGA – Victorian Casino and Gaming Authority
 VCGR – Victorian Commission for Gambling Regulation
 VCAT – Victorian Civil and Administrative Tribunal
 VPPs – Victorian Planning Provisions
 MSS – Municipal Strategic Statement
 LPPF – Local Planning Policy Framework
 SPPF – State Planning Policy Framework

1 Executive summary

1.1 Context

Changes to the Victorian Planning Provisions on the 18th October 2006 require a planning permit be obtained for all new gaming machines in the State of Victoria. This document provides a planning framework and the strategic justification for a local planning policy for Mansfield Shire Council, as it relates to applications for the installation or use of Electronic Gaming Machines (EGMs) in the municipality.

Gaming is a legitimate activity in Victoria and for the majority of gamblers gaming is a source of recreation. However, it is recognised that gaming can have serious detrimental implications for a small but significant proportion of gamblers.

1.2 Legislation

The legislative provisions governing the conduct of gaming are set out in a range of legislation, the most pertinent being the *Gambling Regulation Act 2003* and the *Planning and Environment Act 1987*.

The main objective of the *Gambling Regulation Act* is to foster responsible gambling in order to minimise harm caused by problem gambling and to accommodate those who gamble without harming themselves or others.

There is limited legislative clarity or guidelines for what constitutes an appropriate location for a gaming venue; however, the proposed location of gaming venues and machines must be in accordance with the planning objectives for Victoria as set out in the *Planning and Environment Act 1987*. Any development should consider the social, environmental and economic impacts to ensure it will produce net community benefit and sustainable development.

The regulation of gaming is also influenced by State and local policy positions on gaming. A review of State and Mansfield Shire policies has informed locational principles for gaming venues in the municipality.

1.3 Gaming in Victoria

In 2010, the State of Victoria had 29,272 EGMs in 515 venues, resulting in an overall density of 6.4 machines per 1000 adult population. Average annual expenditure on gaming machines per adult in Victoria was \$663. There are 20 regions across Victoria capped at 10 machines per 1000 adults or the current level, whichever is the lower. Moreover, on 19 June 2009 a Ministerial order was issued stating that all municipal areas are to have a maximum permissible number of gaming machines equivalent to ten gaming machines per thousand adults. Excluded from this requirement are the precincts of Melbourne central business district, Docklands and Southbank within the City of Melbourne and areas already covered by a Regional Cap.

1.4 Mansfield Shire Council Context

Mansfield Shire comprises numerous small settlements and one major service centre at Mansfield. The Shire has one gaming venue containing 29 EGMs, resulting in an overall density of 4.7 per 1000 adult population in 2009. Average annual expenditure on gaming machines per adult in Mansfield Shire in 2009 was \$272, although the VCGR estimate a substantial proportion of this relates to visitor spending. Parts of the Shire exhibit signs of relative disadvantage, particularly to the south and in parts of Mansfield township.

1.5 Socio-Economic Implications – Research Findings

Research has identified that disadvantaged communities are more vulnerable to the negative impacts of gaming. The tension that exists within gaming is that whilst it is a legitimate, and for many enjoyable, form of entertainment, any policy must address the community concerns regarding problem gambling that is evident in the research.

Whilst there is no simple causal relationship between problem gambling and gaming venue locations, there are a number of features that can make an individual and the wider community more vulnerable to the harm caused by gaming. These include accessibility, socio-economic disadvantage, persons with depression or disabilities and social context. The main trigger for the problems of most problem gamblers is financial loss which has a range of social and personal repercussions for the gambler, their family and the wider community.

A complex relationship also exists surrounding issues of accessibility and location of gaming venues. At a macro level there appear to be clear links between accessibility to gaming and levels of problem gambling. Local level accessibility issues appear to be more complex, however various studies examining proximity and gambling behaviour are suggestive of there being a relationship between the two and that reductions in accessibility may reduce habitual and impulsive gambling behaviour.

1.6 Socio-Economic Implications – Planning Considerations

State planning policy indicates that entertainment uses should be located in accessible areas like activity centres to promote sustainable development. However, the Victoria Planning Provisions also allow a planning scheme to prohibit the locating of gaming venues in strip shopping centres and shopping complexes, which are the uses at the heart of most activity centres.

To resolve these conflicting planning issues and achieve a net community benefit, gaming venues should have the attributes of 'destination gaming', but embody principles of sustainable development. Gaming venues should therefore generally be located where they are accessible to persons in key population centres, but not convenient to the retail or community hubs to minimise impulse gambling opportunities. Gaming venues should also be located away from vulnerable communities.

1.7 Locational Principles for Gaming

Consideration of the legislative framework surrounding the location of gaming venues, when balanced with the key socio-economic and planning issues, has culminated in the development of a set of locational principles for gaming venues in Mansfield Shire. These principles are as follows:

Primary location criteria

Macro locational attributes

1. Gaming machines should not be located in towns which function as small urban settlements with a limited service role to a small population catchment.
2. Gaming machines should be located in urban centres which can accommodate additional gaming because:
 - a. residents also have a choice of other types of non-gaming entertainment and recreation facilities in the local area, particularly alternative clubs or hotels; and
 - b. there are limited existing gaming opportunities for residents, or identified future residential growth capacity.
3. Gaming machines can be located in areas remote from urban centres if associated with a use predominantly providing services to visitors of the Shire, or a sports and recreation club with an extensive land holding.

Vulnerable communities

4. Gaming machines should not locate proximate to areas of relative socio-economic disadvantage.

Net community benefit

5. Proposals should demonstrate that the provision of gaming machines in a particular location will achieve a net community benefit.

Detailed location criteria

Minimising convenience

6. 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 and major community facilities involving a high concentration of people undertaking daily activities.

Compatibility with surrounds

7. The location and operations of gaming venues and any associated recreation and entertainment facilities should not be incompatible with the predominant surrounding land use.

Venue attributes

8. 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; and
- Limit their hours of operation.

1.8 Policy and Planning Scheme Recommendations

- Consider preparing a Council responsible gaming policy which sets out Council's position and strategies in relation to gaming issues not addressed by the planning system.
- Include references to gaming in the Municipal Strategic Statement.
- Insert a new local planning policy to assist in decision making on gaming machines based on the principles outlined above.
- Prohibit gaming machines in Mansfield's strip shopping centre and other strip shopping centres that may emerge over time.



2 Introduction

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 for a Gambling Planning Framework to provide the opportunity for Mansfield Shire Council to respond to gambling 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, gambling has serious detrimental consequences for a small but significant proportion of gamblers. Local government has a responsibility to ensure that their policies mitigate the impacts on the community and increase the benefits of gaming.

In February 2010 the Mansfield Shire Council engaged CPG to develop a Gambling Planning Frameworks for the municipality. This document provides an evidence base for a Gaming Policy suitable for inclusion within the Mansfield Planning Scheme. Section 8 of this document provides a draft policy suitable for inclusion into the planning scheme.

The methodology relied upon in preparing this policy is detailed in Attachment 1.

3 The Legislative Context to Gaming

This section provides the legislative context for gaming in Victoria. It discusses gaming as it relates to gambling and planning legislation at a State and local level. 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:

- 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. S277 18 October 2006
 - Ministerial Direction No. S124 Thursday 26 June 2003
 - VCGR Determination No. S 318 Monday 11 December
- Gambling Regulation Regulations 2005
- Gambling Regulation (Signage) Regulations 2005
- Gambling Regulation (Infringements Offences) 2006

3.1 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*). Melbourne's Crown Casino opened on 30 June 1994.

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). Refer to Attachment 2 for a copy of the recently released details of a new Ministerial Direction on the activities that constitute community purpose.

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*.

3.2 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).

3.3 Subordinate Legislation and Directions

The legislative context is complemented by the following relevant directions and subordinate legislation:

3.3.1 Directions and Subordinate Legislation

- Ministerial Direction
 - Victorian Government Gazette – No. S123 2 May 2008
 - Sets out key parameters for the maximum permissible number of gaming machines available for gaming in Victoria and operational controls
- VCGR Determination
 - Victorian Government Gazette - No. S 318 Monday 11 December 2006
 - Permissible number of gaming machines in capped areas in Victoria
- Ministerial Determination
 - Ministerial Direction S 69 (March 2008) on Community Purpose sets out what clubs can claim as community benefit in a community benefit statement (see Attachment 2)
- Gambling Regulation Regulations 2005
- Gambling Regulation (Signage) Regulations 2005
- Gambling Regulation (Infringements Offences) 2006

3.3.2 Planning Schemes

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 11.02 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 and Recreation

Clause 12.06-2 Increase access to the arts, recreational and other cultural facilities.

Clause 14.01 The objective of this clause is to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.

Activity Centres and Sustainable Transport

Clause 12.01-2 Develop a network of activity centres that are the focus for business, shopping, working, leisure and community facilities. Ensure activity centres are developed in such a way that reduces the number of private motorised trips by concentration of activities that generate high numbers of trips in highly accessible locations.

Clause 17.01 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.

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 3. 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 Local schedules to Clause 52.28 potentially allow Council to specify local shopping complexes and strip shopping areas where gaming is prohibited. There are no prohibited shopping complexes and strip shopping centres specified in the schedules in the Mansfield Planning Scheme.

3.4 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 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.

The Strategy commits to further investigation of whether destination gaming can deliver community benefit to Victoria. The defining feature of the destination gaming model is provision of fewer but larger venues, in order to increase travel distances and reduce convenience. In addition, under the destination gaming



model, venues are located away from areas where people congregate to reduce the incidence of enticement.

In the Strategy, destination gambling is described as:

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

Since the development of this initial strategy the Department of Justice has conducted an analysis of destination gaming and its benefits for Victoria. The State Government's review of destination style gaming recommended that this model not be pursued in Victoria at this time. It found that 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).

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.

3.5 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 (eg machines could be transferred to and from Mt Buller), however the normal permit and licensing approvals processes and municipal caps still apply

3.6 Local Policies and Provisions

This section reviews relevant local policies and strategies that might inform that location of gaming venues.

3.6.1 Municipal Strategic Statement (MSS)

The Mansfield MSS does not reference gaming specifically, but sets out broader environmental, social and economic factors affecting the future planning of the Shire. These include the role of Mansfield as the Shire's main settlement and the need to contain urban development within townships. The planning vision for the Shire contains the following relevant key attributes:

- Sustainable development of lifestyle, tourism and service industries are key economic drivers;
- All towns within the Shire should be able to share projected population increases, depending on infrastructure augmentation;
- The Shire must be a prosperous community with a diversified economy;
- The service roles of small towns are to be improved for the local population as well as tourists.

Clause 21.03 of the MSS sets out Mansfield Shire's settlement strategies. Of note, Mansfield township is identified as having a significant heritage character and the capacity to accommodate additional population. The town's Urban Design Framework identifies two major business areas, being the town centre and an area of highway-related retail and peripheral sales on the eastern side of Mansfield. Tourism uses are encouraged within the latter area, while a Mixed Use Zone area close to the town centre can include leisure-based facilities.

In relation to the Shire's small towns, the MSS states that "Jamieson, Sawmill Settlement, Bonnie Doon, Mairdample, Macs Cove, Howqua Inlet, Goughs Bay, Woods Point, Tolmie, Merton and Mountain Bay are all recognised areas within the Shire capable of sharing the projected population increase in various capacities depending on supply, demand, and infrastructure." Various towns such as Bonnie Doon, Jamieson and Merton have strategies encouraging further tourism facilities and commercial development to complement urban growth.

Clause 21.05 of the MSS outlines objectives and strategies in relation to tourism. The importance of tourism to the Shire's economy is recognised, although primarily pertains to the significant assets of the natural environment and their associated leisure activities. Nevertheless, in general terms Clause 21.05 encourages tourism and seeks to:

- Ensure that tourism uses complement the purpose of the zone; and
- Locate development around existing urban and highly accessible areas.

It is noted that a planning policy promoting similar tourism outcomes is located at Clause 22.05 of the Local Planning policy Framework.

3.6.2 Municipal Public Health and Wellbeing Plan 2009-2013 (MPHWP)

The importance of issues of community wellbeing in relation to gaming have been emphasised by VCAT (see Section 3.7 below). The Mansfield Shire Council MPHWP identifies the health status of the Mansfield Shire community and addresses the most pressing health issues for the next four years, based around the themes of:

- Healthier Communities;
- Coordination and Access;
- Inclusiveness; and
- Resilience.

It is noted that the Plan does not reference gambling issues directly, but does seek to address service gaps in various allied health and community support services and reduce lifestyle risk factors, such as those associated with alcohol.

3.7 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 6.

3.7.1 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. Panels have also supported the idea of mapping prohibited and discouraged areas in and around strip shopping centres. These reports and recommendations provide clear direction as to how a policy for Mansfield Shire might be framed.

3.7.2 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:

- The net community benefit policy 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. However as Clause

11 is only a policy and thus non-compliance with it does not automatically mean an application would be refused.

- 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.
- Community wellbeing is an important regulatory concept and adverse community opinion about a gaming proposal can be considered as a negative social impact.
- 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.

3.8 Commentary

What is clear from a review of legislation, strategy and planning controls regarding gaming machines is that there is limited legislative clarity or guidelines for what constitutes an appropriate location for a gaming venue.

The legislative context seeks to protect vulnerable members of the community from the possibly harmful outcomes of gaming machines, whilst recognising the activity is a legitimate form of recreation throughout Victoria.

From the above legislative and policy review, the following broad conclusions can be drawn:

- The proposed location of gaming venues and machines must be in accordance with the planning objectives for Victoria, including securing a safe, pleasant working and recreational environment and balancing the present and future interests of all Victorians.
- Any development should consider the social, environmental and economic impacts to ensure it will produce:
 - Net community benefit
 - Sustainable development
- Gaming venues should not be located in:
 - Shopping complexes
 - Strip shopping centres
- Activity centres should be the focus for entertainment and leisure facilities.



- Entertainment uses and other uses which attract people are encouraged to locate with other uses in accessible areas to reduce the number of motorised trips made.
- Gaming venues should consider adjacent land uses.
- Gaming venues should consider the social and economic impacts of the proposed use.
- There is some support for the idea of reducing convenient access to EGMs.
- There is support for locating gaming machines away from areas of socio-economic disadvantage.

4 Gaming Machines in Victoria and Mansfield Shire

This section reviews how legislation and regulation have managed the implementation of gaming in Victoria and Mansfield Shire Council.

4.1 Victoria

4.1.1 Electronic Gaming Machine Numbers

State Ministerial Directions issued on the 2 May 2008 set the following parameters on Victoria's gaming machine industry:

- The maximum number of gaming machines permitted in Victoria, other than the Melbourne Casino, is 27,500.
- The maximum permissible number of machines in any approved venue outside of the Melbourne Casino is 105 machines.
- The proportion of the 27,500 gaming machines to be located outside the Melbourne Statistical Division is to be not less than 20%.
- The proportion of the 27,500 gaming machines which may be placed in premises in respect of which there is a general licence under the Liquor Control Reform Act 1998 is 50%.
- The proportion of the 27,500 gaming machines that may be placed in premises in respect of which a full or restricted club licence is in force under the Liquor Control Reform Act 1998 or a licence is in force under Part 1 of the Racing Act 1958 is also 50%.
- The proportion of the 27,500 gaming machines which each gaming operator (Tabcorp and Tattersall's) is permitted to operate is 50%. Note that under the new regulatory arrangements from 2012 no individual or organisation can hold more than 35 per cent of hotel gaming machine entitlements.

As at June 2009 the State of Victoria had a total of 29,272 EGMs. Of these, 2,500 are located at Crown Casino. A further 26,772 machines operate in 515 hotels and clubs throughout the State. The maximum amount of EGMs permitted in Victoria is 30,000 (2,500 of which are to be accommodated within the Melbourne Casino). Table 4-1 shows the changes in the number of electronic gaming machines, population and gaming expenditure in the period 2000-2009. The table indicates a gradual decrease in EGM density within Victoria due to population increases and reductions in overall EGM numbers. The table also shows that EGM spend per adult has varied sustainably from year to year, increasing to a maximum in the 2001-02 financial year of \$696, and dropping to its lowest level in the period (\$600) soon after in 2003-04. Between 2004 and 2009 average spend per adult has grown steadily, but has not returned to the high observed in 2001/2002.

Table 4-1 Historical Data – Gaming Machines in Victoria (excluding Crown Casino)

Date	Adult population*	No. of Venues**	No. of EGMs	Net EGM expenditure	Average no. EGMs per 1,000 adults	Average no. adults per venue	Average net EGM expenditure per adult
30/06/2000	3,531,882	536	27,408	\$2,170,581,995	7.76	6,589	\$615
30/06/2001	3,572,889	537	27,444	\$2,366,016,584	7.68	6,653	\$662
30/06/2002	3,679,669	534	27,400	\$2,562,820,950	7.45	6,891	\$696
30/06/2003	3,720,628	532	27,260	\$2,334,294,514	7.33	6,994	\$627
30/06/2004	3,816,854	530	27,132	\$2,290,929,976	7.11	7,202	\$600
30/06/2005	3,870,537	523	27,124	\$2,393,030,966	7.01	7,401	\$618
30/06/2006	3,924,728	521	27,147	\$2,472,451,853	6.92	7,533	\$630
30/06/2007	3,979,244	522	27,279	\$2,543,175,356	6.86	7,623	\$639
30/06/2008	4,034,536*	520	26,797	\$2,611,507,885	6.64	7,759	\$647
30/06/2009	4,172,760	515	26,772	\$2,768,044,148	6.42	8,102.40	\$663

Source: VCGR (2010)

4.1.2 Regional Caps

Regional caps are a way of setting limits on the number of gaming machines that can be available for gaming in certain specified areas. The capped regions cover parts of the identified municipalities that are considered to be most at risk, based on a high level of disadvantage, significant density of EGMs and relatively high levels of EGM losses.

The first round of regional caps was introduced in 2001 in response to community concern about the high concentration of gaming machines in some local areas. Under the new regional caps policy, introduced in 2005, nineteen regions are capped at either 10 machines per 1000 adults or the existing density of the region, whichever is lower.

The regional caps currently cover 20 regions:
Ballarat, Banyule, Bass Coast, Brimbank, Casey, Darebin, Greater Dandenong, Greater Geelong (including Queenscliff), Greater Shepparton, Hobsons Bay, Hume, Latrobe, Maribyrnong, Melbourne, Monash, Moonee Valley, Moreland, Warrnambool, Whittlesea and Yarra Ranges.

At the same time as introducing regional caps, the State Government stipulated that the density of electronic gaming machines in all local government areas must not exceed 10 machines per 1000 adults by the year 2010. It is estimated that this will result in the removal of approximately 540 machines; however this will be dependent on the existing number of machines and the population within each region.

This requirement has meant the removal of machines from some areas where this density is higher. Many uncapped areas with low densities of EGMs are experiencing significant increases in the number of applications for electronic gaming machines.

4.1.3 EGM Density

Established measures of the distribution and potential impact of EGMs include the number of EGMs compared to population (EGM Density) and average expenditure figures. There are currently 6.42 gaming machines per thousand adults in Victoria.¹

4.1.4 Gaming Expenditure in Victoria

Average expenditure on EGMs across Victoria in the 2008-9 financial year was \$663 per adult per year² (refer to Table 1 above). Using 2006 census data, real expenditure per adult in 2006 was calculated at \$654, higher than VCGR estimates for 2006 (\$630).

The Productivity Commission found that Australians are considered to be some of the heaviest gamblers in the world (Productivity Commission 1999). In 1998, 80 - 90% of Australians gambled during the year and 40% gambled regularly. ABS data from 2005 on the gambling industry indicates that 56% of all gambling revenue comes from gaming machines, a total of \$8,700 million. The gambling industry employed 76,848 people in Australia in 2005 (ABS).

Victorian gambling expenditure grew at a phenomenal rate after its introduction in the 1990s. In particular, the five-year period ending in 1997-98 (which followed the introduction of EGMs and included the opening of the Crown Casino) saw expenditure as a percentage of household disposable income more than double (see figure below). As seen in Figure 4-1, growth in gambling expenditure occurred concurrently with growth in expenditure on EGMs.

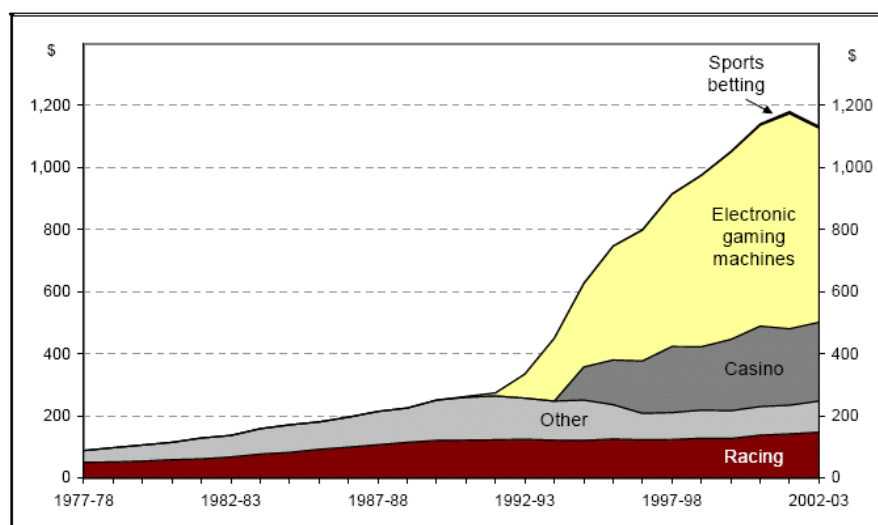
Gaming experienced a significant drop in popularity after the introduction of smoking bans in gaming facilities in September 2002. Expenditure on gaming machines fell by 8.9% between 2001/02 and 2002/03 (SA Economics 2005). Growth in spending on gaming machines is now increasing at a much slower annual rate compared to the 16% per annum in 1998-1999.

¹ Based on DSE population projections for 2009

² Based on DSE population projections for 2009

Figure 4-1: Gaming Expenditure

Per capita gaming expenditure, Victoria: 1977-78 to 2002-03



Source: VCRP 2005

4.2 Mansfield Shire

4.2.1 Venues and Electronic Gaming Machine Numbers

Mansfield Shire has only one gaming venue which accommodates 29 gaming machines. The venue in question is the Mansfield Golf Club, which is located approximately 800 metres from the Mansfield town centre.

4.2.2 Regional Caps

No part of the Mansfield Shire is subject to a Regional Cap. However, the universal cap on EGM densities at the municipal level does apply and allows a maximum of 10 gaming machines per 1,000 adults or 58 EGMs.

4.2.3 EGM Density in the Mansfield Shire

In 2009, Mansfield Shire had an EGM density of 4.7 EGMs per 1,000 adults³, lower than the State average of 6.42 EGMs per 1000 adults.

³ As calculated by the VCGR from DSE population projections for 2009

Table 4-1: Gaming densities

	Adult Population (18+)	EGMs	Venues	EGMs per 1000 adults
Mansfield Shire	6,136	29	1	4.7
Victoria	4,172,760	26,772	515	6.4

Source: VCGR 2010

4.2.4 Gaming Expenditure in the Mansfield Shire

During 2008/09 net EGM expenditure in Mansfield Shire was \$1,670,373. This equates to losses of approximately \$272 per adult population (18+). However, the VCGR estimates that expenditure by permanent residents is approximately \$127 per year. The VCGR's estimate accounts for the proportion of all EGM revenue in Mansfield Shire that is attributable to the spending of visitors.

Table 4-2: EGM Expenditure per Adult in The Mansfield Shire

	Net EGM expenditure per adult 2008/09
VCGR	\$272
VCGR (adjusted)	\$127

Source: VCGR 2010

4.3 Community Benefit of Gaming

4.3.1 Community Support Fund

The Community Support Fund (CSF) was established to ensure that a portion of Government revenue from gaming machines within hotels is used to fund projects that support communities. It aims particularly to address issues in areas of disadvantage, and has a major commitment to fund community building programs as well as providing support directly to community organisations who apply through the CSF grants program (DVC, 2006).

Gaming revenue contributed \$104 million to the Community Support Fund in 2008/09.

Information on exactly how much gaming revenue from particular municipalities is returned to local communities through the CSF fund is not available, making it difficult to quantify the exact community contributions that are made by local hotels to the Council.



4.3.2 Community Benefit Statements

The purpose of Community Benefit Statements (CBS) is for EGM venues owners to demonstrate the extent to which the revenue from EGMs has been used for community purposes. The CBS system only applies to clubs, not hotels whose contributions are made via a tax on revenue.

Over recent years there have however been various concerns expressed by local government about how the benefits of gaming revenue are reported and distributed back to local communities, particularly in relation to business operating costs being included as community benefits. Due to this widespread discontent with the CBS system, a review of the system was undertaken in 2007 by the Office of Gaming and Racing. The results of this study recommended that hotels no longer submit a CBS in light of their contributions to the CSF. Recommended changes were that what constitutes a community purpose no longer includes employment, rent, service costs or subsidised meals.

On 17 March 2008, the Minister for Gaming released a revised order setting out what clubs can claim as community benefit in a CBS (see Attachment 2). The new Ministerial order came into effect on 1 July 2008. This reduces the amount of indirect community benefits claimable by clubs as part of the CBS.

Last financial year (08/09) in Mansfield Shire, 28.42% of the net gaming revenue raised across the municipality was claimed for community benefit (refer Table 4-3). This figure is lower than the Victorian average of 31.91%. Most of the contributions were categorised as indirect community benefits.

Table 4-3: Mansfield Community Benefit Statements 2008-2009

Community Benefit Statement Claims	\$
Direct community benefits	
Donations, gifts and sponsorships (including cash, goods and services)	-
Cost of providing and maintaining sporting activities for use by club members	66,039
Cost of any subsidy for the provision of goods and services but excluding alcohol	20,800
Voluntary Services provided by members and/or staff of the club to another person in the community	-
Advice, support and services provided by the RSL(Victorian Branch) to ex-service personnel, their carers and families	-
Indirect community benefits	
Capital expenditure	-
Financing Costs (including principal and interest)	54,485
Retained earnings accumulated during the year	-
Provision of buildings, plant and equipment over \$10,000 per item excluding gaming equipment or the gaming machine area of the venue	38,205
Operating costs	295,160
Miscellaneous	
Provision of responsible gambling measures and activities but excluding those required by law	-
Reimbursement of expenses reasonably incurred by volunteers	-
CBS preparation and auditing expenses	-
TOTAL	474,689

Source: VCGR, www.vcgr.vic.gov.au

4.4 Community opinions about gaming in Mansfield Shire

4.4.1 Consultation

As part of the project, CPG conducted consultation with local stakeholders to ascertain their views in relation to:

- the benefits and dis-benefits for the local Mansfield community associated with gaming;
- the desirability of additional venues and/or EGMs within the shire; and
- appropriate locations for EGM venues within Mansfield Shire.

Outcomes of this consultation are outlined in Attachment 1.

4.4.2 Community survey

As a means of informing the development of a gaming policy framework, and to also understand community feeling towards EGMs, their impacts and preferred locations, Mansfield Shire engaged Wallis Group Pty Ltd to undertake a telephone survey around these themes. The findings were set out in *Mansfield Shire: Community Attitudes Towards EGMs in the Shire*, May 2010.

Four hundred (400) surveys were undertaken; 200 permanent residents and 200 non resident ratepayers. This split was considered to be necessary to achieve a balanced survey given that around 50% of the Shire's ratepayers do not permanently reside in the Shire. The survey was weighted to ensure the percentage of age groups, and gender of those surveyed, reflected the results of the 2006 ABS Census data.

Key findings of the survey include:

- 25% of respondents had played an EGM in the previous year, with 47% of this group playing a few times a year;
- The majority of permanent residents played EGMs at the Mansfield Golf Club whereas temporary residents were more likely to play at a venue in Melbourne;
- 53% felt that the existing 29 EGMs in the Shire was an appropriate number, 33% felt it was too many and 10% felt there was room for more EGMs in the Shire;
- Most respondents opposed the introduction of additional gaming machines in the Mansfield township regardless of location, but opposition was higher for a new gaming venue in the centre of town rather than elsewhere in the Shire;
- The majority of respondents (around 87%) supported the redevelopment of existing pubs/hotels, or the development of new ones, in Mansfield the township, however this support fell dramatically (to only around 15%) when asked what their view would be if EGMs were part of the development;
- Two thirds believe that the operating hours EGM venues should be limited between midday to midnight, but EGM players felt a broader time range would be appropriate. There was almost unanimous support for some restriction in operating hours to be imposed;



- When asked what measures may be adopted to overcome people's opposition to additional EGMs, the highest response rates were for venues operated by a not for profit group where profits were going back into the community (27%) and venues providing counselling and support services that may have gambling problems (22%).
- A range of other measures also had some support, however overall an average of less than 25% believed any measures would appease their concerns about additional EGMs.

Overall many of those surveyed are concerned about the negative impact EGMs can have on the Mansfield community, both socially and financially.

5 Mansfield Shire Local Context

To apply the legislative context and relevant research on principles of this strategy to the circumstances of the Mansfield Shire, it is necessary to briefly appreciate the local context and development trends in the area.

The local context has been derived from local policies and strategies and relevant social research. It is arranged under two sections:

- Socio-Economic Profile
- Development and Growth Trends.

5.1 Mansfield Shire Socio-Economic Profile

5.1.1 Socio Economic Profile

Mansfield Shire is located approximately 180kms north east of Melbourne and covers an area of 3,892 square kilometres. At the time of the last Census, the Shire had a resident population of approximately 7,200 people, while the population of the Shire's major urban centre, Mansfield was 2,850 people.

There are numerous small settlements throughout the Shire. The population of these small settlements swells considerably during holiday periods. However, each settlement is home only to a relatively small number of permanent residents. To illustrate, the population of two next largest settlements, Saw Mill Settlement and Goughs Bay was 176 and 173 people respectively at the time of the last census. The vast majority of the Shire's population is located in the northern part of the Shire (north of Jamieson).

Table 5.1 presents demographic data for the Mansfield Shire, the township of Mansfield, and Regional Victoria. The following observations can be made with reference to this data:

- Only 57% of dwellings in Mansfield are occupied, compared with 84% for Regional Victoria. This reflects the Shire attractiveness as a holiday destination. The occupancy rate in the township of Mansfield is high (88%) compared with the Municipal average, reflecting the township's status as LGA's main service and retail centre.
- Mansfield Shire's population is older than that of Regional Victoria as a whole, with a median age of 44 compared with 39. The median age of residents of the township of Mansfield is slightly lower than for the Shire of a whole (39). The median age for Mansfield (S) is influenced by the relatively high proportion of residents aged over 55.
- The majority of households in Mansfield Shire are family households (70%) as is the case with Regional Victoria as whole. Lone person households are more common in the township of Mansfield than for the Shire as a whole, as are single parent families.

- Median household weekly income in the Mansfield Shire was slightly lower than for Regional Victoria as a whole (\$743 compared with \$820). However, median individual income in Mansfield Shire was very similar to Regional Victoria as a whole (\$404 compared with \$399).
- Household income level varies throughout the municipality. Areas located in the southern and western part of the LGA had median income levels lower than that observed for Mansfield Shire as a whole, whereas median income in areas located around the township of Mansfield and in the Shire's North East were typically higher than for the entire LGA (See Figure 5-1).

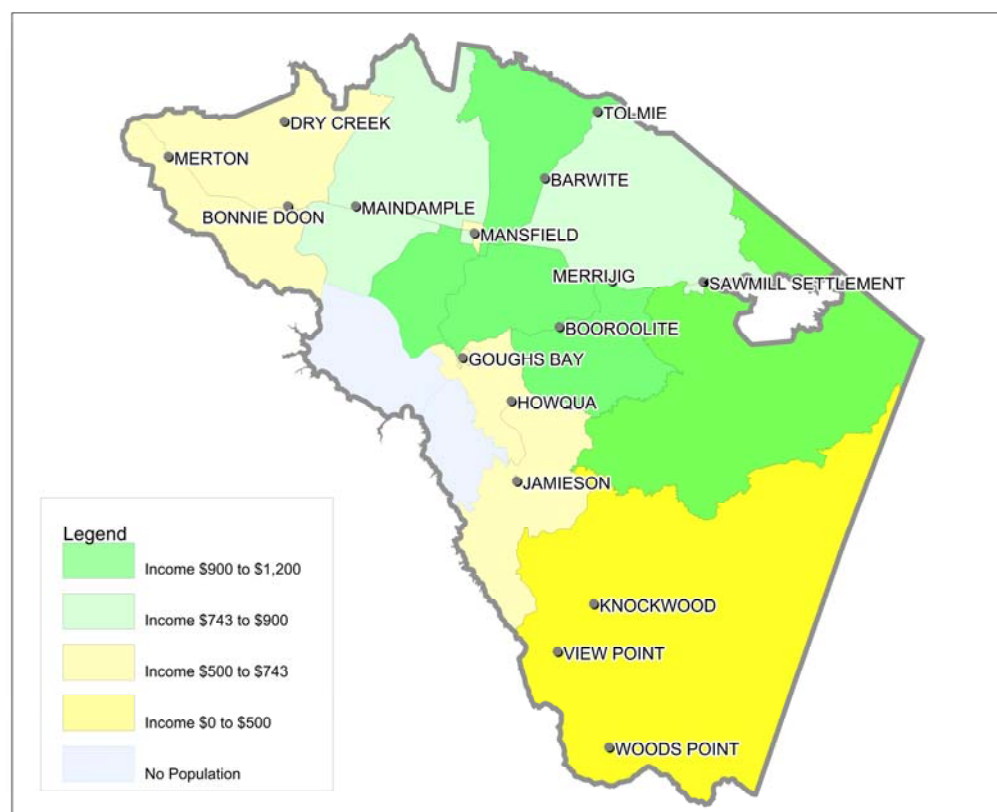


Figure 5-1: Household Income in the Mansfield Shire

- Just as there is variation across Mansfield Shire in terms of Household Income, there is also variation within areas. To illustrate, although the median household income for the township of Mansfield (S) was \$725, 28% of households living in Mansfield earned less than \$500 per week at the time of the last Census.
- The unemployment rate in Mansfield Shire at the time of the last Census was 4.3%, lower than the rate for Regional Victoria (5.6%). However, unemployment rate varies widely throughout the Shire, from a value of zero in some ABS collector districts to a high of 17% (see Figure 5.2). As with income, unemployment rates are highest in the southern and western part of Mansfield Shire, and lower in areas surrounding the township of Mansfield. The unemployment rate in Jamieson was 15.4% in 2006.

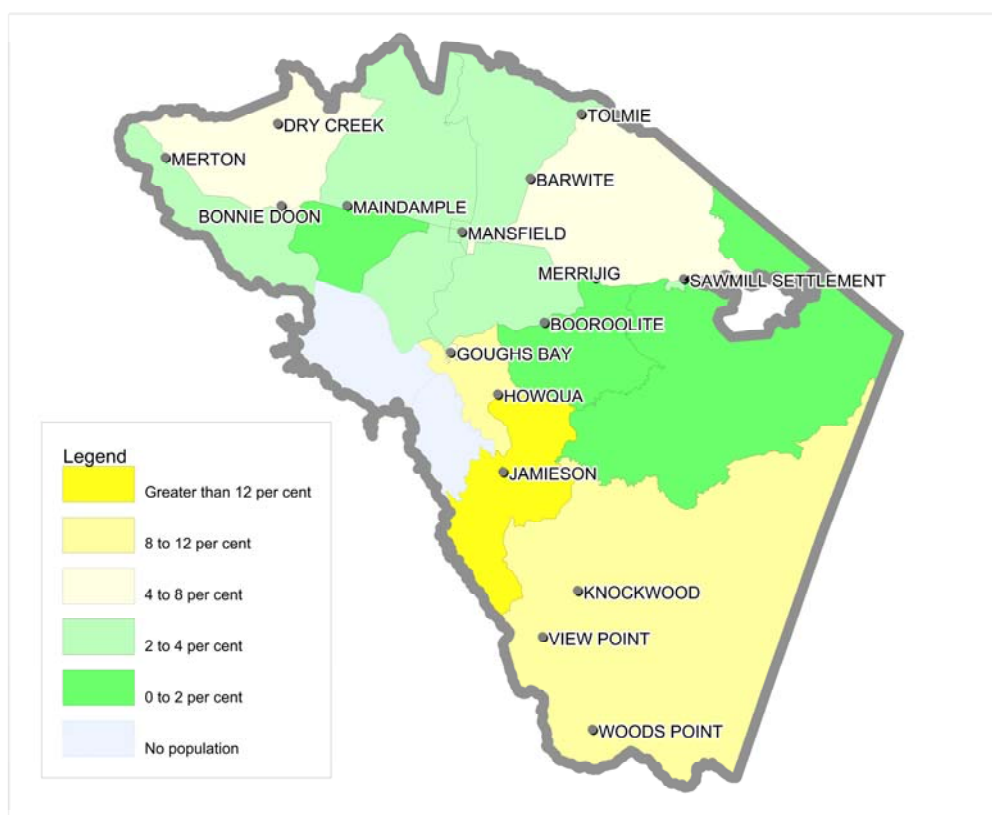


Figure 5-2: Unemployment in Mansfield Shire

- A slightly higher proportion of residents of the Shire have obtained a Bachelors Degree than for Regional Victoria as a whole.
- The majority of dwellings in Mansfield Shire are separate houses, consistent with the trend for Regional Victoria.
- The majority of households in the Shire (75%) own or are purchasing their home, consistent with the trend for Regional Victoria. The proportion of households renting their dwelling is slightly higher in the township of Mansfield (30%), compared with the Shire average (20%). Moreover, a larger proportion of households in the township of Mansfield (5.6%) live within public housing, compared with the Shire average (2.4%).
- There is a relatively low level of ethnic diversity in the Shire. A high proportion (88%) of residents were born in Australia, and only 2.9% of residents speak a language other than English at home, compared with 4.8% for Regional Victoria.

Table 5-1: Demographic Summary

		Mansfield	Mansfield (S)	Balance - Victoria
AGE AND POPULATION	Population	2,846	7,191	1,333,437
	0-4 years	5.9%	4.9%	6.1%
	5-14 years	13.8%	14.0%	14.4%
	15-24 years	11.8%	10.6%	12.4%
	25-54 years	38.6%	38.4%	39.0%
	55-64 years	10.2%	15.2%	12.2%
	65 years and over	19.7%	17.0%	16.0%
	Median Age	41	44	39
	Household Size	2.3	2.3	2.5
INCOME	Median Personal Income	\$427	\$404	\$399
	Median Household Income	\$725	\$743	\$820
	\$1-\$499	25%	24%	23%
	\$500-\$799	23%	22%	20%
	\$800-\$1,199	18%	19%	19%
	\$1,200-\$1,999	16%	15%	17%
	\$2,000+	6%	7%	9%
EMPLOYMENT AND TRAINING	Unemployment Rate	4.2%	4.4%	5.6%
	Labour Force Participation	59.9%	59.1%	58.5%
	Bachelor Degree or Higher	8.8%	11.2%	10.5%
DWELLINGS	Separate house	85.3%	92.8%	89.0%
	Semi-detached, townhouse, etc	2.7%	1.0%	3.5%
	Flat, unit or apartment:	10.4%	4.5%	6.2%
	% Occupied	88%	57%	84%
TENURE	Fully owned	36.5%	42.6%	39.9%
	Being purchased(b)	28.8%	32.4%	33.5%
	Rented	29.9%	20.5%	22.7%
	<i>Public Housing</i>	5.6%	2.4%	3.7%
HOUSEHOLDS AND FAMILIES	<i>Households</i>			
	Lone Person Household	33.9%	30.1%	27.4%
	Group Household	0.0%	0.0%	0.0%
	Family Household	66.1%	69.9%	72.6%
	<i>Families</i>			
	Couple family with no children	41.3%	50.0%	40.7%
	Couple family with children	38.1%	37.3%	42.7%
	One parent family	18.1%	11.5%	15.4%

		Mansfield	Mansfield (S)	Balance - Victoria
ETHNICITY	Born in Australia	90.9%	88.1%	89.4%
	Born Overseas	9.1%	11.9%	10.6%
	Speaks English only	97.3%	97.1%	95.2%
	Speaks other language:	2.7%	2.9%	4.8%

5.2 Disadvantage in Mansfield Shire

Figure 5-3 shows the distribution of ABS SEIFA Index of Disadvantage scores across Mansfield Shire. The ABS SEIFA Index is a composite of 17 socio-economic measures including: low income, unemployment, occupation and education. The scores for each collection district are ranked against the rest of Victoria and divided into deciles. A score in a **low decile** indicates relatively greater disadvantage. A score in a **high decile** indicates a relative lack of disadvantage.

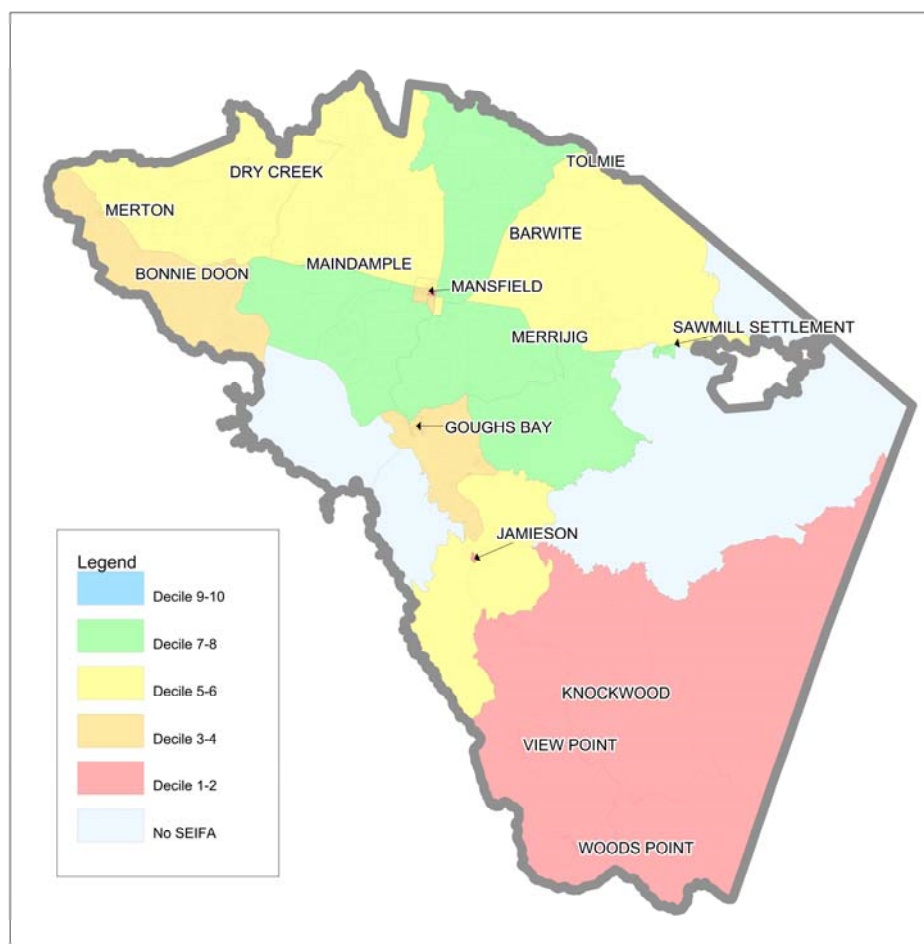


Figure 5-3: SEIFA Index of Disadvantage for Mansfield Shire

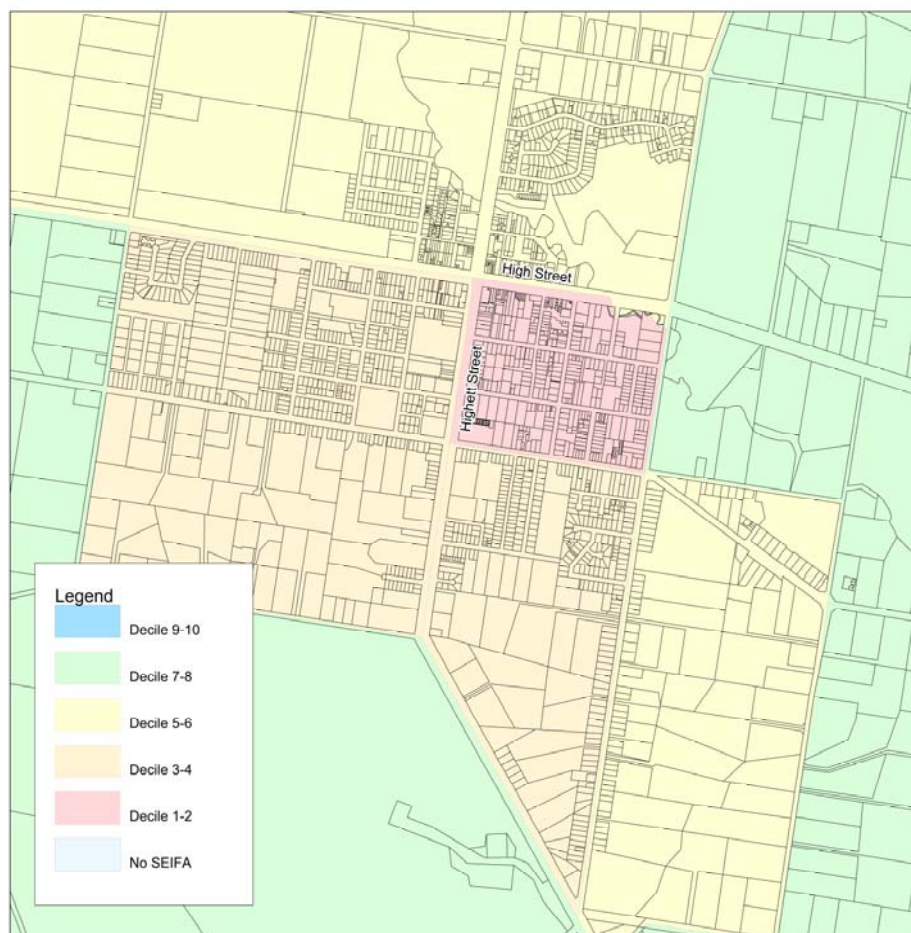


Figure 5-4: SEIFA Index of Disadvantage for Mansfield township

As Figure 5-3 show, the areas of Mansfield Shire which exhibit the least disadvantage are those located around the township of Mansfield in the Shire's north. Areas in the Southern part of the shire are relatively disadvantaged. However, these areas are sparsely populated and home to less than 4% of the Shire's population.

The township of Mansfield is comprised of five ABS Collection Districts. SEIFA scores for these areas range from deciles 2 to 6). The relatively low scores for the township of Mansfield compared with the surrounding rural areas, is reflective of the relatively high proportion of renters in the township, as compared with surrounding areas, and in particular the fact that virtually all public housing in the Shire is located in the township. It is noted that the collection district to the immediate south of the town's commercial centre exhibits the greatest relative disadvantage.



5.3 Population Growth

The population of Mansfield Shire is expected to grow at a rate of 1.9% per annum in the period 2010 to 2026. As a result the Shire population will grow by around 8,000 to almost 11,000 during this period (see **Table 5-2**).

Table 5-2: Population Growth in Mansfield Shire 2010-2026

	2010	2018	2026	Ave Annual Growth
Mansfield	8,092	9,423	10,914	2%

Source: VIF 2008

6 Key Social and Economic Issues Associated with Gaming (EGMs)

This section draws on current research on gaming and planning provisions to explore emerging concepts and discuss the dichotomy that exists between them in relation to gaming. It then considers how this may be resolved in the interest of net community benefit.

The tension that exists within gaming is that whilst it is a legitimate, and for many enjoyable, form of entertainment, any policy must address the potential negative impacts of gaming. It is important that there is a balance between access for those who wish to gamble 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).

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 (McDonnell Phillips 2006). Conversely, people who gamble at accessible venues are more likely to have higher expenditure, gamble more regularly and play for longer periods of time.

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).

6.1 Research on Gaming and Location

Leading research that is relied on in this report includes:

- 2006 Australian Institute for Primary Care, La Trobe University (Livingstone, C.) *The Changing Electronic Gaming Machine (EGM) Industry and Technology* ("Livingstone 2006")
- 2005 New Focus Research, *Experiences of Problem Gamblers, Their Loved Ones and Service Providers* ("New Focus 2005")
- 2005 Regional Electronic Gaming Machine Caps Review Panel ("Caps Review 2005")
- 2005 The SA Centre for Economic Studies, *Community Impact of Electronic Gaming Machine Gambling*

- 2004 Australian National University Centre for Gambling Research, Gaming Machine Accessibility and Use in Suburban Canberra: A Detailed Analysis of the Tuggeranong Valley (“ANU 2004”)
- 1999 Productivity Commission *Australia’s Gambling Industries*, (“PC 1999”)
- 2009 Productivity Commission *Gambling – Draft Report*
- 2009 Department of Justice *Study of Gambling in Victoria - Problem Gambling from a Public Health Perspective*
- 1999 Australian Medical Association Submission to the Productivity Commission Inquiry into Australia’s Gambling Industry
- 1999 KPMG Consulting, Longitudinal Community Impact Study (“KPMG 1999”)
- 1999 Market Solutions. Hotel and Club Industry Gaming Impact Study: Final Report (“Market Solutions 1999”)
- 1999 Doughney, J & Kelleher, T. The Impact of Poker Machine Gambling on Low Income Municipalities – A Critical Survey of Key Issues
- 1997 Victorian Commission for Gambling Regulation (VCGR) Impact of Electronic Gaming Machines on Small Rural Communities
- 2000 Australian Institute for Gambling Research. The Impact of the Expansion of Gaming on the Tourism, Entertainment and Leisure Industries (“AIGR, 2000”)
- 2008 Department of Justice, Destination Gaming: Evaluating the benefits for Victoria (“Dept. of Justice, 2008”)
- 2007 Young M, Tyler B, & Lee W. *Destination-style Gaming* (“Young 2007”)

Refer to Section 10 - References for full reference titles and a comprehensive list of research.

The research supports a broad conclusion that discourages ‘convenience gambling’ and indicates that the emerging approach of ‘destination gambling’ is likely to reduce the socio-economic impact of gaming and to protect vulnerable communities.

The following key messages emerge from the above documentation:

- For the majority of EGM gamblers, gaming is a form of enjoyable recreation and social contact (PC 2009; KPMG 1999).
- 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).
- Problem gambling affects a small proportion of gamblers (PC 2009).

- EGM usage, reasons for gambling and level of problem gambling vary between men and women (AMA 1999).
- Gaming should be available to the majority of the population who see it as a form of enjoyable recreation, but vulnerable members of the community should be protected from the harm it can cause.
- The main trigger for most people becoming problem gamblers is financial loss which then has a range of social and personal repercussions for the gambler and the wider community (PC 2008). This may include the loss of a job, inability to pay loans or the loss of 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 (PC 1999; New Focus 2005).
- Problem gambling is considered an addiction and can have serious health implications (PC 1999).
- There are few clear socio-demographic factors that pre-dispose people to a higher likelihood of problem gambling. To illustrate, the PC 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 problem gamblers have a similar level of income to other adults.
- However, people who are separated or divorced, unemployed, or living in single person households are over presented in the problem gambler population.
- 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 problem gamblers have a severe mental disorder compared with around 2 per cent of non-problem gamblers.
- 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.
- Hotel gaming machines earn approximately twice the amount of club machines in Victoria (revenue per machine) (VCGR 2010).
- In Victoria, under the Gambling Regulations Act 2003, net gaming revenues from hotels with gaming machines are subject to an additional tax of 8.3 per cent. The additional tax paid by hotels is directed to the Community Support Fund (CSF). The additional tax payable by hotels does not apply to club venues provided clubs make a community benefit contribution of at least 8.3 per cent of their net gaming revenues.
- While clubs must produce a Community Benefit Statement outlining what community benefit contributions they have made, concern has been expressed by a number of commentators about the range of activities that can be counted

as a community benefits. Specifically, it has been argued that club activities and purposes that benefit the club and its members, but which cannot be clearly shown to extend to the wider community, should be explicitly excluded from the CBS.

- There is no appreciable relationship between the introduction of EGMs to hotels and clubs and patterns of interstate and international tourism, although it has changed patterns of intrastate tourism. However factors other than gaming are likely to more strongly influence the tourism sector (AIGR, 2000).
- A significant proportion of gamblers tend to travel relatively short distances (2.5 - 5 kilometres) to access EGMs, reflecting the high level of accessibility of EGMs in Victoria.
- Accessibility and convenience have been shown to be associated with expenditure and problem gambling in a number of studies, prompting interest in the effectiveness of accessibility restrictions as a harm minimisation tool, and the concept of destination gaming.
- The DoJ has recently considered the merits of reconfiguring the spatial structure of EGM supply in Victoria, such that there would be fewer, larger venues located on destination sites, in order to minimise the harms associated with problem gaming. DoJ concluded that in the context of the Victorian gaming supply structure, while destination gaming could reduce accessibility to a degree, even after a significant consolidation (venue numbers reduced by more than 80%), accessibility to gaming opportunities would remain relatively high. Furthermore, it was recognised that various other factors contribute to the development of gambling problems, other than accessibility. As a result, it was concluded that the effect of the proposed accessibility reductions on the extent problem gambling would be limited.
- The DoJ also recognised that there would substantial negative impacts associated with a wholesale restructuring of the industry, such as loss of employment and club revenue.
- Despite these conclusion regarding the net benefit of a move to destination gaming in Victoria (which take into account the costs of restructuring), this does not suggest that careful siting of new venues, to avoid high level of convenience is not worthwhile.

Implications for the location of gaming machines arising from the above are:

- Gaming machines can be a benefit to the community where they introduce a range of improved opportunities for entertainment and recreation. However, this must be balanced with potential negative impacts associated with gaming.
- Convenient access to gaming machines can make the local community more vulnerable to problem gambling and negative impacts of gaming machines (PC 1999; ANU 2004; KPMG 1999).
- Gaming venues located in areas where people congregate for everyday activities can 'entice' people to gamble (referred to as 'convenience gaming'); and may cause harm to the community (ANU 2004; PC 1999).

- Research supports locating gaming machines in less convenient areas (PC 1999; Caps Review 2005) to ensure that people make a pre-determined decision to gamble (PC 1999; Caps Review 2005; Young 2007).
- Gaming in itself is unlikely to be a tourist drawcard.

The above research is examined in greater detail at Attachment 4.

6.2 Planning Considerations

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

6.2.1 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 activity centres.

6.2.2 Growth and Settlement

The objective of Clause 14 of the Mansfield Planning Scheme (Settlement) is to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.

At a local level the MSS establishes more specific directions in relation to settlement and growth. In general terms urban development is encouraged to occur within townships. The settlement structure of the Shire is based around one major urban centre in Mansfield and then various other much smaller townships.

The MSS does not seek to limit growth only to Mansfield though; to the contrary it notes the commitment of the Shire to also spreading growth around the various outlying small towns. Additional development is explicitly supported in a number of these towns, including additional limited commercial, retail and tourism developments. At present the range of commercial and community facilities in those small towns outside of Mansfield is relatively limited.

6.2.3 Activity Centres

Under Clause 17.01 of the Mansfield Planning Scheme, the State planning policy objective for activity centres is:

“To encourage the concentration 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.”

6.2.4 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.

6.2.5 Retail

Central to activity centres policy is the notion of retail. However, the planning provisions at Clause 52.28 of the Victoria Planning Provisions specifically discourage gaming facilities to locate within 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 Tribunal⁴ 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

⁴ Now under the jurisdiction of VCAT

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”.

6.2.6 Tourism

Tourism is a major contributor to the Shire's economic development and wellbeing. Studies have shown that gaming is not in itself an a tourism drawcard (AIGR, 2000) however it could be seen as adding to the entertainment options and facilities available to tourists. Mansfield Shire's tourist appeal is based heavily around natural settings, landscapes, environment and non-urban recreation activities. However, the MSS does encourage tourism-related development to be located appropriately and in particular supports locating it in accessible and urban areas.

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

Whilst the principle to avoid high levels of convenience rules out gaming venues being located within retail centres, strategic State 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, particularly in the case of rural townships where the range of entertainment and recreation facilities may be limited.

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 (PC 1999) Therefore it is no surprise that a locational approach to gaming venues will be unusual.

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

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

- Legislation seeks to ensure that all development is sustainable.
- The Mansfield Planning Scheme encourages urban consolidation through containment of development and location of tourism facilities within townships. It also supports entertainment facilities being located in activity centres.



- However, the scheme also provides the opportunity to prohibit the locating of gaming venues with retail facilities; specifically, strip shopping centres common in activity centres.
- Research indicates that accessibility is a factor in encouraging gambling activity. Given the dispersed, small town settlement structure of the Shire, the location of new gaming venues in these settlements (outside Mansfield) will significantly increase accessibility to gaming in communities with limited alternative recreation facilities.

Therefore, gaming venues should be located outside the retail core of townships, but embody principles of sustainable development. To achieve this, venues should:

- Be located in and around towns which function as a major urban settlement and service centre, servicing a large population catchment;
- Not be integrated with core areas of shopping and community facilities;
- Be located in areas with relatively low levels of socio-economic disadvantage; and
- Offer a range of non-gambling activities within the proposed venue and be located in areas where the community has a choice of recreational and entertainment options.

These matters are discussed further in the location principles set out in Section 7.

7 Locational Principles for Gaming

This section sets out key location principles for gaming machines and the rationale for those principles. Proposed principles have been grouped into a number of sub-headings indicating the main location criteria for EGM venues and machine increases.

Primary location criteria

Macro locational attributes

1. Gaming machines should not be located in towns which function as small urban settlements with a limited service role to a small population catchment.
2. Gaming machines should be located in urban centres which can accommodate additional gaming because:
 - a. residents also have a choice of other types of non-gaming entertainment and recreation facilities in the local area, particularly alternative clubs or hotels; and
 - b. there are limited existing gaming opportunities for residents, or identified future residential growth capacity.
3. Gaming machines can be located in areas remote from urban centres if associated with a use predominantly providing services to visitors of the Shire, or a sports and recreation club with an extensive land holding.

Vulnerable communities

4. Gaming machines should not locate proximate to areas of relative socio-economic disadvantage.

Net community benefit

5. Proposals should demonstrate that the provision of gaming machines in a particular location will achieve a net community benefit.

Detailed location criteria

Minimising convenience

6. 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 and major community facilities involving a high concentration of people undertaking daily activities.

Compatibility with surrounds

7. The location and operations of gaming venues and any associated recreation and entertainment facilities should not be incompatible with the predominant surrounding land use.

Venue attributes

8. 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; and
- Limit their hours of operation.

7.1 Rationale for Principles

7.1.1 Macro locational attributes

1. *Gaming machines should not be located in towns which function as small urban settlements with a limited service role to a small population catchment.*
2. *Gaming machines should be located in urban centres which can accommodate additional gaming because:*
 - a. *residents also have a choice of other types of non-gaming entertainment and recreation facilities in the local area, particularly alternative clubs or hotels; and*
 - b. *there are limited existing gaming opportunities for residents, or identified future residential growth capacity.*
3. *Gaming machines can be located in areas remote from urban centres if associated with a use predominantly providing services to visitors of the Shire, or a sports and recreation club with an extensive land holding.*

There are a number of reasons why it is considered more appropriate to direct gaming machines towards larger towns in a regional municipality like Mansfield Shire as proposed by Principle 1. Although the MSS promotes general population growth and development across many of the small towns in the municipality, it is not considered appropriate to extend this principle to the location of gaming machines. Rather, it is preferable that gaming machines are not distributed widely across the municipality.

Such a model is also supported by the research on the relationship between location of gaming venues and impact on communities in that it reduces convenience and thereby protects smaller townships where there are few other recreation options. While the research about links between accessibility and gaming activity is complex, it generally suggests that gaming activities vary based on accessibility and can venue catchments vary based on location.

The links between accessibility and EGM gambling activity has particular significance in a rural-regional setting such as Mansfield Shire as the time and space constraints on access to facilities and services in different parts of the Shire are substantial. As discussed by the Department of Justice's literature of destination gambling (Young, Tyler and Lee, 2007), opportunities to create 'destination' style gaming outcomes are greatest when accessibility to gaming opportunities is significantly constrained. Thus, there are considered to be benefits

to the Shire in limiting overall accessibility of gaming in terms of the distribution of venues.

This approach will also assist in ensuring entertainment options in small communities are not disproportionately dominated by gambling. Population and services in Mansfield Shire are heavily focused towards Mansfield itself, given the size of the next biggest town has less than 200 permanent residents. It is considered advantageous to locate gaming machines in areas where there are a choice of entertainment options, which is less likely to occur in a small rural town. State planning policy on gaming following Amendment S58 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 2 encourages gaming to be considered as part of the broader entertainment and recreation options on offer in the area. This essentially promotes choice, so that residents have the opportunity to go to entertainment venues, without being exposed to gaming.

This is particularly pertinent for small communities with a limited range of recreation venues, for example towns like Jamieson and Bonnie Doon contain a single hotel. Small towns will also not have access to the range of support services that will be more likely located in larger townships. A study of the impact of gaming machines on small rural communities (VCGA, 1997) found that residents believed 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 considered a reasonable proposition that consumers have access to a choice of entertainment and recreation facilities, not just those associated with EGMs. Based then on the settlement structure of the Shire, the implication is that if gaming machines are to be located in proximity to urban centres, they should not be located in and around towns (within 1-2 kilometres) other than Mansfield.

Finally although the Mansfield MSS encourages urban development to be contained within townships. Principle 3 recognises that it is not always feasible for all clubs to locate in such areas, 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 distant from other activities (essentially a destination venue) and have a social and recreational focus which is not solely related to gaming.

Furthermore Mansfield Shire is a major tourism destination, with tourism forming an important part of the local economy. Although studies have shown that gaming is not in itself a tourist drawcard, it may be reasonable to provide gaming as part of a venue orientated towards servicing visitors to the Shire rather than locals, particularly in a non-urban location. Again such a development would represent a destination entertainment venue.

7.1.2 Vulnerable communities

4. *Gaming machines should not locate proximate to areas of relative socio-economic disadvantage.*

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 (2009) draft 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.

In Mansfield Shire it is noted that there are areas of relatively high disadvantage both in central Mansfield itself as well as some outlying localities, particularly in the southern part of the municipality.

7.1.3 Net community benefit

5. *Proposals should demonstrate that the provision of gaming machines in a particular location will achieve a 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 the net social and economic impacts when considering approval of a 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 11 of the SPPF which seeks to achieve a 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. As pointed out by VCAT in *Beretta's Langwarrin Pty Ltd v Frankston CC*, there is a key difference between the VCGR and planning system's considerations of net community benefit that creates a 'higher bar' when considered against this State planning policy:

"The important point for our purposes is that pursuant to Clause 11, where a planning permit applicant puts forward its case as to the planning merits of a proposal, it must do more than demonstrate that the proposal will not cause any net planning detriment. Similarly, it is not enough for the applicant to demonstrate that the proposal will maintain a "break even" situation in terms of its net community impacts. Rather, it is clear under Clause 11 that an applicant must demonstrate that the proposal will go beyond "break even" to create a net community benefit ie a positive planning outcome." [paragraph 35]

The subsequent Club Edgewater Tribunal decision moderated this finding somewhat by indicating that as Clause 11 is a policy, a proposal does not necessarily fail if it does not achieve a net community benefit. Nevertheless as a policy principle, the concept of achieving a net community benefit is deemed highly desirable.

There is no set definition of net community benefit, however it can essentially be inferred to mean having an overall positive impact on communities. Attachment 5 sets out the matters which should be considered in determining whether a net community benefit has been achieved.

Applicants will need to explicitly outline what benefits will flow to the community from any proposed gaming machines to ensure that this matter can be properly assessed.

It is also important to note that the Romsey Hotel case referred to in Attachment 6 has expanded the notion of matters that might be taken into consideration in a net community benefit assessment. In *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd & Anor [2008]*, the Supreme Court found that the "Impact on community members who do not gamble, and do not wish to gamble, is equally relevant" and "that if the approval of gaming at particular premises is likely to cause unhappiness or discontent in that community (or any part or parts of it), that consequence is a 'social impact of approval' which will be 'detrimental to the well-being of the community'". The importance of considering the broad nature of community wellbeing was affirmed by the subsequent Tribunal decision. Thus with regards to planning applications, it may be appropriate to consider community opinions as one of the tools used in determining net community benefit, although this alone will not be a decisive factor.

7.1.4 Minimising convenience

6. *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 and major community facilities involving a high concentration of people undertaking daily activities.*

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 6 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.

On this basis an isolationist approach to gaming would seem warranted. However on the flip side, 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 or travel by non-car modes. 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 other sustainability and settlement policies.

In order to balance competing policy objectives, it is suggested that gaming machines should potentially be allowed to locate within Mansfield's urban area, but separated from other major land uses where people concentrate for daily activities. This will minimise the likelihood of convenience gaming by ensuring that people are more likely to have to make a conscious decision to access a venue and gamble.

While the Department of Justice (2008) has not supported pursuing destination gaming in Victoria as an overall model of gaming supply, this conclusion does not negate the desirability of considering the issue of accessibility for individual venues. Although it is acknowledged that convenience gaming is not the only factor contributing to problem gambling, with regards to framing a *planning* policy, it is clearly a major consideration. The higher the budgetary, time and spatial accessibility of a venue, the greater the risk to vulnerable communities and those for whom convenient access to gaming is a core factor in causing problem gambling.

7.1.5 Compatibility with surrounds

7. *The location and operations of gaming venues and any associated recreation and entertainment facilities should not be incompatible with the predominant surrounding land use.*

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 unlikely to be appropriate in terms of being potentially unsafe after hours for non-vehicle users.

In Mansfield Shire 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 Shire, 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 located so as not to intrude on more significant tourist attractions.

7.1.6 Venue attributes

8. *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; and*
 - *Limit their hours of operation.*

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 recent draft report has also suggested that extended shot down periods in gaming venues of say 1am to 9am would help target problem gamblers without unduly affecting non-problem gamblers.

8 Strategy and Policy Recommendations

8.1 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 a more generic Council policy on gaming might seek to (see the following section 8.2). Policies may also cover the broad range of issues that might need to be considered if Council makes a submission to the VCGR about a gaming proposal.

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 of and net community benefit arising from gaming machines.
- Uses associated with gaming venues.
- Amenity issues and operating hours.
- Application requirements.

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 it would probably be inappropriate for planning permits to require what

would effectively be a development contribution to specific projects. A possible compromise could be that if the permit applicant has sought to 'pledge' a specified amount per year towards community organisations, a permit condition which requires that pledge to be secured might be feasible (see Section 9.4).

8.2 Further responsible gaming work

There may be merit in carrying out further responsible gaming work outside the limitations of the planning scheme to further establish and maintain Council's position on gaming in the broader whole-of-Council policy context. Work of this nature provides an opportunity for Council to support and reinforce the policy position established in this Gaming Policy Framework and the subsequent draft Gaming Policy beyond the planning process. Matters that could be covered by a general Council policy on gaming or broader gambling issues might include:

- Research about gaming issues and problem gambling in Mansfield Shire;
- General approach in relation to determining support or otherwise for planning and gaming licensing applications;
- Provision of support services;
- Responsible gambling practices to be promoted by operators;
- Advocacy to State Government; and
- Processes for managing community contributions by venues.

8.3 Municipal Strategic Statement (MSS)

One of the tests for any local policy is that it needs to implement an objective or strategy in the MSS. Given that there is no coverage in the existing MSS of gaming, entertainment or recreation matters, it is recommended that some minor additions are made to this document. The current structure of the MSS is not conducive to including these matters as it tends to focus on settlement issues associated with individual towns rather than general objectives and strategies relating to certain uses. Accordingly it is recommended that a new sub-clause be added to Clause 21.03 – Settlement setting out the Shire's general approach to planning for recreational, entertainment and community facilities. Such a section should preferably take a broader focus than gaming, to ensure that gaming is considered as part of the a general strategic approach to planning for recreational and community facilities. Whilst it is beyond the scope of this policy framework to determine all the Shire's strategies in relation to all these matters, it is recommended that if such a sub-clause were to be inserted it should include the following provisions about gaming:



21.03-18 Entertainment, recreation and community facilities

Objective:

- To ensure that entertainment and recreation uses that include gaming machines are located where they will provide a net community benefit and minimise any potential harm to the community.

Strategies

- Support access to a range of appropriate entertainment, recreation and community facilities where they are compatible with the needs, character and socio-economic profile of the local area.
- Discourage gaming machines from locating in the Shire's small towns unless it can be demonstrated that the venue primarily services passing visitors.
- Discourage gaming machines from locating in disadvantaged communities.
- Encourage gaming venues to only be located in areas where a choice of non-gaming activities and social infrastructure are available.
- Prohibit or discourage gaming machines from being located in areas which might encourage convenience gambling, particularly in shopping areas and in proximity to other community hubs.
- Ensure that all gaming venues achieve a net community benefit and protect community wellbeing.

Implementation

- Develop a broader policy for inclusion in the Municipal Strategic Statement that outlines a general strategic approach to planning for recreational and community facilities.
- Apply the local gaming policy at Clause 22.xx to guide the establishment or relocation of electronic gaming machines.
- Prohibit gaming venues in shopping complexes and strip shopping centres identified in the schedules to Clause 52.28-3 and 52.28-4, respectively.

8.4 Draft Policy

This draft local planning policy is based on the principles set out above.

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 Mansfield Shire.

22.xx-1 Policy Basis

Clause 52.28 of the Mansfield Planning Scheme requires a planning permit be granted to use or install gaming machines. This policy will guide decision making by implementing the findings of the *Mansfield Shire Council Gaming Policy Framework 2010* and supports 21.03-18 of the Municipal Strategic Statement by setting out criteria for the location of gaming venues.

Research has concluded that there are links between social vulnerability, problem gambling and accessibility to gaming venues although gaming machines may be accessible to the community as a form of entertainment, it is also desirable that they should not be convenient to places of everyday activity such as shops, so that a pre-determined decision is required to gamble.

Given the settlement structure and characteristics of Mansfield Shire, it is desirable to focus gaming machines away from small towns that merely service the local community as well as those communities which might be most vulnerable to the negative effects of gaming. In particular gaming machines should only be established where a choice of alternative non-gaming entertainment and recreation facilities are available and where the SEIFA (Social-Economics Indexes for Areas) index score is relatively high.

22.xx-2 Objectives

- To ensure the location of gaming venues minimises opportunities for convenience gaming and the incidence of problem gambling.
- To ensure that installation of additional gaming machines within the Shire will achieve a net community benefit through their location and venue characteristics.
- To ensure gaming is one of a number of recreation and entertainment activities available to local residents and tourists.
- To protect the amenity of areas surrounding venues containing gaming machines.

22.xx-3 Policy

It is policy that proposals for gaming machines are assessed against the following criteria.

Appropriate areas

Gaming machines should not be located:

- In areas of relative socio-economic disadvantage. This is defined as locations where any Australian Bureau of Statistics collection district within 400 metres of the venue is within the most disadvantaged 20% of collection districts in Victoria, as set out in the SEIFA index of relative disadvantage and illustrated in Map 1 of this policy. .
- Within small settlements that only service a local population catchment
- In towns where the proposal will lead to the total density of gaming machines per 1000 adults exceeding the regional Victorian average.

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

- Within, or proximate, to the Mansfield township.
- In non-urban locations that focus on providing services for visitors to the Shire, or a sports or recreation club with a land holding of more than 2 hectares..
- Where the local community has a choice of alternative non-gaming entertainment and recreation facilities operating at the times the proposed gaming venue will operate.

Appropriate sites

Gaming machines should not be located in the areas shown on Map 2 of this policy.

It is preferred that gaming machines are located:

- Where the location could reasonably be perceived as avoiding the incidence of spontaneous decisions to play gaming machines by being removed from areas where large numbers of people will be passing in the course of their daily activities.
- That achieve a separation of at least 400 metres from strip shopping centres and other community hubs (this may include schools, medical centres, churches and other public offices).
- Where the gaming venue, and its associated uses, will be 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.

Appropriate venues

Gaming machines should be located in venues which:

- Do not detract from the character and integrity of the Shire's tourism and heritage assets through their location, siting and design;
- Will not have a significant adverse impact on the amenity of adjoining areas as a result of operating hours, traffic and noise from patrons and vehicles

- Offer social, entertainment and recreational opportunities and activities other than gaming as the primary purpose of the venue;
- Have a gaming floor area of less than 25% of the total floor area of the venue;
- Promote responsible gaming practices, including not allowing gaming machines to operate when alternative entertainment is not available;
- Are designed so that amenities for the venue's non-gambling activities, including entrances and exits, toilets, meeting spaces and dining spaces can be accessed without entering the gambling area;
- Have access to natural light and allows patrons surveillance of outdoor areas; and
- Do not operate gaming machines between 1am and 9am.

22.xx-4 Application requirements

It is policy that all applications must include the following information::

- 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 robust 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 EGMs 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 EGMs 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 shops, 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 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 EGMs in the municipality and its individual towns.
- 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 at the venue if the proposal was to be approved.
- If EGMs 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 the proposal and how the benefits are to be secured and distributed to the local community.

Analysis

- Assessment of key social and economic issues and overall net community impact.
- Measures to mitigate any negative impacts.

22.xx-5 Decision Guidelines

It is policy that the responsible authority considers 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 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 of non-gambling entertainment and recreation activities at the venue and within the local area.
- The impact of the proposal on the amenity and character of the area and surrounding land uses.

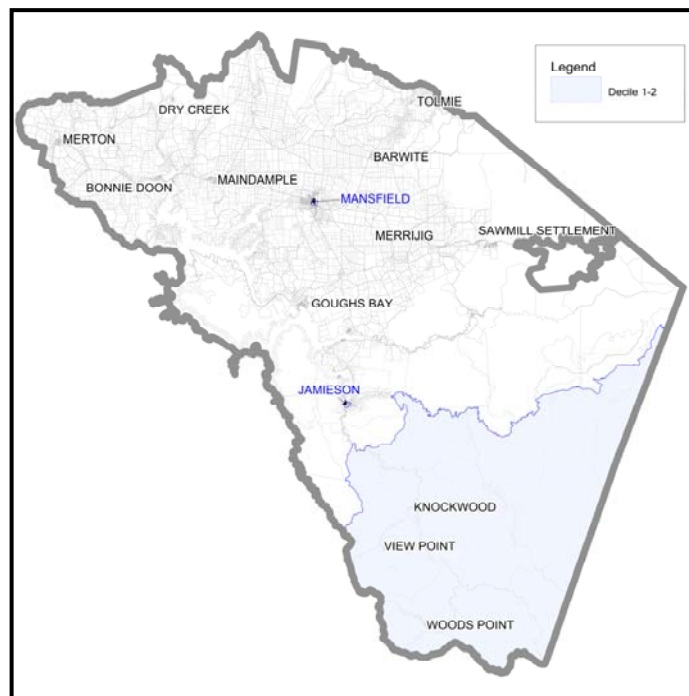
22.xx-6 References

CPG Australia, *Mansfield Shire Gaming Policy Framework*, 2010

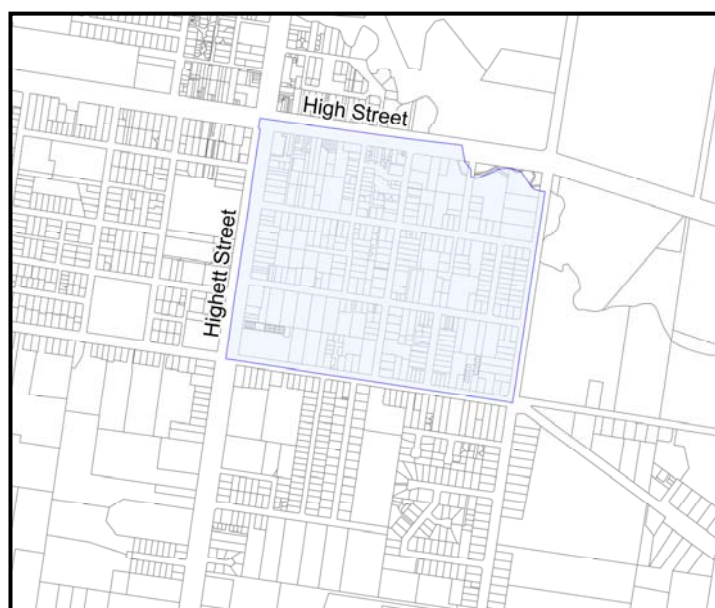
Map 1 – Areas of relative disadvantage

Areas highlighted are within the 20% most disadvantaged collection districts in Victoria as set out in the ABS SEIFA Index of Relative Disadvantage (2006)

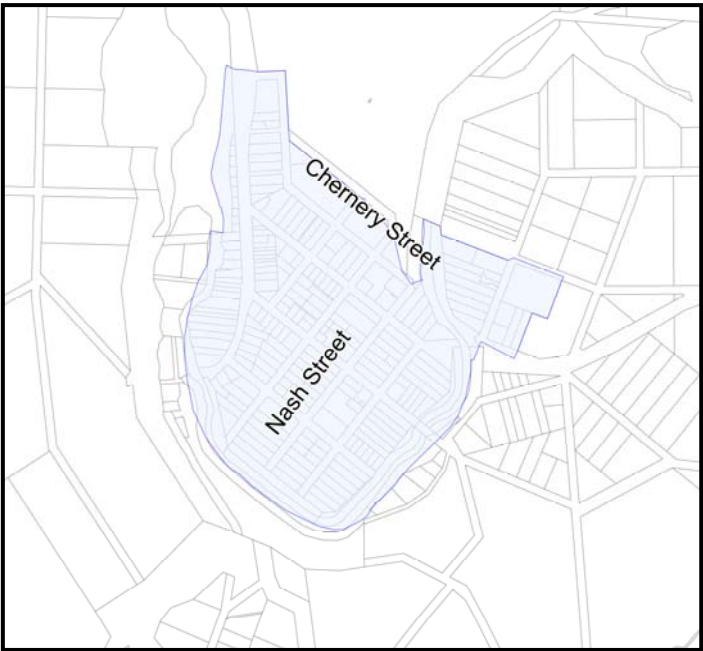
A – Mansfield Shire



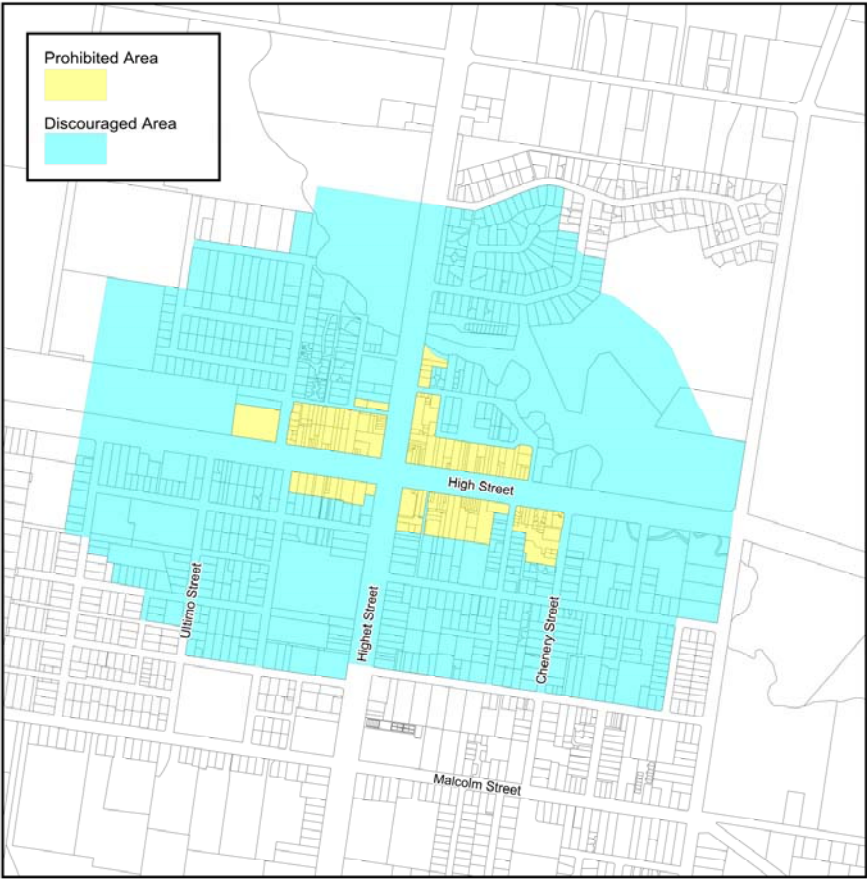
B – Mansfield



C - Jamieson



Map 2 - Mansfield prohibited and discouraged gaming areas



8.5 Prohibited shopping centres

Under Clause 52.28-4 of the Mansfield 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.

The schedule to the clause allows for strip shopping centres to be specified where gaming machines would be prohibited. No shopping centres are currently specified.

Unfortunately 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*) decision 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.

In order to provide for certainty and consistency, an audit of shopping centres in the Shire has been undertaken. It is considered that only Mansfield includes an area which could be defined as a strip shopping centre under the definitions above. The extent of this centre has been mapped on the map attached to the proposed local policy above. It is recommended that a map showing the prohibited areas be included in the schedule to Clause 52.28-4 of the Mansfield Planning Scheme. The methodology applied to define the strip shopping centre is set out in Attachment 7.

In the event that shopping areas in other towns develop into strip shopping centres over time it is recommended that a generic statement also be included in the schedule stating that gaming machines are prohibited in all strip shopping centres in the municipality.

The mapping exercise has also identified areas where it is considered that, although gaming cannot be prohibited under the provisions of Clause 52.28, it should be discouraged. This is on the basis that gaming should not be convenient to shops where pedestrians are likely to pass in the course of their daily activities, increasing the likelihood of spontaneous decisions to play gaming machines. The discouraged area in Mansfield is shown on the map above. For other centres the policy includes a blanket discouragement of gaming machines within 400 metres of their shopping facilities.



8.6 Summary of recommendations

- Consider preparing a Council responsible gaming policy which sets out Council's position and strategies in relation to gaming issues not addressed by the planning system.
- Include references to gaming in the Municipal Strategic Statement.
- Insert a new local planning policy to assist in decision making on gaming machines.
- Include a map showing the extent of Mansfield's strip shopping centre in the schedule to Clause 52.28-4.
- Include a statement generally prohibiting gaming from strip shopping centres in the schedule to Clause 52.28-4.

9 Planning Tools

9.1 Application process for planning permits related to Electronic Gaming Machines (EGMs)

9.1.1 Preferred Application Process

Persons wishing to install or use a gaming machine must apply to:

- a) The relevant local government authority for a planning permit under the provisions of the Planning and Environment Act 1987; and
- b) The Victorian Commission for Gambling Regulation (VCGR) for either premises approval or to increase the number EGMs under the provisions of the Gambling Regulation Act 2003.

Although there is no requirement to receive approval from one regulatory authority before an application to the other regulatory authority, Council should request that applicants deal with planning issues prior to the gaming application (see Process Diagram 1), or in parallel with the gaming application (see Process Diagram 2).

Some benefits associated with dealing with planning issues prior to the gaming assessment are that:

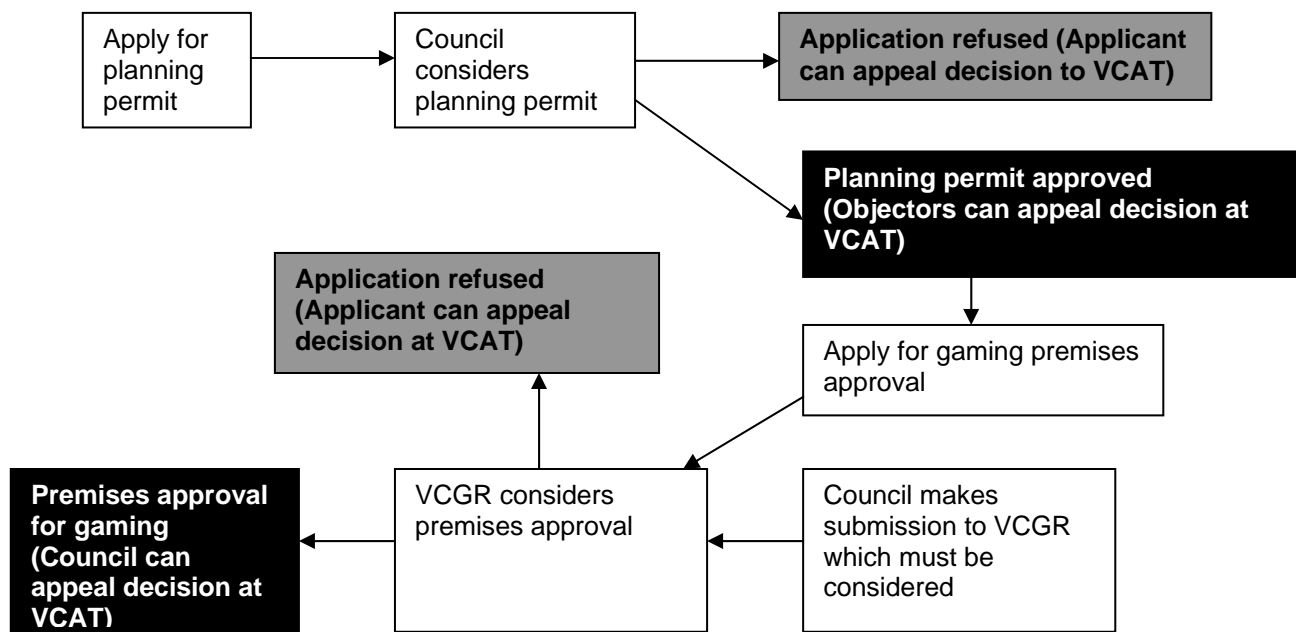
- Council may consider a broad range of land use, environmental, social and economic factors as well as public objections when determining a planning application for gaming. In comparison the matters that must be considered by the VCGR have a narrower focus (see Table 9-1 below).
- This is more consistent with other processes where a planning permit and other form of licensing are required, such as in relation to liquor licenses or building permits.
- In addition to being the responsible authority for the planning permit, Council can also make a submission under the provisions of the Gambling Regulation Act which must be considered by the VCGR in determining whether a premises is suitable for gaming. To maximise the possibility of support from Council at this stage, it would be prudent to have already undertaken a successful planning permit process.
- Council's submission to the VCGR will be assisted by information obtained through the planning permit process.

An alternative approach would be to deal with the two processes in parallel. The advantages of such an approach will be to:

- Minimise the time taken to consider the proposal.
- Allow opportunities for more collaborative approaches between the applicant and Council to manage issues that may arise in both assessment processes.
- In the event of a refusal from both Council and the VCGR, possibly open the opportunity for a joint planning/gaming appeal to VCAT which will minimise the resources required to appear before the Tribunal. For example joint appeals have been conducted in relation to planning permits and liquor licenses.

It is possible however that Council would not be in a position to comment to the VCGR until after a decision had been reached on the planning permit application.

Process Diagram 1:



Process Diagram 2:

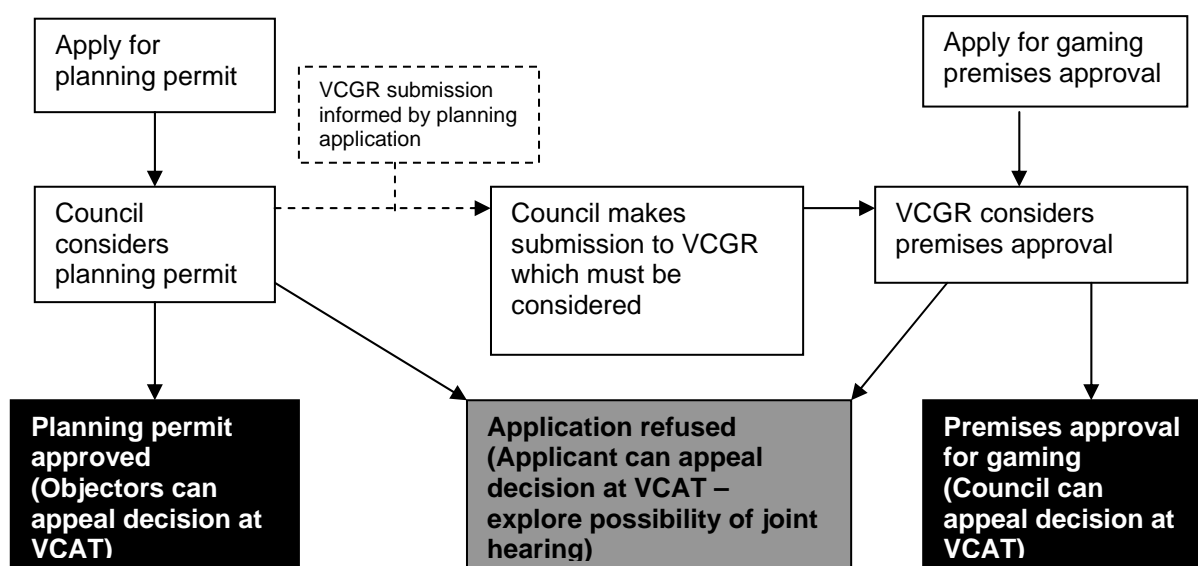


Table 9-1: Comparison of potentially relevant considerations for planning and gaming approval

Planning and Environment Act Section 60	Gambling Regulation Act 2003 Section 3.3.7
<p>Council must consider:</p> <ul style="list-style-type: none"> – the planning scheme; – the objectives of planning in Victoria; – all objections and other submissions; – any comments of a referral authority; – any significant effects of the proposal on the environment or the environment on the proposal. 	<p>VCGR must not approve a premises as suitable for gaming unless it is satisfied that:</p> <ul style="list-style-type: none"> – the applicant has authority to make the application in respect of the premises; – the premises will be suitable for the management and operation of gaming machines; – the net economic and social impact of approval will not be detrimental to the well-being of the community of the municipal district in which the premises are located.
<p>Council may consider:</p> <ul style="list-style-type: none"> – any significant social and economic effects; – any relevant State environment protection policy; – any other adopted strategic plan, policy statement, code or guideline; – any adopted, but yet to be approved amendment to the planning scheme; – any agreement made pursuant to section 173 affecting the land the subject of the application;; – any other relevant matter. 	<p>The VCGR must consider:</p> <ul style="list-style-type: none"> – whether the size, layout and facilities of the premises will be suitable; – any submission made by the relevant Council. If the Council does not make a submission, the Commission must seek the Council's views on the application and must consider those views (if any) in determining the application.

9.1.2 Referral process

All applications for gaming machines should be internally referred to the Community Development Department of Council for comment:

It is also recommended that the following external organisations be notified of applications for gaming machines:

- Local problem gambling counselling services
- Local traders group/s
- Community health and welfare organisations.

9.2 Application requirements

The draft policy set out in Section 8.4 above contains an extensive set of application requirements which will allow Council to be in a position to assess the impact of any application and whether there is a net community benefit. The following section expands on the details of some of these information requirements beyond what it is appropriate to include in a policy to ensure that the information submitted is suitable.

9.2.1 Impact assessment

Applicants must provide an impact assessment outlining the environmental, social and economic benefits and costs of the proposed gaming venue.

Information to be included –

Detailed demographic profile of the anticipated catchment area of the venue	<ul style="list-style-type: none"> – Anticipated catchment area and the basis for this projected catchment. – Profile of patrons in the catchment area and the Shire as a whole including a range of demographic and socio-economic characteristics (such as SEIFA Index of Relative Disadvantage); – Comparative analysis of socio-economic profile with municipal and regional/Victorian data;\. – Projected population growth and characteristics. – If EGMs are being transferred, comparisons with the socio-economic profile of the area where the EGMs are originating.
Location assessment	<ul style="list-style-type: none"> – Characteristics of the proposed location of the EGMs such as nearby land uses and movement patterns, including transport <ul style="list-style-type: none"> – The walking distance from the proposed venue to nearby shops, community facilities and public transport. – Existing pedestrian counts outside the proposed venue on weekdays and the weekend in the morning, lunch time and evening. – Other entertainment/recreation uses, opportunities for social engagement and community services within the catchment area, including their operating hours.
EGM impacts	<ul style="list-style-type: none"> – Distribution of EGMs in the municipality and the existing and proposed density of EGMs. – Anticipated EGM expenditure and what proportion will be diverted from existing EGM venues. – Proportion of EGM expenditure to remain in the local community.
Economic impacts	<ul style="list-style-type: none"> – Employment generated by gaming use and other uses associated with the proposal including details about the types of jobs created. – Anticipated shift in expenditure from local business. – Details of any proposed community contributions. – Any other economic benefits or costs associated with the proposal.

Social impacts	<ul style="list-style-type: none"> – Details of proposed funding, sponsorship or other contributions to local services and facilities and how these benefits will be distributed and secured. – Details of and demand for problem gambling support services including likely changes if application is approved. – Details of community attitude survey about gaming in that location. – Any other social benefits or costs associated with the proposal.
Analysis and mitigation	<ul style="list-style-type: none"> – Key social and economic impacts and possible measures to mitigate any negative impacts.

9.2.2 Design and layout

Plans and documents submitted with the application should show

- Internal layout of the venue including location of EGMs in relation to other facilities;
- Location and details of all proposed signage;
- Location and number of car parking spaces, including any justification for a reduction in the number of spaces required by Clause 52.06 of the planning scheme; and
- Evidence of compliance with relevant gaming regulations regarding layout and signage.

9.2.3 Management plan

Applicants must provide a venue management plan detailing:

- Proposed operating hours;
- Measures to manage noise, patrons leaving a premises at night and service of liquor; and
- Measures to mitigate any potential negative consequences of EGMs, including staff training, advertising, promotions, exclusion schemes and venue layout.

9.3 Planning Assessment Tool for Net Community Benefit

As gaming applications will often involve consideration of issues unfamiliar to many planners, an assessment tool has been prepared and is set out in Attachment 5. This will assist planners in quickly identifying the key information they will need to source and assess when an application for gaming is received in order to determine where there will be a net community benefit.

9.4 Planning Permit Conditions related to Gaming (EGMs)

Permit conditions will generally relate to managing outstanding or ongoing matters associated with a development or use. It is considered likely that in most if not all cases gaming machines will be co-located with other uses that is hotels or clubs, due to the requirement under the *Gambling Regulation Act 2003* that gaming machines can only be located in venues with a General or Club Liquor Licence or Racing Licence. As such most of the generic development and amenity issues associated with the development of a gaming venue are likely to be quite similar to those issues which would affect any large place of assembly or entertainment venue. Permit conditions will therefore also be similar.

It is suggested that, if required, the Council utilise its standard permit conditions, or model conditions set out in DSE's *Writing Planning Permits* for matters such as:

- Opening hours
- Noise
- Lighting
- Maximum number of persons
- Car parking
- Waste
- Signage
- Regulation of liquor consumption
- General amenity provisions
- Landscaping.

Where a gaming premises is to be co-located with other complementary entertainment or recreation uses, Council may wish to ensure that the gaming component of the venue does not commence operation prior to the other uses so that there are always alternative non-gaming activities available for patrons. Such a condition might be worded thus –

Prior to the commencement of operations of the gaming use hereby permitted, the following entertainment facilities shall be operational and available for use by the general public, unless otherwise authorised by the responsible authority:

- *[add list of other uses]*

As discussed in Section 8.1, it is unclear whether it would be possible to ensure that community contributions pledged by an applicant are secured by way of permit condition, although legal advice provided to Coomes Consulting suggests this could be a reasonable requirement that stands a chance of success.

In the case of an application to increase the number of gaming machines in an existing premises, conditions should ensure that they are compatible with the parameters of previous approvals (e.g. opening hours) by either Council, Liquor Licensing or the VCGR.

In relation to matters specifically pertaining to the installation of gaming machines, or the design of gaming premises, it needs to be remembered that many of these issues are already regulated by the VCGR. It is suggested that any planning permit conditions and endorsed plans will need to be consistent with the minimum standards set out in gambling regulations to ensure that there is not a need for later amendments to the permit or plans. Conditions to exceed the normal gambling regulation standards would have to be justified under the normal tests for planning permit conditions:

- A condition must fairly and reasonably relate to the permitted development.
- A condition must serve a planning purpose.
- A condition is invalid if it is so unreasonable that no reasonable responsible authority would have imposed it.
- A condition will also be found to be void or invalid if it is overly vague or uncertain.

Relevant gambling regulations to be mindful of when imposing permit conditions include the following:

Directions under Section 80 of the Gaming Machine Control Act 1991

- A gaming machine area must be physically discrete.
- It must not be necessary for a patron of an approved venue to pass through a gaming machine area in order only to enter or leave the venue or gain access to a facility, such as toilets or a smoking area. However, access to a facility may be through a gaming machine area, if there is either –
 - a) an alternative means of accessing that facility which does not require passing through the gaming machine area; or
 - b) another of the same facility available to patrons elsewhere in the venue, outside of a gaming machine area;

Gambling Regulation Act – Rules under Section 3.5.23(1)

- A venue operator may offer gaming to a person only –
 - a) during the period or periods when a licence granted under the *Liquor Control Reform Act 1998* in respect of the premises authorises the consumption on those premises of liquor supplied on those premises; or
 - b) in the case of premises licensed under Part I of the *Racing Act 1958*, during a race meeting —but not during any break from gaming that the venue operator takes in order to comply with a condition of a premises approval or a venue operator's licence.



Note: Compliance with the Gambling Regulation Act requires a continuous 4 hour break from gaming after every 20 hours of gaming and that there must not be more than 20 hours of continuous gaming each day unless expressly approved by the VCGR and indicated in the Notice of Approved Venue.

- A venue operator must ensure that the operation of the gaming machine area and each gaming machine is subject to continual supervision. Supervision may be electronic or physical or a combination of both.
- Automatic teller machines (ATM) and electronic funds transfer (EFTPOS) devices must not be accessible by any person within the gaming machine area of an approved venue for the purposes of withdrawing cash.

Ministerial Direction – Responsible Gambling Codes of Conduct

This sets out the standards, requirements and guidelines for the preparation of a Responsible Gambling Code of Conduct.

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Websites

- Department of Justice, Office of Gambling and Racing, www.justice.vic.gov.au
- Victorian Commission for Gambling Regulation, www.vcgr.gov.au
- Victorian Legislation and Parliamentary Documents, www.dms.dpc.vic.gov.au



Attachments
Gaming Policy Framework – Mansfield Shire Council

11 Attachment 1 - Methodology and Consultation Results

11.1 Literature Review

The aim of this task was to gain a comprehensive understanding of the legislative and policy context in which the gaming policy for the Mansfield Shire will sit.

A literature review was conducted of the following:

- Legislation (State and Local)
- State and Local policy
- Current Australian research
- Case studies (administrative tribunal).

The outcomes of the literature review have been used to develop the principles and policy surrounding the location of gaming venues in the metropolitan region. The literature review has revealed the evidence based for this document.

11.2 Socio-Economic Analysis

The aim of the Socio-Economic Analysis was to gather relevant social research and data that could inform gaming policy.

The outcomes of these tasks were used to inform the Mansfield Shire gaming principles, local planning policy framework and EGM application process.

11.3 Consultations

11.3.1 Approach to Consultations

Consultation was undertaken with a number of stakeholder groups to ascertain their views in relation to:

- the benefits and dis-benefits for the local Mansfield community associated with gaming;
- the desirability of additional venues and/or EGMs within the shire; and
- appropriate locations for EGM venues within Mansfield Shire.

Outcomes of this consultation are outlined below.

11.3.2 Community Organisations/Service Providers

A group discussion and one-on-one interviews were conducted with representatives from various community organisations and service providers from within the Mansfield Shire. The comments made are summarised below:

- Although it is desirable to ensure that visitors to the Shire can enjoy a wide range of recreational opportunities, including gaming, this should not be achieved at the expense of the welfare of permanent residents.

- Gaming is a legitimate recreational activity. However, it is an activity that can lead to considerable harm for some people. This harm arises when individuals spend more time/money than they can afford.
- Although the population of Mansfield Shire is not highly disadvantaged, there are a number of residents who rely on welfare payments, public housing and the aid of community organisations. Single parent families and those on disability pensions commonly make use of the aid provided by community organisations.
- Gambling issues are generally not the underlying basis for clients' existing problems. However, these individuals/households have relatively small discretionary budgets and therefore if they were to develop a gaming problem, this would very quickly lead to financial strain. As such, these individuals/households are vulnerable to the impacts associated with problem gaming.
- Making EGMs highly accessible and visible within the local area increases the likelihood that members of the community will play EGMs and in turn that some will develop problems. Locations within existing shopping areas are particularly problematic. This is because, as people visit these areas to conduct routine daily activities they may, having seen the venue, make an impulse decision to gamble. Venues should not be located in Strip Shopping areas, even if they adopt best practice harm minimisation strategies.
- Locations outside of Mansfield and other settlements are less problematic, in that these locations require prospective EGM players to make a considered decision to access the venue.
- The impacts of problem gaming only affect a small proportion of the population. However, even a small increase in problems, would create a significant challenge for existing community organisations and as the resources of these bodies are already fully utilised.

11.3.3 Traders Association

A representative of the Mansfield Traders Association was contacted, and asked for comment. This representative distributed an email to 116 members of the association (all those who had previously provided an email address had been provided), asking for their views on what approach the Council should take with respect to its EGM Policy. A total of 114 responses were received. The representative of the Traders Association relayed the results verbally in a one-on-one meeting. The results were as follows:

- It was unanimous among respondents that it was not desirable for any further EGMs or venues to be allowed within the Shire.
- A large number of respondents referred specifically to the existing Mansfield strip shopping centre, suggesting that this area was particularly inappropriate as a location for an EGM venue.

- Those that referred to the strip shopping area specifically, explained that the existing Mansfield strip is geared toward families and tourists. It has an upmarket flavour, and the addition of an EGM venue would detract from this.

11.3.4 Existing Hotels/Clubs

One-on-one interviews were conducted with representatives of a number of existing clubs/hotels in the Shire Mansfield. The majority of those consulted held similar views to community organisations/service providers and members of the Trader Association, specifically:

- Additional EGM/venues in Mansfield Shire was not supported. However, it was recognised that there are fewer EGMs in the Shire currently than allowed under the municipal cap. It was therefore considered likely that at some point in the future EGMs may be introduced into existing hotel/clubs and/or that a new venue may be developed.
- The above considered, assuming further EGMs are to be introduced into the Shire, it is desirable that these not be located within existing strip shopping areas, in particular the Mansfield strip shopping area. The reasons given included protection of vulnerable individuals/households from high levels of convenience, and maintenance of the upmarket/family character of the existing Mansfield strip shopping area.
- The one existing EGM venue in Mansfield Shire (the Golf Club) was considered to be appropriately located as it requires a player to make a pre-determined decision to visit. Moreover, recent regulatory changes, such as the requirement for ATMs to be removed from EGM venues mean that locations such as the golf club, which are not within shopping areas, will require EGM players to plan how much money to carry to a venue, thereby promoting considered decision making about gaming behaviours.

However, a small minority of hotels/clubs expressed a contrary view, specifically:

- Mansfield's economy is highly reliant on tourism, and it makes sense to ensure that visitors to the Shire can enjoy a wide range of recreational opportunities, including gaming.
- Introduction of a new venue within the Shire, including a location within the existing Mansfield strip shopping area, would increase almost certainly expenditure on EGM gaming within the Shire. However, this would not necessarily be associated with greater problem gaming among permanent residents, particularly if the venue took a pro-active approach to harm minimisation.
- The increase in accessibility generated by the introduction of a gaming venue into the Mansfield strip shopping area would be modest at best, given that EGMs are available at the Golf Club, which is located approximately 1.5km from the eastern boundary of the existing strip shopping area.



- Those who experience problems with gaming are unlikely to be deterred from gambling by the inconvenience associated with travel to the golf club vis-à-vis a venue within the strip shopping area.
- It was recognised that a strip shopping area could be considered a high risk area. However, it was also stressed that harm reduction measures such as self exclusion schemes, have been judged to be potentially more effective than restrictions on accessibility. Therefore, a venue that adopted best practice harm minimisation strategies, but which is located in a high risk area may on balance generate an overall lower level of risk than a venue located outside a high risk area, but that does not adopt these practices.

12 **Attachment 2 - Ministerial Direction on Community Purpose**

Ministerial order pursuant to section 3.6.9(3) of the Gambling Regulation Act 2003

I, Tony Robinson MP, Minister for Gaming, pursuant to section 3.6.9(3) of the *Gambling Regulation Act 2003*, make the following determination of the kind of activities or purposes that constitute community purposes.

A venue operator may claim up to:

- 100 per cent of revenue applied to a Class A purpose or activity
- for revenue applied to Class B purposes or activities, an amount equal to the proportion of non-gaming revenue to the club's total revenue¹
- 100 per cent of revenue applied to a Class C purpose or activity.

Class A purposes and activities: Direct community benefits

- (a) Donations, gifts and sponsorships, including cash, goods and services, to another person resident in Victoria for the purposes or activities set out below but excluding purposes or activities conducted for profit and excluding a gift or donation of alcohol²:
- (i) any educational purpose, but excluding education provided for the benefit of the members of a professional or business association
 - (ii) the provision of health services or care
 - (iii) services for the prevention and treatment of problem gambling and drug and alcohol addictions
 - (iv) housing assistance for disadvantaged persons, including the provision of housing support and assistance to those experiencing homelessness or at risk of becoming homeless
 - (v) the relief of poverty
 - (vi) the provision of services and assistance for the aged
 - (vii) the provision of services and assistance for young people³
 - (viii) the protection and preservation of the environment but excluding conservation or rehabilitation activities conducted on private land
 - (ix) the provision of assistance to relieve distress caused by natural or other disasters
 - (x) the provision of advice, support and services to ex-service personnel, their carers and families, including payments to the Victorian Veterans Fund or a patriotic fund under the *Veterans Act 2005* or to any fund for that purpose established by the Returned and Services League Australia (Victorian Branch)
 - (xi) any other philanthropic or benevolent purpose including the promotion of art, culture, cultural diversity and community harmony,

- or charity including the benefiting of organisations endorsed by the Australian Taxation Office as 'Income Tax Exempt Charities'
- (xii) any sporting or recreational purpose, including the benefiting of any sporting or recreational club or association, but excluding any club that holds a venue operator's licence.
 - (b) The cost of providing and maintaining sporting facilities for use by club members⁴.
 - (c) The cost of any subsidy provided for the provision of goods or services but excluding the provision of alcohol⁵.
 - (d) Voluntary services provided by members and staff of the club to the community in fulfilment of those purposes or activities (i) to (xii) in paragraph (a) but excluding those voluntary services provided by club members to the club itself or to another club that holds a venue operator's licence. The maximum amount that can be claimed is \$20 per hour per volunteer⁶.
 - (e) Where the club that holds the venue operator's licence is a sub-branch of the Returned and Services League Australia (Victorian Branch), the provision of advice, support and services provided by that club to ex-service personnel, their carers and families, including payments to the Victorian Veterans Fund or a patriotic fund under the *Veterans Act 2005* or to any fund for that purpose established by the Returned and Services League Australia (Victorian Branch).

Class B purposes and activities: Indirect community benefits

- (a) Capital expenditure⁷.
- (b) Financing costs (including principal and interest)⁸.
- (c) Retained earnings accumulated during the year for which the community benefit is claimed⁹.
- (d) The provision of buildings, plant or equipment but excluding any building, plant and equipment with a value of less than \$10,000 per item and excluding the provision of gaming equipment or the gaming machine area of an approved venue¹⁰.
- (e) Operating costs¹¹.

Class C purposes and activities: miscellaneous

- (a) The provision of responsible gambling measures and activities but excluding those required by law¹².
- (b) Reimbursement of expenses reasonably incurred by volunteers.
- (c) The preparation and audit of a community benefit statement required under section 3.6.9 (1) of the *Gambling Regulation Act 2003* to a maximum of \$3,000.

Explanatory notes

¹ For example, where a club derives 60 per cent of its revenue from gaming, it can claim 40 per cent of the amounts it has spent under Class B.

² Paragraph (a) only applies to donations, gifts and sponsorships by a club to another person (including an incorporated entity) as a club cannot make a donation or give a gift to, or sponsor, itself. It is intended to include as community purposes all donations, gifts and sponsorships for the purposes set out in paragraphs (i) to (xii) but to exclude all activities conducted on a commercial basis or for profit. The free use of club facilities such as meeting and function rooms by community groups is claimable under paragraph (a).

³ For the purposes of this order, a young person is a person aged 25 years or less.

⁴ This would include the cost of a racing club maintaining a racetrack and a football club its football stadium. Where the cost of providing sporting facilities is claimed, a claim cannot also be made for a subsidy under paragraph (c).

⁵ This would also include goods or services provided to club members and non-members at no cost or at less than commercial rates. The use of club facilities such as meeting and function rooms by community groups at a discounted rate is claimable under paragraph (c).

⁶ Volunteer services only include services to another person (including an incorporated entity) for the purposes set out in (i) to (xii) paragraph (a). Volunteer services by club members to the club cannot be claimed.

⁷ Buildings, plant and equipment that have a value of less than \$10,000 and gaming equipment or capital expenditure relating to the gaming machine area of an approved venue cannot be claimed under paragraph (a). A motor vehicle can only be claimed where the motor vehicle is used for club purposes.

⁸ If financing costs are claimed, a claim cannot also be made in relation to the items financed.

⁹ Retained earnings can only be claimed for the year during which they were earned. If retained earnings are claimed, a claim cannot also be made when those funds are expended.

¹⁰ Where multiples of the same item forms one purchase, the total cost of all those items may be claimed.

¹¹ Operating costs include employment costs, but do not include the cost of staff whose principal place of employment is outside Victoria. Employment costs also include wages and salaries plus all on-costs such as superannuation and other entitlements, and benefits to the employee that attract fringe benefits tax. Operating costs also include management fees, electricity, rent etc. Payments made to players and officials of sporting clubs are claimable as operating costs.

¹² Responsible gambling measures and activities required by law including any measures or activities required by statute, licence, contract, agreement, deed, memorandum of understanding etc.

13 Attachment 3 - Clause 52.28

52.28 GAMING

18/10/2006
VC39

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

18/10/2006
VC39

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 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.

14 Attachment 4 - Gaming Research Key Issues Context

14.1 Introduction

Electronic Gaming was legalised in the State of Victoria in 1991 and electronic gaming machines (EGMs) were introduced to clubs and hotels in Victoria in June 1992. Electronic Gaming activity grew dramatically in the late 1990s and currently there are 26,666 EGMs spread across 525 hotels & clubs in the State.⁵ As a result, the accessibility of EGMs has increased from a very low level (interstate travel was required) to a situation where many people live within 2-3 kilometres of a venue. In metropolitan Melbourne, for example, more than 90 per cent of people have a gaming venue within 2.5 kilometres of their home. Although spatial accessibility is lower in regional Victoria, more than 55 per cent of people in Regional Victoria live within 2.5 kilometres of a gaming venue.

14.2 Why do people gamble?

For the majority of gamblers, gaming is an enjoyable form of entertainment. The reviewed research indicates that people gamble for a number of reasons, including:

- entertainment and excitement
- for social contact
- to win money
- to reduce stress/ gambling as way to cope or escape
- to reduce loneliness, isolation and boredom
- in response to relationship difficulties or breakdown
- gaming is an accessible and non-discriminatory form of recreation (PC 1999; New Focus 2005).

As a form of recreation, gaming machines address a series of distinct motivations that may not be satisfied by other forms of entertainment. Some of the features that particularly attract people to play EGMs as a form of gambling include:

- Entertainment facilities that are self-activated
- An individual form of entertainment where the start time and length of play can be decided by the player
- Social contact in a non-confrontational environmental
- A social environment that allows for privacy and non-participation in organised activity
- Affordable food and beverages provided in many of the venues
- Accessibility by location and opening hours
- Personal security (New Focus Research 2005).

⁵ VCGR Website 22 February 2010

14.3 Problem Gambling

Gaming is a legitimate activity in Victoria and for the majority of players, gaming is a source of recreation. However, unlike many other recreational activities, gambling has the potential to generate negative social/economic impacts for the player, their family and friends and the wider community. Problems result when players spend more money or time playing than they or their households can afford. Behaviour of this type is generally referred to as problem gambling, to illustrate:

Problem gambling is characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community⁶

Problem gambling is often characterised as a continuum of increasing severity. At one end, recreational gamblers gain clear benefits from gambling and the social environment in which gambling is offered. At the other end are people experiencing (or causing) severe harms as a result of their gambling. Between these two extremes, there are people facing either heightened risks of future problems or varying levels of harm.

A number of screening techniques are used to identify problem gamblers within a population. Drawing on the most recent surveys which employ the Canadian Problem Gambling Index (CPGI), the Productivity Commission (PC) (2009) found that the prevalence rate for problem gambling (measured as a score of 8 or more on the CPGI Survey) is likely to range between 0.5 and 1 per cent of Australia's adult population. The Commission used scores of 8 or more on the CPGI to indicate the prevalence of problem gamblers as around 90 percent of regular gamblers scoring in this range experience significant problems, a much greater proportion than for other risk categories. However, if the definition of problem gamblers is extended to include those at moderate risk of harm (CPGI 3–7), average prevalence at the national level would be approximately 2.5% of the adult population. Around 40% of regular gamblers scoring in the moderate risk range experience harms as a result of their gambling.

The above considered, the proportion of people in the adult population who are problem gamblers or at moderate risk of experiencing significant problems as a result of their gambling is relatively low. However, problem gamblers and those at moderate risk of harm play EGMs more often, for longer periods and spend more during each session. To illustrate, Caraniche (2005) conducted a venue based survey of EGM players, which showed that respondents who scored CPGI 8+

⁶ Neal, P., Delfabbro, P. and O'Neill, M. (2005), *Problem Gambling and Harm: Towards a National Definition*, Report prepared for the National Gambling Research Program Working Party, Melbourne (p. i).

spent over 6 times as much as non-problem gamblers who are also regular EGM players.

Table 14-1: EGM Player Profile by Problem Gambler Status

CPGI Category	Visits Per Week	Time Spent Per Session	Spend per Visit	Weekly Spend	ATM Visits
Non-Problem	1.98	103	\$35.8	\$71	0.33
Low Risk	2.13	108	\$56.5	\$120	0.45
Moderate Risk	3.35	147	\$76.3	\$256	1.30
Problem	4.34	175	\$103.4	\$449	1.86

Source: Caraniche (2005)

On the basis of the results of the venue based survey Caraniche (2005) concludes that while problem gamblers account for only one per cent of the total adult population, they constitute twenty or more times this amount among gaming venue patrons at any one time.

In its 1999 report the Productivity Commission (PC) estimated that the average problem gambler spends around \$12,000 per annum on gambling compared with around \$650 for non-problem gamblers. Regular EGM players (those playing at least once a week) were estimated to spend around \$7000 - \$8000 per annum. As result, in the case of EGMs, the commission suggested that CPGI 8+ and CPGI 3+ groups account for around 29 per cent and 44 per cent of gaming machine revenue respectively, despite their relatively low numbers among the general population.

14.4 Who are Problem Gamblers?

In its 1999 report the PC concluded that there are few clear socio-demographic factors that pre-dispose people to a higher likelihood of problem gambling. To illustrate, the PC 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 problem gamblers have a similar level of income to other adults.⁷ However, it was found that people who are separated or divorced, unemployed, or living in single-person households are more highly represented amongst problem gamblers.

The findings of the PC are largely supported by the Victorian Government's recent study, *A Study of Gambling in Victoria - Problem Gambling from a Public Health Perspective*. This study provides demographic data which assist in characterising

⁷ Jackson, A., Thomas, S., Thomason, N., Borrell, J., Crisp, B., Ho, W., Holt, T., and Smith, S. 1999b, *Analysis of Clients Presenting to Problem Gambling Counselling Services July 1997 to June 1998*, Client and service analysis report no. 4, prepared for and published by the Victorian Department of Human Services (p.g. 19-20)

the profile of the problem gambler population in Victoria. As Table 14-2 shows, 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. The data also show that people with lower levels of education, single parents, people who live alone and the unemployed are over-represented in the problem gambler population.

Table 14-2: Demographic Profile of Problem Gamblers

		Problem Gamblers (%)	All Persons (%)
Personal Income	\$0-\$31,199	44.5	60.7
	\$31,200-\$51,999	33.7	20.6
	\$52,000-\$83,199	18.4	12.6
	\$83,200 or higher	3.6	6.2
Speaks language other than English at home		29.6	25.6
Highest completed education level	University	20.8	30.4
	Trade or TAFE	18.9	19.2
	Year 12	27.8	22.5
	Year 10 or lower	32.6	27.9
Type of Household	One parent family	10.0	6.7
	Lone person	11.2	8.9
Unemployed		6.2	3.6

Source: Department of Justice 2009

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 problem gamblers have a severe mental disorder compared with around 2 per cent of non-problem gamblers.⁸ Recent research conducted by the Department of Justice demonstrates that those with a gambling problem are much more likely to have recently experience one or more traumatic life events (see Table 2.3).

⁸ Jackson 2008, Risk And Protective Factors In Problem Gambling, Paper Presented At 7th European Conference On Gambling Studies and Policy Issues, Nova Gorica, Slovenia, July 1-4.

Table 14-3: Experience of Life Events by Problem Gambler Status

Life Event	Non Problem Gamblers	Low Risk Gambler	Moderate Risk Gambler	Problem Gambler
Major change to your financial situation	15.4%	19.8%	29.2%	45.9%
Major injury or illness to either yourself or someone close to you	20.8%	24.0%	24.7%	45.3%
Troubles with your work, boss or superiors	8.3%	10.9%	15.9%	20.3%
Death of someone close to you	25.6%	29.6%	35.5%	32.2%
Divorce	2.2%	2.8%	5.1%	9.4%

Source: DoJ 2009

14.5 Vulnerable Communities

At the municipal level in Victoria, gaming machine density and expenditure is correlated with measures of disadvantage such as the ABS SIEFA Index. However, the demographic profile of problem gamblers as revealed by a number of studies, does not indicate that problem gambling prevalence is elevated in disadvantaged communities. Moreover, local scale studies which have investigated the link between SEIFA scores and EGM expenditure within an LGA have not established clear results. For example, McMillen and Doran (2006) used GIS to compare the spatial distribution of social disadvantage in three LGAs (Maribyrnong, Central Melbourne and Greater Geelong) with the spatial distribution of venues and patterns of concentrated gaming machine expenditure between 2001 and 2005. Their analysis showed no direct or uniform relationship between gaming machine expenditure patterns, SEIFA and the density of gaming machines. Clearly then, measures such as the SEIFA index cannot be relied upon as a straightforward indicator of problem gambling prevalence.

Notwithstanding, 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.

14.6 The Benefits and Costs of Gaming

In its 1999 inquiry, the PC examined the costs and benefits of gambling. It was concluded that gambling in Australia generates very large benefits for the community (worth in the order of \$4.4 billion to \$6.1 billion). These are predominantly consumer benefits. Gaming machines also result in increases in employment and provide financial revenue for clubs and hotels. Gaming revenue enables local clubs and hotels to develop their facilities and services to increase

the range of recreational and entertainment opportunities within the local community and may provide the community with services. However, the large losses of problem gamblers (the precipitating factor for many of the problems they face) and the associated social costs of their problems - significantly reduce the net benefits of gambling. The adverse consequences which can result from problem gambling include:

- relationship breakdown
- lowered productivity and job loss
- depression and anxiety — although some may be depressed before their problems develop, gambling can exacerbate pre-existing conditions
- suicides
- crime (gambling is one of the most common single motivations for fraud).

Adverse consequences such as those listed above, result from EGM play more commonly than other forms of gambling and produce very high social costs for society. At the time of the 1999 study the Commission estimated that the social costs associated with gambling were large, worth somewhere between \$1.8 billion and \$5.6 billion. On the basis of the above estimates, the Commission concluded the net social benefit of gambling in Australia is worth between a net cost of \$1.2 billion and a net benefit of \$2.6 billion. Moreover, the global estimate hides differences in the distribution of benefits and costs between different gambling modes and different regions. Closer inspection of the data shows that EGM gaming performs comparatively poorly in terms of delivering a net benefit to society. Moreover, the net benefit of gaming is likely to vary between different areas depending on local area characteristics, with some areas potentially fairing better or worse than is implied by the average figures.

Table 14-4: Consumer benefits, Social Costs and Net Impacts of Gambling by Mode

Mode	Net Consumer benefit (\$ Million)	Net Social Costs (\$ Million)	Net Benefit (\$ Million)*
Wagering	629 - 885	267 - 830	(201) - 617
Lotteries	1,232 - 1,498	34 - 106	1,126 - 1,464
Scratchies	219 - 266	24 - 74	145 - 243
EGMs	1,617 - 2,491	1,369 - 4,250	(2,624) - 1,122
Casino Gambling	581 - 771	48-150	431 - 723
Other	103-184	57-176	(73) - 127
All Gambling	4,365 - 6,076	1,800 - 5,856	(1,221) - 4,277

Source: PC 1999; * Figures in Brackets represent a loss

14.7 Venue Type

Hotel gaming machines earn approximately twice the amount of club machines in Victoria (revenue per machine) (Livingstone 2006; Market Solutions 1999). This, plus the general perception that clubs are more likely to produce community benefit as a result of their nature as sporting and charity-based clubs; has led to the ministerial direction on a split between hotel and club venues at 50% for each. There is minimal evidence of the reason people spend more on hotel than club machines; however, the Livingstone report (2006) attempts to assess the reasons for this anomaly. It suggests that the club environment may deter heavy gamblers because of their relatively small numbers of machines and a lack of anonymity, and due to the clubs' role as a social, sporting or charity club. Large hotel venues may be more likely to have 'high-risk' characteristics such as, "higher numbers of EGMs, high activity levels, a substantial degree of anonymity, gambling as a major or primary business focus, more limited social purposes and extended operating hours". (Livingstone 2006) Therefore, it is likely that size of a venue plays as much a part as type of venue.

Whilst this research is not substantial, there is a preference amongst many communities and local governments to favour the installation of gaming machines in clubs rather than hotels based on expenditure rates.

14.8 Community Return (CSF & CBS)

In Victoria, under the Gambling Regulations Act 2003, net gaming revenues from hotels with gaming machines are subject to an additional tax of 8.3 per cent. The additional tax payable by hotels does not apply to club venues provided clubs make a community benefit contribution of at least 8.3 per cent of their net gaming revenues.

The additional tax paid by clubs is directed to the Community Support Fund (CSF) whereas club must produce a Community Benefit Statement (CBS) outlining how they have made their community benefit contribution. Purposes and activities that constitute "community purpose" in the CBS are defined by the Minister for Gambling and are relatively broad. Ministerial Direction S 3.6.9 (3) (March 2008) defines three classes of purposes and activities: Direct community benefits, Indirect community benefits and Miscellaneous. The division of community purposes allows different emphasis to be placed on different claimed benefits. A venue operator may claim up to:

- 100 per cent of revenue applied to a Class A purpose or activity
- For revenue applied to Class B purposes or activities, an amount equal to the proportion of non-gaming revenue to the club's total revenue
- 100 per cent of revenue applied to a Class C purpose or activity.

A number of commentators have expressed dissatisfaction with the current system, in particular the nature of the community benefits claimed by clubs on their community benefit statements. This dissatisfaction arises due to the fact that much of what is claimed as a community benefit by clubs is beneficial for club members only. In the view of the Local Government Working Group on Gaming (LWGOG).

Clubs with gaming machines already enjoy a significant economic advantage over non-gaming clubs. Excluding the 8.3% of net gaming revenue that is to be declared through the CBS, clubs with gaming provisions retain a very sizeable 25% of gaming revenue which can be used for club purposes and activities.

While the LWGOG recognises the important community value of local clubs, we contend that having such direct access to gaming revenue already places clubs with gaming at a significant advantage over their non-gaming counterparts. We therefore maintain that all activities and purposes that benefit the club and its members, but which cannot be clearly shown to extend to the wider community, should be explicitly excluded from the CBS. The CBS must be reserved for activities and purposes that directly benefit the local community beyond the club and its members.

14.9 Accessibility

The term accessibility relates to how much effort is required by a person to seek out an opportunity to gamble. Accessibility for a particular individual can be influenced by a number of factors, including travel distance to a venue, travel time, the availability of public 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 problem gambling. 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.

Clearly, 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 accessibility/problem gambling relationship declines as accessibility increases. A number of studies are discussed below

which illustrate the complexities surrounding this issue and the difficulties for policy makers in formulating effective strategies.

14.9.1 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.

However, it should be noted that analysis of the type is subject to possible 'endogeneity' bias. 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 segment 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. Conveniently, policy decisions made in Victoria and South Australia allow for this type of analysis. For example, the South Australian Centre for Economic Studies (SACES, 2005b) has 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. Specific results included:

- There was no support for the proposition that the imposition of the caps caused a reduction in expenditure in the five capped regions.
- Interviews with counsellors indicated that there had been no change in the number of problem gamblers attending counselling, on problem gambler counselling rates or other forms of help-seeking behaviour.
- Industry representatives indicated that the regional caps policy had no effect on regular or committed gamblers. One reason for this was that previously idle machines were able to be utilised by gamblers (that is, utilisation rates increased).

SACES suggest 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 have been made in South Australia following removal of 2,168 machines from venues (approximately 14.5 per cent of the total available prior to the removal). The results of an evaluation conducted by Delfabbro (2008) show that the removal had very little impact on EGM expenditure. Specifically, analysis of venue data showed that venues that had lost machines had no obvious loss of revenue, although average net expenditure per machine increased. This suggests that patrons spent approximately the same overall amount of money, but on fewer machines. The principle explanation offered by the evaluators was that EGMs in South Australian venues are not fully utilized, and the removal was not sufficient to reduce people's opportunity to gamble.

Consistent with these findings, a representative of TABCORP consulted as part of this project indicated that even in highly productive venues, machine utilisation rates rarely exceed 60% and are typically much lower. As a result, small changes in machine numbers within existing venues would be unlikely to affect revenues substantially.

Moreover, the PC notes that, even if a regional cap was 'binding' (results in demand exceeding supply) players may adjust their playing style or their time of play to ensure that reduced machine numbers do not interfere with their ability to

access a machine. Accordingly, the PC concludes that regional caps are a blunt instrument for addressing gambling harms.

14.9.2 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 (and urban Ballarat'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 0.5h. 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.

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). It has been concluded that, in the context of the Victorian gaming supply structure, while destination gaming could reduce accessibility to a degree, overall accessibility to gaming opportunities would remain high. Moreover, it was recognised that various other factors contribute to the development of gambling problems, other than accessibility. As a result, it was concluded that even with a considerable reduction in accessibility (reducing the number of venues by more than 80%), the effect of such a reduction on the extent problem gambling would be limited. When balanced against the impacts that extensive consolidation would have for local communities in terms of loss of employment and club revenues, it was decided that the destination gambling model would not be pursued.

The PC, in effect, takes a similar view to the Victorian Government when it states that:

Had there been full knowledge at the time about the harmful effects of substantially increasing accessibility to gaming machines in the 1990s, a different model of liberalisation — centred on destination, rather than community-wide, gambling - may have been seen as appropriate. However, reversing to any great extent the existing 'open access' policy of most jurisdictions would be costly and difficult.



Further to the above the PC states that ***other harm minimisation measures - notably, an appropriately-designed precommitment scheme - are likely to be more effective than restrictions on accessibility, and would eventually allow some existing restrictions to be relaxed.***

15 Attachment 5 - Assessment Tool for evaluating net community benefit of gaming applications

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	
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. Key indicators will be:</p> <ul style="list-style-type: none"> – Scores above 50th percentile 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 public housing tenants – Lower than average levels of housing stress – Lower than average levels of non-English speakers – Above average scores for municipal community 	<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"> – Scores below 50th percentile on SEIFA Index of Disadvantage – Lower than average household incomes – Higher than average unemployment – Higher than average proportion of single parent households – Higher than average levels of public housing tenants – Higher than average levels of housing stress – Higher than average levels of non-English speakers – Below average scores for municipal community 	<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 Adversity and Resilience Report 2004</p> <p>Council community planning department</p>

Category	Issues to consider		Potential information sources
	Positive impacts	Negative impacts	
	.indicators	indicators.	
	Note: other indicators may be relevant to local area		
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. Eg shops and community centres – Venue is not convenient to concentrations of public housing or community service hubs for disadvantaged persons <p>Location of venue allows for safe and sustainable travel Venue will not cause amenity impacts on neighbouring uses.</p>	<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 not easily accessible from concentrations of public housing and community service hubs for disadvantaged persons <p>Location of venue makes safe sustainable travel difficult. Venue will cause negative amenity impacts on neighbouring uses.</p>	<p>Site inspection Council transport planning department MSS 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 as there are a range of other non-gambling entertainment, leisure and recreation options available at the same time the gaming machines will operate.</p>	<p>Local residents do not have a choice of non-gambling entertainment options as there are limited or no other non-gambling entertainment facilities available within 1km of the venue at times the gaming machines will be operating.</p>	<p>Council Community Development Department Applicant</p>
Other facilities at the venue	<p>Visitors to the venue can choose a range of non-gambling activities. Eg live entertainment,</p>	<p>The venue is primarily established for gambling and has limited or no other activities to choose</p>	<p>Applicant</p>

Category	Issues to consider		Potential information sources
	Positive impacts	Negative impacts	
	restaurants, sport.	from.	
Population growth	Population growth is projected which will lower gaming machine density in the area and municipality.	Limited, stable or negative population growth is projected which will mean higher gaming machine densities.	DPCD Population projections Planning Scheme Any relevant policy or document (for example, structure plans, development plans and growth strategies where applicable).
Social impact	<p>Provision of facilities, services or activities needed by the community as a result of the gaming revenue.</p> <p>Negligible additional need for local problem gambling counselling services.</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>Likely additional need for problem gambling counselling services.</p> <p>Community survey about the proposed venue showing notable community opposition.</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>There is evidence available of economic benefits from the establishment of the gaming machines such as:</p> <ul style="list-style-type: none"> Contributions to community services or sponsorship of community activities Additional employment related to the gaming component of the venue. 	<p>There is evidence of likely negative economic impacts from the establishment of gaming machines such as:</p> <ul style="list-style-type: none"> Redistribution of spending away from local business Limited EGM expenditure will 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>Applicant</p>
Scale and	There are limited gaming	There are already	VCGR Research and

Category	Issues to consider		Potential information sources
	Positive impacts	Negative impacts	
density of gaming	<p>opportunities in the municipality and local area as evidenced by lower gaming densities (number of EGMs per 1000 adults) than the Victorian average.</p> <p>Additional gaming machines will have a negligible impact on the overall and local neighbourhood gaming density.</p>	<p>accessible gaming opportunities in the local area.</p> <p>Gaming density figures in both the municipality and local area will be above the Victorian average.</p>	<p>Statistics (www.vcgr.vic.gov.au)</p> <p>Gaming Policy Framework</p>
Relocated EGMs	<p>If the EGMs have been relocated 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 community – Removal of gaming machines from a convenient location – Removal of gaming machines from an area with a high gaming machine density (EGMs per 1000 adults) – Increased financial contributions to community facilities and activities. 	<p>If the EGMs have been relocated 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 – Relocation of gaming machines to an area with a higher neighbourhood gaming machine density – Reduced financial contributions to community facilities and activities. 	<p>As identified above</p>

16 Attachment 6 – Analysis of VCAT decisions and Panel reports

16.1 Planning Panels

To date five Planning Panels have considered planning scheme amendments to introduce local planning policies for gaming machine applications: Maroondah C60, Greater Bendigo C110, Greater Geelong C168, Yarra Ranges C77 and Mitchell C50. 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 an appropriate way to identify prohibited gaming areas.
- Similarly discouraged gaming areas can also be mapped and included as an incorporated document
- 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, albeit subject to changes.

16.2 VCAT and Supreme Court

Club Edgewater (2009)⁹

The Tribunal considered a combined planning permit and gaming licence application to establish a new social club with 70 EGMs in a Neighbourhood

⁹ Prizac Investments Pty Ltd & Ors v Maribyrnong CC & Ors

Activity Centre (NAC) in the new Edgewater Estate, Maribyrnong. The application involved relocating and removing EGMs from other locations in the municipality, 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 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)¹⁰

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 appears to contrast with the findings in the Edgewater decision discussed above.

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

¹⁰ Beretta's Langwarrin Pty Ltd v Frankston CC

level of disadvantage. Critically, the decision 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.”

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.

Bells Hotel (2010)¹¹

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.

Williams Landing (2007)¹²

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.

¹¹ Bells Hotel Pty Ltd v Port Phillip CC

¹² Walker Corporation Pty Ltd v Wyndham CC

Romsey Hotel (2007-9)¹³

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 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)¹⁴

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

¹³ 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]

¹⁴ Shimmerbridge Pty Ltd v Bayside CC; M & S Whelan Investments Pty Ltd v Alpine SC

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.

17 Attachment 7 – Strip shopping centre audit

Clause 52.28-4 of the Victoria Planning Provisions defines strip shopping areas 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;

These tests have been applied in the following way in the audit of strip shopping centres in Mansfield Shire.

The first test:

- “Zoned for business use” includes all business zones.

The second test:

- As it reads

The third test:

Normally this will entail consideration of the following factors:

1. Dividing the business-zoned area into a series of street blocks.
2. Analysing the uses and character within each block. If there is a clear change of use/character midway through a block (eg from commercial to residential) then this was taken as the end point of the shopping strip. If there was a mix of alternate retail and non-retail uses, then point 3 below was considered.
3. Determining whether buildings used as shops constitute a notable component of the uses in each block.

A number of VCAT cases have made it clear that a flexible approach should be taken to defining what constitutes a shop. The VPP definition has been considered overly narrow having regard to what an ordinary person would consider to be the types of uses that make up a shopping centre, for example, food and drink premises, banks and bulky goods outlets may all be part of a shopping centre. For the purposes of this audit we have taken a such an approach and included uses ordinarily associated with a shopping precinct.

In terms of determining what amounts to a “significant proportion” of buildings used as shops, in addition to looking at the number of premises used as shops versus those used for other purposes, the audit considered whether the block (or part of a block) had a clear commercial character, or at least exhibited a mixed use character whereby shops made up a notable part of the land use mix. As

VCAT has noted, a significant proportion does not need to be a majority of premises.

The fourth test:

- 'Road accessible to the public generally' is considered to apply irrespective of ownership, or whether the road is primarily used for vehicular or pedestrian access.

Strip Shopping Centre Audit

The audit examined business zone areas in Jamieson, Bonnie Doon and Mansfield. It was not considered that the business areas in Jamieson and Bonnie Doon met the tests for a strip shopping centre at the time they were analysed as they did not comprise adjoining buildings used as shops. However as local retail hubs they are not a preferred location for gaming activity and thus gaming should be discouraged in these locations through policy.

It was considered that much of the commercial area in the centre of Mansfield fronting High Street and parts of Highett Street and Chenery Street met the tests of a strip shopping centre, as shown on the map located in the draft policy at Section 8.4.

