

Supporting Local Governments on Gaming Policy Project eBulletin #3: December 2011

Welcome to the final eBulletin of the **Supporting Local Governments on Gaming Policy Project** for 2011. It's been a very busy year for Victorian local governments in the gaming sector. This eBulletin highlights the work undertaken over the course of 2011, and recaps on some of the key issues and decisions for 2011.

Events, Training and Resources

Responsible Gambling Awareness Week Grants Now Open

The Department of Justice is offering grants of up to \$5000 for local governments across Victoria to run events, initiatives or activities for young people during Responsible Gambling Awareness Week, 14 - 20 May 2012. More information on application guidelines and selection criteria can be found [here](#). Please note applications close **23 January 2012**.

Gambling from a Public Health Perspective Forum

Date: 10 February 2012

Time: 1.30-5pm

Location: Centre for Regulatory Studies, Monash Law Chambers, 55 Lonsdale St, Melbourne

Cost: Free

RSVP: Darshini.Ayton@monash.edu

Please include your workshop preference (research, advocacy or policy) and any dietary requirements. More information can be found [here](#).

4th International Gambling Conference

Date: 22 - 24 February 2012

Location: Auckland, New Zealand

Information and registration: <http://www.internationalgamblingconference.com>

Latest Research

Refer to the [Responsible Gambling Advocacy Centre's website](#) for the latest research news including the Discussion Paper on [Women and Gambling: Issues of Difference](#), November 2011.

Local Government Highlights of 2011

City of Greater Geelong is currently in the process of reviewing its Strategic Gaming (social) Policy. The policy will aim to take into account Council's land-use policy, the post-2012 environment, and recent VCGR and VCAT decisions. Driving the review will be Council's Gambling Advisory Committee. The Committee, made up of councillors from the Geelong region, local government staff, service providers and industry representatives, meets on a bi-monthly basis and aims to give direction to the proliferation and distribution of gaming machines within in the municipality and to develop strategies that minimise the harm from problem gambling.

Darebin City Council introduced a differential rate on gaming venues in 2011.

Macedon Ranges Shire Council has a wealth of gambling related resources and information available on their [website](#). This year, Macedon Ranges Shire Council completed a panel hearing for [Planning Scheme Amendment C64](#) to introduce a local planning policy on gambling. It was sent to the Minister for Planning for final approval in July 2011. Dr Lorraine Beyer from Macedon Ranges developed and delivered the first planning-based training module for gaming machine assessments at a DPCD PLANET training course in June. Council has in place a Community Trust model for distribution of small grants of community benefit funds from the Victoria Tavern Hotel venue to fund low cost or free alternate recreations and socialising opportunities.

Moreland City Council has a differential rate on gaming venues which it uses for problem gambling prevention programs. In 2011, Moreland launched the MoreConnect program which is a social connection program for problem gamblers, based on the successful (Re)Making Meaning model. Council has also completed a social marketing strategy for responsible gambling. Moreland has also convened the development of Social Impacts of Pokies.org.au Framework and are planning to introduce a clause on gaming into the Moreland Planning Scheme as part of the MSS review.

Mount Alexander Shire Council adopted a Gaming Policy Framework in December 2010 that is currently going through the planning scheme process (Amendment C59). Council is currently responding to an application from the Maryborough Highlands Society for a new premises in Castlemaine, in the context of significant community action.

Port Phillip City Council introduced Clause 22.07 to the Port Phillip Planning Scheme as part of Amendment C88 in June 2011. Council endorsed their [Responsible Gambling Policy](#) in May 2011. Port Phillip has had three applications for EGMs in 2011.

City of Whittlesea has been busy with EGM applications in 2011, namely the Laurimar Tavern and Bridge Inn Hotel (see key decisions below).

Wyndham City Council is exploring the best policy and planning enforcement options for their growth area. Wyndham received three EGM applications this year and foresees significant movement post-2012 licensing arrangements due to high numbers of purchased entitlements.

Yarra City Council has introduced the [Yarra Gaming Strategy 2011-2015](#), which takes a community wellbeing approach and aims to reduce the negative social and economic impacts of gambling on individuals, families, workplaces and the wider community. The Strategy involved considerable community consultation. Council has a local planning policy within the Yarra Planning Scheme.

In 2011, social policies were developed and endorsed by councils at the following local governments:

- [Port Phillip City Council](#)
- [Whitehorse City Council](#)
- [Yarra City Council](#)

Planning policies were adopted by the following local governments and are going through the planning scheme amendment process at Panels Victoria:

- Ballarat City Council
- Bayside City Council
- Macedon Ranges Shire Council

- Mount Alexander Shire Council

Responsible Gambling Advocacy Centre Guides – The GAP Project

The Minister for Gaming, Hon Michael O'Brien MP, formally launched the Responsible Gambling Advocacy Centre's *GAP Project: Guides to the Application Processes associated with EGMs*, on 14 December. The Guides are an online document available at: <http://egm.responsiblegambling.org.au>.

The Guides were developed in response to community confusion about the licence and planning processes associated with EGMs. They aim to make planning and licence processes for EGMs clearer and enable communities and local government officers to develop informed responses to any application for an EGM in their community. The Guides provide simple and practical information in the form of three Guides, as well as process charts and useful fact sheets with tips, case studies and information.

Social Impacts of Pokies.org.au

The *Social and Economic Impact Assessment Framework for EGMs* is an online evidence base and data book for Victorian local government officers, community members and applicants to build their own social impact assessments. The Framework was developed by the Inner Northern Working Group on Gambling and can be accessed as an online document at www.socialimpactsofpokies.org.au. The resource was officially launched by the VLGA President, Cr Samantha Dunn on 14 November.

University of Ballarat Study – Community Impacts of EGMs

This study looks specifically at the community impacts of EGMs, shifting the focus from individual problem gamblers. The study is independently funded (most previous studies have been funded by government or the industry), and is interdisciplinary, including input from sociologists, health promotion professionals and psychologists. The University of Ballarat had a fantastic response through LGWGOG, with 28 Victorian local governments contributing funds to the study. The study site is the municipality of Whittlesea and it is being conducted by Deb Greenslade, and supervised by John McDonald at University of Ballarat.

PLANET Training (DPCD)

Dr Lorraine Beyer from Macedon Ranges Shire Council developed and delivered a half-day training course through DPCD PLANET Professional Development series in June 2011. This is the first gaming related training specifically conducted for planners and social planners in Victoria. The training gave an overview of gaming in Victoria, information on the planning and licensing processes, policy and social impact assessment training.

Key Issues of 2011

Federal reforms

2011 has been a big year for gambling issues with proposed federal poker machine reforms sparking political and media debate across the country. Independent MP Andrew Wilkie has stated he will withdraw his support for the Federal Government if they are unable to pass a bill introducing mandatory pre-commitment on all high-intensity EGMs in Australia by May 2012. The mandatory pre-commitment system is based on recommendations and findings from the Productivity Commission's 2010 Inquiry into Gambling. It allows gamblers to set limits on the amount of money and time they wish to spend before they begin to gamble.

A Parliamentary Joint Selection Committee (JSC) on Gambling Reform was established to consider the reforms. The JSC has completed a number of inquiries, including one on [pre-commitments scheme](#) and [interactive and online gambling and gambling advertising](#). The pre-commitment inquiry made 43 recommendations, including that a mandatory pre-commitment scheme apply to all high intensity electronic gaming machines by 2014.

Opposition leader Tony Abbott has predicted that the Federal Coalition will oppose the reforms. The Federal Coalition released a [Discussion Paper on Gambling Reform](#) in November 2011. The Greens have put forward a \$1 bet limit policy, to effectively remove all high intensity machines from Australia and therefore removing the need for a pre-commitment system to be placed on those machines.

Clubs Australia and other major beneficiaries of poker machine revenue have launched large-scale media campaigns, hitting out against the reforms saying they won't help problem gamblers but will impact negatively on small clubs and venues across the country.

State Government changes

Elements of the Victorian Coalition Government pre-election gambling policy platform, in the [Victorian Coalition Plan for Gaming](#), included:

- establishment of a Victorian Responsible Gambling Foundation (VRGF), funded by the Community Support Fund;
- voluntary pre-commitment system for Victoria;
- direct the Victorian Competition and Efficiency Commission to undertake a public inquiry into the social and economic costs of problem gambling;
- venues to be prohibited from encouraging parents to gamble while their children are on the premises; and
- no additional casino.

Victorian Commission for Gambling and Liquor Regulation (VCGLR) and the Victorian Responsible Gambling Foundation

In 2011, the Victorian Parliament passed legislation to establish the Victorian Commission for Gambling and Liquor Regulation (VCGLR) and the Victorian Responsible Gambling Foundation. The VCGLR aims to be operational by early 2012, and the Foundation by mid-2012. The legislation for both organisations can be downloaded from the [Victorian Legislation and Parliamentary Documents website](#).

Pre-commitment

The State Government recently called for submissions to a Pre-commitment Discussion Paper, which can be read [here](#). The paper looked at implementation issues around voluntary pre-commitment and did not revisit the State Government's decision that pre-commitment should be voluntary. You can see the VLGA's submission [here](#), and other submissions [here](#). In 2010, the former Victorian Government called for public submissions on a discussion paper around pre-commitment for gaming machines.

Post- 2012 Licensing Arrangements

In 2010 an auction for EGM entitlements was held in Victoria which effectively ends the duopoly of Tabcorp and Tattersall's in EGM licence ownership. After August 2012, a gaming venue needs an operator licence to operate gaming machines. The entitlements are not a permit to install a gaming machine and due processes must be followed, but what it will

mean is that there will be a lot of movement of machines and applications (planning and gaming) after August 2012. There is still a lack of solid information from the Department of Justice with regard to how this process will be managed. It is not confirmed that if all entitlements in a municipality have not been purchased, that the number of machines will decrease or whether they will still be available.

The Victorian Auditor-General report on the [Allocation of EGM Entitlements](#) was released in June 2011. The report found that large gaming operators, and not the community, were the main beneficiaries of the auction. The allocation of the EGM entitlements was achieved within very tight time lines but the report found that the project “failed to achieve a satisfactory financial outcome and there were serious shortcomings in the project management. The revenue obtained from the sale of the entitlements was around \$3 billion less than the assessed fair market value of these assets”.

VCGR Timelines

In 2010, the VCGR reduced the timeframe for local governments to make submissions to 60 days. This has placed considerable time constraints on local governments to respond effectively to applications in their municipality, particularly within council meeting cycles and resource implications to employing consultants. The current Minister has supported the new rules and LGWGOG continues to collect evidence of local government pressure for advocacy support.

Key Decisions of 2011

Laurimar Tavern, Doreen (Whittlesea CC)

VCAT (7/04/2011) [Whittlesea CC v George Adams P/L](#). Decision to grant approval of a new venue with 30 EGMs was overturned, application not granted.

- VCAT was reviewing both the VCGR approval for new premises with 40 EGMs and the failure of Whittlesea City Council to grant a permit within the prescribed time.
- Application was for a multi-purpose entertainment complex in the Laurimar town centre. An initial community contribution of \$100,000 would be followed by an annual contribution of \$70,000 to community organisations for the first five years.
- The Tribunal found that all the land within the town centre could be regarded as a strip shopping centre (as assessed for the purposes of Clause 52.28) and therefore the use of gaming machines is prohibited.
- The Tribunal found that the town centre had an intimate scale and gaming machines would be inconsistent with the character and social and economic outcome sought by Council. They had concerns of the convenience of the venue to the local community.
- The planned use of the site for the purposes of a tavern is strongly supported but EGMs were considered a discretionary use.
- Different information was provided to the VCGR and VCAT, which influenced the different outcome. This included a more detailed Social and Economic Impact Assessment (SEIA), a community survey and a lack of responsible gambling information from the applicant.
- The Tribunal found that SEIAs involve subjective assessments and will always differ. SEIAs need to consider more than just the risk of problem gambling and SEIFA.

- The proposal would provide entertainment options, but there would be no non-gaming alternatives for people in Laurimar. Gaming will be accessible to Laurimar residents at the Bridge Inn Hotel, less than 5km away.
- Economic benefit of the proposal included employment, though it was noted that the employment directly related to the gaming lounge was modest and that potential employees risked higher rates of problem gambling.
- A community support program offered by the venue would have been a positive impact on the community. The Laurimar community is a cohesive, strong community and is not economically disadvantaged but does show signs of financial vulnerability.
- There were no problem gambling services in the area of Laurimar.
- Both the applicant and the Council conducted a community survey. The Council survey was considered more appropriate as it relied on a closer catchment area. Residents felt that the introduction of EGMs would change the nature and identity of their community and cause unhappiness or discontent.

The Foundry Hotel, Bendigo (Greater Bendigo CC)

VCAT (12/04/2011) [Drayton Manor v Greater Bendigo CC](#). Permit granted for a new premises with 25 EGMs

- Council refused a planning permit and also sought to review the decision made by the VCGR in 2010 that approved 30 EGMs. This hearing considered both aspects.
- The Hotel is a quality, well-managed premises with a range of facilities including its bar, bistro, function room and conference facilities. Currently the hotel has a large catchment area of approximately 20km. VCAT found the site to be more of a destination venue than an average suburban pub.
- The Hotel is located in an area of high socio-economic disadvantage, opposite a large Woolworths supermarket. There are non-gaming options available in the area.
- The proposal involved the transfer of machines from within the municipality.
- No major changes or renovations would result from the introduction of the gaming machines, but a community donation of \$50,000 would be provided.
- Council has a planning policy in place but this site was not identified as a discouraged area.
- VCAT found that some areas of Council's policy required consideration and so did not hold those elements to be strong enough to constitute non-compliance. Council's policy requiring that the suburb of the subject site *and adjoining suburbs* were not above the state average was disregarded by the VCGR and in evidence at VCAT as it would effectively mean a ban on all new EGMs.
- A community survey found that 75% of residents surrounding the Foundry opposed the introduction of EGMs at the Hotel, but the survey was not given significant weight.
- VCAT found that community wellbeing is better considered within the Gambling Regulation Act, and that VCAT considers the impacts of the location.
- The Tribunal granted a permit for a reduced number of EGMs to 25 and to limit hours of operation to 11am - 1am.

McKinnon Hotel, McKinnon (Glen Eira CC)

VCAT (17/03/2011) [McKinnon Hotels P/L v Glen Eira CC](#). Determined that a planning permit is required to 'install' additional EGMs on land with existing use rights, but not to 'use'.

- The applicant contested the need for a planning permit for new EGMs under existing use rights, whereby the venue did not need to apply for a planning permit if the use of floorspace for gaming was less than 25% of the entire venue.

- VCAT found that 'installation' and 'use' were separate concepts in terms of planning.
- The case found that under the planning scheme a permit is not required to 'use' EGMs but is required to 'install' EGMs. The use of EGMs under existing use rights is considered an intensification of an existing use under Clause 63.05. The use of additional gaming machines requires regulatory approval (Gambling Regulation Act).

Bridge Inn Hotel, Mernda (Whittlesea CC)

VCGR (30/09/2011) Application granted, new premises suitable for gaming with 40 EGMs (conditions removed)

- VCGR approved the premises as suitable for gaming in 2009, with conditions that 20 of the 40 approved EGMs come from the southern capped area of Whittlesea.
- The applicant was only successful in purchasing five entitlements from that area in the licence auction and so reapplied to the VCGR to remove the conditions.
- There is a lack of entertainment facilities in the growing northern area of Whittlesea. Laurimar Tavern will not likely be built in the near future, so VCGR granted the application without conditions to ensure that the venue expansion went ahead.

Pink Hill Hotel, Beaconsfield (Cardinia SC)

VCAT (19/09/2011) [DSL Securities v Cardinia SC](#). Permit granted, new premises with 60 EGMs

- VCGR approved the new premises as suitable for gaming with 60 EGMs in 2010. Council refused a planning permit in 2011, which the applicant appealed to VCAT. Council refused the permit due to proximity to residential land and sensitive uses.
- The subject site is located on the periphery of a neighbourhood activity centre but not within it, which VCAT ruled as being 'just right'. Council's gaming policy does not identify the land as unsuitable for gaming. In addition, the area was not found to be one of socio-economic disadvantage or high gaming density.
- VCAT considered the community views put to it, but outlined that it must consider whether the venue is an appropriate location for gaming under the Planning and Environment Act. It found that community views are better considered within the Gambling Regulation Act as part of the VCGR process.

All decisions heard by the VCGR in 2011 include:

- **The Kingston Club, Mordialloc** (Kingston CC), 06/12/2011. Application granted to increase EGMs from 70 to 82
- **Dandenong Club, Dandenong** (Greater Dandenong CC), 01/12/2011. Application granted to increase EGMs from 86 to 94
- **The Royal Hotel, Benalla** (Benalla RC), 11/11/2011. Application refused to increase number of EGMs from 20 to 30
- **The Cobram Hotel, Cobram** (Moirra SC), 24/10/2011. Application granted, new premises suitable for gaming with 38 EGMs
- **The Tigers Clubhouse, Hoppers Crossing** (Wyndham CC), 14/10/2011. Application granted to increase EGMs from 65 to 75
- **Red Lion Hotel, Ballarat** (Ballarat CC), 30/09/2011. Application granted to increase EGMs from 45 to 54
- **West Bendigo Sports and Entertainment Centre, West Bendigo** (Greater Bendigo CC), 30/09/2011. Application granted to increase EGMs from 75 to 105
- **Warragul Country Club, Warragul** (Baw Baw SC), 26/08/2011. Application granted to increase EGMs from 45 to 60

- **Box Hill Golf Club, Box Hill** (Whitehorse CC), 26/08/2011. Application granted to increase EGMs from 34 to 39
- **Rafferty's Tavern, Warrnambool** (Warrnambool SC), 19/08/2011. Application granted for a new premises with 19 EGMs
- **St Albans Sports Club, St Albans** (Brimbank CC), 05/08/2011. Application granted to increase EGMs from 30 to 35
- **Lara Hotel, Lara** (Greater Geelong CC), 29/07/2011. Application granted to increase EGMs from 20 to 40
- **Italian Sports Club of Werribee, Werribee** (Wyndham CC), 29/07/2011. Application granted to increase EGMs from 57 to 70
- **Horsham Sports and Community Club, Horsham** (Horsham RC), 15/07/2011. Application granted to increase EGMs from 54 to 78
- **Numurkah Golf and Bowls Club, Numurkah** (Moirra SC), 22/06/2011. Application granted to increase EGMs from 38 to 60
- **Nobel Park Football Social Club, Nobel Park** (Greater Dandenong CC), 14/06/2011. Application granted to increase EGMs from 46 to 50
- **Kangaroo Flat Sports Club, Kangaroo Flat** (Greater Bendigo CC), 02/06/2011. Application granted to increase EGMs from 48 to 60
- **East Ridge Club, Chirnside Park** (Yarra Ranges SC), 25/05/2011. Application granted for a new premises with 70 EGMs.
- **Swan Hill RSL, Swan Hill** (Swan Hill RC), 03/05/2011. Application granted to increase EGMs from 30 to 35
- **Koorling Golf Club, Altona** (Hobsons Bay CC), 21/04/2011. Application granted to increase EGMs from 49 to 61
- **Ballarat Leagues Club, Ballarat** (Ballarat CC), 19/04/2011. Application granted to increase EGMs from 50 to 54, with conditions that the municipal cap is not exceeded.
- **Hoppers Crossing Club, Hoppers Crossing** (Wyndham CC), 14/04/2011. Application granted to increase EGMs from 70 to 91
- **George Hotel, Ballarat** (Ballarat CC), 17/03/2011. Application granted to increase EGMs from 34 to 42
- **Waurm Ponds Hotel, Waurm Ponds** (Greater Geelong CC), 01/03/2011. Application granted to increase EGMs from 56 to 70

Twenty-four decisions were made by the VCGR in 2011 (at 21/12/2011). Apart from one application (Royal Hotel in Benalla), all applications to the VCGR were granted.

Project Update

The Supporting Local Governments on Gaming Policy Project is currently scoping project training needs and developing a training outline. A major part of this project will be capacity building for local governments and we will be undertaking two training workshops in the first half of 2012. Please contact Emma Shepherdson with your views about what you would like covered in any upcoming training on emma@vlga.org.au or (03) 9349 7999.

Contributions

If you have anything to add to the next Supporting Local Governments on Gaming Policy Project eBulletin, please email Emma at emma@vlga.org.au or phone 9349 7999 by **23 January 2011**.