

Supporting Local Governments on Gaming Policy Project eBulletin #4: January 2012

Welcome to the first eBulletin for 2012. These monthly eBulletins provide a summary and update on recent VCAT and VCGR decisions, legislation and regulatory changes, upcoming events and training and local government highlights.

There has been a lot of political and media activity around the federal poker machine reforms in the last month, and also a number of VCGR decisions that have been heard in Victoria, contributing to this month's eBulletin.

Events, Training and Resources

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>

Turning Point Seminar: Multimorbidity and its implications for problem gambling treatment

Professor Shane Thomas, Deputy Dean (International), Faculty of Medicine, Nursing and Health Sciences; Professor of Primary Health Care Research, Director, Monash Problem Gambling Research and Treatment Centre.

Date: 21 March

Time: 1-2pm

Location: 54-62 Gertrude Street, Fitzroy

Local Government Highlights

Brimbank City Council

In March last year, the [Brimbank Electronic Gaming Machine Policy 2010-2013](#) was released. An associated Action Plan is being developed, including recommendations in support of a differential rate and not renewing lease arrangements with EGM sporting clubs on Council land. Brimbank will also be proposing amendments to the MSS this year in line with gambling policy directions.

City of Casey

In 2011 Casey adopted a new [Electronic Gaming Machine Strategy 2010-2015](#), and commenced preparation of a draft gaming policy as part of a planning scheme amendment. Casey has also developed a [Gambling Impact Assessment Toolkit](#). This is a great resource

that provides background information, a step-by-step process for conducting a social impact assessment and how-to guides.

Mount Alexander Shire Council

Maryborough Highlands Society's proposal to introduce 65 machines to a new venue in Castlemaine was heard at the VCGR on 11 January 2012. Evidence was given by the applicant, Council and the community action group Enough Pokies in Castlemaine (EPIC).

There was debate as to whether EPIC would be allowed to appear in its own right and have community members subject to cross examination from the applicant's counsel. The chair, Bruce Thompson, said at the beginning of the hearing that in his view EPIC was not a splinter group and he wanted to hear 'the voice of the people'.

In the end only the president of EPIC was cross examined and five community members made brief statements, together with a short [DVD presentation](#). Read more about the hearing in [this article](#), written by a former member of EPIC and vocal opponent of the proposal. The decision on the proposal is pending.

Legislative, Political and Regulatory Changes

Mandatory Pre-Commitment

January has seen the poker machine debate come to a head, with Independent MP Andrew Wilkie withdrawing his support for the Labor Government after it announced it was backing down from introducing a mandatory pre-commitment scheme by the end of 2014, in favour of a year-long trial. Wilkie's support was contingent on legislation being passed through parliament by May 2012. In addition to the trial, the Gillard Government stated in a [media release](#) plans to introduce pre-commitment technology to every poker machine in Australia, impose a \$250 withdrawal limit on ATMs in gaming venues, introduce cost of play displays on poker machines by 2016, provide additional counselling support and self-exclusion arrangements, and improve training for staff in gaming venues.

The [mandatory pre-commitment trial](#) will begin in 2013 and venues will be reimbursed for lost revenue during the trial, which will most likely take place in Canberra. Canberra's gaming environment is different to other states in Australia as EGMs are only allowed in club venues, not hotels or the casino. The government will have three months after the end of the 12-month trial to act on the findings, effectively deferring the final decision on pre-commitment into the next election term.

The trial itself will no doubt be fiercely analysed by both sides of the debate, both in how it is conducted and how the results are determined. That all machines will have in place pre-commitment technology by the time the trial has been completed (for voluntary or mandatory pre-commitment) will essentially remove any serious argument of cost to implement the technology. See more on *cost to implement* in the Media section of this eBulletin.

The Federal Coalition's [Discussion Paper on Gambling Reform](#) considers voluntary, not mandatory, pre-commitment on gaming machines could be effective if adopted with other measures. The Australian Greens have stated they will put forward \$1 maximum bet limit legislation to parliament next month, a key recommendation from the 2010 Productivity Commission Inquiry into Gambling.

Victorian Government Ban on ATMs expanded

The Victorian State Government will introduce new laws in July 2012 that ban all ATMs in venues with gaming machines, expanding on the withdrawal limits proposed by the Federal

Government. The Government recently announced in a [media release](#) that it would vary the ban to include all cash withdrawal devices that did not require interaction with venue staff, after indications that a new non-ATM cash device was being marketed to gaming venues ahead of the ban's introduction. The Victorian Government will also be enacting legislation regarding voluntary pre-commitment.

Victorian Commission for Gambling and Liquor Regulation

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) will officially begin operation on Monday 6 February 2012. The new Commission will be in charge of licensing, approval, regulation and compliance in line with the *Gambling Regulation Act 2003* and the *Liquor Control Reform Act 1998*. It will also have functions in relation to advice to the Minister on gambling and liquor legislation, implementation of Government policy and public education regarding the Commission's practices and requirements.

Under the new Commission, appeal of a decision to the Victorian Civil and Administrative Tribunal (VCAT) is no longer possible. All Commission hearings now take place with a minimum of three Commissioners to ensure a more balanced approach to decision making, removing the need for a separate appeals bodies. The State Government felt that this strengthened and further legitimised the decision making powers of the VCGLR and reduced the instances of hearings being appealed at VCAT to Tribunal members without a background in gaming matters.

Recent Decisions

All VCGR decisions can be downloaded from the ['Matters Determined' page](#) by typing in the following bolded key-words:

The Dandenong Club, Dandenong (Greater Dandenong RC)

VCGR (01/12/2011) Application granted to increase number of EGMs from 86 to 94

Key findings:

- The club is well established and managed. It has a range of sporting and social activities that take place at the venue. A courtesy bus is provided by the venue to collect patrons from within a 16km radius 7 days a week.
- The venue is considered a destination venue because of its location away from high activities areas with diverse activities which are well patronised.
- The Club purchased the additional eight entitlements in the 2010 auction.
- The Club's cash and in-kind community donations was \$42,000 in 2010-2011 (\$25,000 was cash and the remainder meal vouchers, discounted meals for seniors, use of function rooms).
- *Note:* The Club made \$9.2 million from EGMs in 2010-2011 so the above figure represents 0.45% of EGM expenditure.
- As a result of the additional revenue from the machines, the Club plans to increase donations to the community by \$15,000 per year and purchase the freehold of the club.
- Council did not make a submission to this application, nor were any objections received regarding the application.
- The City of Greater Dandenong shows serious signs of disadvantage. The Club is located in a relatively less disadvantaged area of the municipality and draws on a wider catchment area as a destination venue.

The Kingston Club, Mordialloc (Kingston CC)

VCGR (06/12/2011) Application granted to increase number of EGMs from 70 to 82

- The Kingston Club provides the social facilities for members of the Cricket and Football clubs in Mordialloc. The Club provides a range of entertainment options including dining, bar, TAB, children's play area, function rooms and gaming lounge.
- The Kingston Club provides financial support (such as uniforms and equipment) to the Cricket and Football Clubs. The Cricket and Football Clubs lease sporting grounds and member clubrooms from Council for a \$1 lease.
- The Club purchased 12 additional entitlements in the 2010 auction. With the additional revenue, the club plans to purchase the freehold of the club premises by 2017 and undertake various improvements to its social and sporting facilities.
- The applicant estimated that the proposal will create 3-4 jobs and capital works associated with refurbishment of the gaming lounge. The applicant will increase community contributions by \$20,000 per year, earmarked for a Men's Shed.
- Kingston is not a disadvantaged area, but does have higher than average gaming density and expenditure.
- Kingston City Council made a submission opposing the application as it did not comply with Council's Gaming Social Policy 2002, community opposition to gaming in Kingston and increased vulnerability to problem gambling.
- The Commission did afford significant weight to Council's community surveys tabled. One was from 2002 and not specific to the application. The one conducted for this application was not statistically significant and did not provide enough information to the survey participants.
- The Commission also disregarded Council's policy based on its approach that no application would be supported above the metropolitan average density of EGMs. Then Commission found this approach effectively discounted all applications rather than looking at each different application on its merits.

Morwell Bowling Club, Morwell (Latrobe CC)

VCGR (13/12/2011) Application granted to increase number of EGMs from 63 to 69

Key findings:

- Latrobe City Council had no objections to the gaming proposal, as long as the conditions on the planning permit it had issued were adhered to.
- VCGR chose to determine the application without conducting a public inquiry.
- The Commission found that the club was an integral part of the local community.
- Currently the club donates \$33,000 in cash to community groups, as well as in-kind donation of the function and meeting rooms. The club has budgeted to increase cash donations in 2012-2013 to \$50,000. The applicant plans to use the additional revenue on club renovations.
- The club purchased 69 entitlements in the 2010 auction. Latrobe is capped at the current 522 machines so the machines will be transferred.
- Latrobe has very high levels of socio-economic disadvantage, high EGM density (9.3 EGMs per 1000 adults) and high EGM expenditure (\$846 per adult).
- The Commission granted the application as there were no community objections received, Council had granted a planning permit, the club was a well-run venue and the proposal would not result in an increase in number of machines in Latrobe.

Lakes Entertainment Centre, Lakes Entrance (East Gippsland SC)

VCGR (14/12/2011) Application granted to increase number of EGMs from 36 to 41

Key findings:

- East Gippsland Shire Council did not make a submission to the application, noting that, in its view, there would be no noticeable social and economic impacts on the municipal community.
- East Gippsland Shire has reached its municipal limit of 332 so granting this application will result in a transfer of machines in the municipality, not an increase.
- East Gippsland Shire shows signs of socio-economic disadvantage.
- The applicant provided evidence that showed that a large proportion of revenue at that venue came from tourists.
- The club stated it will increase community donations or sponsorships to not-for-profit groups, though no more information was provided.

Dick Whittington Tavern (Port Phillip CC)

VCGR (15/12/2011) Application granted to increase number of EGMs from 29 to 40

Key findings:

- The Tavern is located in a residential area surrounded by housing and opposite a vacant block which will be developed for social housing. The Tavern is located 450m from the Balaclava Major Activity Centre (Carlisle Street).
- Council, and the neighbouring Local Government Area of Stonnington, opposed the application on the grounds that there were several public housing estates surrounding the venue, and it would detrimentally impact on people on low incomes accessing the community services and retail outlets on the Carlisle Street centre.
- Port Phillip City Council is one of relative socio-economic advantage and has low EGM density and expenditure compared to State averages.
- Council contested the low expenditure and density figures based on the location of the Crown Casino which is just outside the boundary of Port Phillip. VCGR did not accept the revised figures but accepted that some residents would use the Casino.
- The applicant submitted that in purchasing the land opposite a Tavern with EGMs that the Housing Authority had accepted the risk to its future tenants. The Commission rejected this view, stating it was likely a pragmatic choice on available land to develop critically required affordable housing in Port Phillip. Equally, the Commission did not find the development as a fundamental barrier to granting this application.
- The Commission found that a precautionary approach is appropriate in the determination of an application under the Gambling Act, but that this does not necessarily require the Commission to refuse an application. The precautionary approach requires the Commission to assume that an increase in EGMs will increase problem gambling and lead to community detriment.
- The applicant provided evidence that residents of social and public housing in the area are not significant users of the EGMs at the venue currently.
- Balaclava Hotel is located closer to Carlisle Street, has more EGMs and is cheaper than the Tavern. The Commission found that people using community services on Carlisle Street are more likely to visit that venue.
- The applicant has a commitment to responsible service of gambling.
- Benefits from the application will include a new function space, free of charge to community groups, 7-8 jobs in the renovated venue, an increased community contribution of \$20,000 per annum for 10 year and improved access to gaming for responsible gamblers.
- Therefore the Commission found that whilst some community detriment would be occurred through the granting of 11 more EGMs at the Tavern, it would be offset by the community benefits.

Queensberry Hotel, Melbourne (Melbourne CC)

VCGR (15/12/2011) Approval of new premises with 30 EGMs

Key findings:

- The site is part of the Grocon Carlton Brewery site, and the relevant responsible authority is the Minister of Planning, who declined to make a submission.
- A submission was made by Melbourne City Council on the grounds that granting the application would have an adverse impact on residents of nearby public and social housing and potentially students, and that the location may encourage convenience gambling. City of Yarra also wrote a submission supporting the position of Council.
- The Hotel is located on the corner of Swanston and Queensberry Streets, Carlton, on the former Carlton Brewery site. The site is currently vacant but will be developed as a large, mixed-use develop with up to 1500 dwellings.
- Carlton shows socio-economic disadvantage, mainly due to presence of high levels of public housing in the suburb.
- There are two significant public housing projects within the vicinity of the Hotel – Common Ground and the Drill Hall. The Commission found this to be a community detriment of the proposal.
- Applicant proposed a two-stage redevelopment of the hotel if the application was successful; the second stage was contingent on the success of the Carlton Brewery development. As such, the Commission discounted some of the benefits associated with the second stage to this proposal as so many factors were beyond the applicant's control.
- The applicant's witness claimed that there was no proof in the widely accepted theories regarding EGM density and problem gambling vulnerability and socio-economic disadvantage and problem gambling. The Commission disregarded the claims and found it was appropriate to err on the side of caution with EGM regulation, due to the demonstrable large community costs from inaction.
- The Commission found that the evidence on the impacts of problem gambling on students and young people is mixed. Evidence shows that international students are more likely to be problem gamblers than local students, but that they were more likely to use other types of gambling. Various studies on young people showed different outcomes.
- The Commission was satisfied that the approval of the premises will not result in a net community detriment for the following reasons:
 - The City of Melbourne is a commuter and tourist hub, and therefore EGM density and expenditure are less important than in other municipalities. EGM density (8.34) and expenditure (\$712) in the City of Melbourne is high.
 - The proposal is for transferred machines, from an area of lower disadvantage (Oasis Oz Hotel, North Melbourne) to an area of higher disadvantage (Carlton).
 - The risk of problem gamblers residing in proximate social and public housing is a community detriment.
 - The Commission did not believe there was any particular risk to students (international or domestic).
 - The Commission did not believe the Hotel will become a convenience gambling venue (after the neighbouring development was finished).
 - Existing high levels of EGM accessibility will mute the impact of a new venue.
 - A commitment to responsible gaming by the applicant.
 - The Hotel will be redeveloped as a benefit to the community.
 - The Hotel will contribute complimentary expenditure to the community.

Sherbourne Terrace, Shepparton (Greater Shepparton CC)

VCGR (11/01/2012) Application granted to increase number of EGMs from 39 to 43

Key findings:

- Sherbourne Terrace Hotel currently has 39 EGMs, a reduction from 49 in 2006 as a result of regional caps. The Hotel purchased 43 entitlements in the 2010 auction.
- The Hotel is family owned with a long local history in Shepparton.
- Council made a submission to the hearing that did not oppose the application. Council approved the planning permit for the new machines.
- Shepparton shows signs of socio-economic disadvantage.
- The region is capped so the four extra EGMs will be redistributed from within the municipality.
- The Commission found that for a relocation of machines within a municipality, the onus on the applicant is lower than in cases of EGM increase.
- 90% transferred revenue was predicted by the applicant as all machines would be relocated from within the municipality. The applicant believed the additional 10% expenditure would come from the Hotel using the four machines “more efficiently” to increase the profitability of those machines.
- The Hotel currently provides cash and in kind donations to local sports clubs and hospital which would continue with the approval of four new machines.
- The applicant operates its EGMs responsibly.
- The Commission was satisfied that the net economic and social impact of the application was neutral. The economic benefit to the Sherbourne Terrace would be offset by an economic loss to other gaming venues in Shepparton. On the flipside the Commission found the proposal was found to be unlikely to cause any significant social and economic harm.

Flying Horse Bar and Brewery, Warrnambool (Warrnambool CC)

VCGR (11/01/2012) Approval of new premises with 8 EGMs

Key findings:

- The Flying Horse is a micro-brewery, sports bar, function centre and bottleshop, 4km east of the city centre of Warrnambool.
- Eight entitlements purchased in auction in order to expand the entertainment options available to patrons.
- Warrnambool is a capped region so the machines will be redistributed from within the municipality.
- Warrnambool has very high density and expenditure levels on EGMs.
- Council did not make a submission to the hearing, which the Commission inferred to mean that the Council does not oppose the granting of the Flying Horse’s application.
- *NOTE:* Council wrote to the VCGR in November stating they were unable to make a formal submission due to the high cost and tight timelines associated with making the submission. The written statement included five concerns as to why the Council did not support the proposal. Council believes that it is likely to have a detrimental impact on the health and wellbeing of Warrnambool’s residents.
- The applicant predicted that between 83% and 92% of revenue would be transferred because of the small number of machines.
- The venue will provide \$12,000 per year to a financial counselling service for problem gamblers in the area.

- The applicant relied on a community survey conducted for Rafferty's Tavern that showed there was no significant opposition to gaming in Warrnambool, which was accepted as evidence relating to the Flying Horse Inn by the Commission.
- The Social and Economic Impact Assessment stated that the municipality of Moyne, which has no EGMs, should be included in the assessment of density and expenditure, as residents of Moyne access EGMs in Warrnambool.
- The Commission found that for a relocation of machines within a municipality, the onus on the applicant is lower than in cases of EGM increase.
- The Commission was satisfied that the net economic and social impact of the application was neutral.

Decisions are pending for: Maryborough Highlands Society, Castlemaine (Mount Alexander SC); The Bended Elbow (Ballarat CC); Francis Hotel (Melbourne CC); Bay and Bridge Hotel (Port Phillip CC); American Hotel (Campaspe SC); Mansfield Gold Club (Mansfield SC); and Portland RSL (Glenelg SC).

In the Media

Gambling has been very prominent in the media the last few weeks after the Gillard Government's announcement to **back down on pokies reform**, leading Andrew Wilkie to withdraw his support for the Labor Government. Refer to the Legislative, Political and Regulatory Changes section of this eBulletin for more information.

It appears that the claims of industry about the **cost to implement pre-commitment technology** have been somewhat exaggerated according to the Australia Institute. The Institute has modelled the costs of introducing \$1 maximum bets and pre-commitment technology and neither plan would cost more than around \$340 million – much lower than the clubs industry's figure of around \$5 billion. Read more [here](#).

After a summer of serious **natural disasters, Queenslanders** lost a record \$1.9 billion on the pokies in 2011, equating to around \$3600 a minute. The 2011 loss figure is \$100 million more than each of the previous two years. More facts and figures [in this article](#).

A **new model for mapping locational factors** that can contribute to EGM harm is being developed by researchers from Southern Cross University and Australian National University. The model will be able to map the likely incidence of harm for any given location and should be available for widespread application next year. "Early results show we are predicting the catchments, or trade areas, of poker machine venues extremely accurately; far more accurately than we were anticipating". Read more [here](#).

Facebook has been in the media recently after announcing plans to introduce real money gambling to their social media site in the next few months, in a move that has been [attacked by Independent Senator Nick Xenophon](#). The immersion of online gambling in social media, widely used by people under 18, is of serious concern, due to the [sale of user information to gambling advertisers](#) by Facebook, who are then able to target certain groups.

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 **20 February 2012**.